



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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Fulfilled Lives, Supportive Communities  
**Commissioning Framework  
Guidance and Good Practice**

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# INTRODUCTION

Social care commissioning involves making decisions about what services are required to respond to the social care needs of children and young people in need and adults in Wales. It also involves making decisions about the capacity, location, cost and quality of services together with how and who will deliver them.

Commissioning encompasses both the planning and procurement of services. It is about fulfilling the statutory responsibilities of the council, and shaping services to respond to the social care needs of people both now and in the future.

Commissioning should be underpinned by the core values of social care - promoting independence and personal development and enabling service users to keep control of their lives within the wider context of promoting social inclusion, sustainability and delivering value. It must ensure support for carers and have a primary concern for high quality social care services. There is nothing more crucial for local authorities to get right in delivering quality services. Social care commissioning needs to be driven by councillors, chief officers and senior managers.

This guidance encourages local authorities and their partners to concentrate their efforts on ensuring that commissioning by local authorities really does help to achieve the aspirations of *Fulfilled lives, Supportive Communities* for all the people of Wales.

In recent years commissioning has become established as an important process in helping to drive improvements in social care and securing better outcomes for service users. Across Wales there are already many examples of good planning and procurement practice, but to support further development, the Welsh Assembly Government has drawn on emerging expertise to create a common Framework for social care commissioning.

The Framework has been developed by the Social Care Commissioning Task Group in collaboration with its Procurement and Training & Qualifications Sub-groups on behalf of the Welsh Assembly Government with advice from the Institute of Public Care, Oxford Brookes University.

The Framework is relevant to all those concerned with social care across adult and children's services. It complements more detailed help, advice and guidance on effective commissioning and procurement for particular populations of users of social care services including, for example, existing resources for commissioners of substance misuse services (WAG, Substance Misuse Commissioning Framework, 2005) and commissioners of services for children in need (SSIA, Commissioning for Better Outcomes for Children in Need, 2008) Guidance on commissioning services for people with Learning disabilities is also well advanced. The needs of other client groups will be addressed in the future.

The Welsh Assembly Government, local authorities and their partners all face a very difficult financial climate over the next few years coupled with increasing demand. This poses a considerable challenge. The successful implementation of the framework offered in this guidance offers the best chance of responding to the challenge in a consistent and fair manner. Difficult times mean that our efforts are

likely to come under even greater scrutiny. The amount of resources available for social care will depend upon good evidence. We must therefore be clear about:

- the needs we are able to meet;
- those we cannot meet together with the possible consequences;
- the outcomes achieved; and
- the effective use of resources.

It will be essential for decision makers to receive this evidence.

During the consultation process on this guidance several people raised the issue of the growing incompatibility between the emphases on commissioning for local government whilst this term had been abandoned by the NHS in Wales with the abolition of the internal market. This does not present a problem. Commissioning combines the functions of planning and procurement. Joint planning is still essential to ensure a common approach to responding to the needs of individuals. The NHS will also continue to purchase some services from the same providers as local authority social services departments. The purchase of nursing home placements is one example. In this example, it may prove to be more effective for the Local Health Board and the Local Authority to work together with one as lead commissioner to secure a coherent approach to developing services, appropriate contracts with one coherent system for quality assurance thereby reducing duplication and bureaucracy.

The Framework has two parts.

**Part 1** provides guidance under Section 7(1) of the *Local Authority Social Services Act 1970* in the form of standards which local authorities are expected to achieve. The commitment to produce a new Framework was a key strand in the implementation of the 10 year strategy for social services in Wales (*Fulfilled Lives, Supportive Communities*, WAG, February 2007). The guidance builds on and supersedes that provided in *Promoting Partnership in Care – Commissioning across Health and Social Services* (WAG, March 2003) for local authorities.

The Framework's commissioning standards set the benchmark against which the effectiveness of local authority commissioning will be measured. The standards centre on the development of evidence-based commissioning plans and their delivery through effective procurement. The Annual Council Reporting Framework for Welsh Social Services includes commissioning. The annual report of the Director of Social Services is scrutinised by the Care and Social Services Inspectorate for Wales. In addition, the appropriate scrutiny committee within the local authority should periodically examine the progress of these key strategic activities.

**Part 2** of the Framework provides good practice in commissioning and procurement. This is not statutory requirement. The section includes 9 key commissioning challenges which local authority commissioners face. The commentary accompanying the challenges draws on the experience of commissioners working in the field, service providers delivering services and expert advisers. Part 2 should be

taken into account by anyone carrying out internal or external reviews of local authority performance including the CSSIW.

The good practice is based on a model of commissioning which places the citizen at the centre of commissioning activity. It includes definitions of the key processes and gives descriptions of the different activities involved in strategic commissioning. It includes a model format for commissioning plans, and a glossary of terms.

The Framework is further supported by the Value Wales Procurement Route Planner, which can be found at [www.Buy4Wales.co.uk/PRP](http://www.Buy4Wales.co.uk/PRP). This includes a full suite of on-line step by step guidance developed specifically for the contracting of social care and housing related support services, which contains many useful templates and practical advice. The route planner provides more comprehensive information than is possible in this guidance.

This statutory guidance applies to commissioning by local authority social services. It also applies to commissioning by wider partnerships where social services are engaged. The guidance encourages partnership working. Advice notes have already been published in relation to formal partnership arrangements.

<http://new.wales.gov.uk/topics/improvingservices/poolbudgets/;jsessionid=TWYbLhjGHYhmKjTwtnyX7NfzhgxH79yZyKdP1YNtJ5Ggn2vIKIbB!-225497037?lang=en>.

The following documents are also important to the commissioning agenda:

*Stronger Partnership for Better Outcomes: National Assembly for Wales Circular No 35/2006.*

*The Third Dimension - A Strategic Action Plan for the Voluntary Sector Scheme* published in January 2008 by the Welsh Assembly Government.

*Designed to Add Value - a Third Dimension, WAG 2008.*

*Securing Strong Partnerships in Care; Memorandum of Understanding* (February 2009), WLGA, ADSS Cymru, Care Forum Wales, The Registered Nursing Home Association & The UK Home Care Association.

See material produced by Social Services Improvement Agency (SSIA) in conjunction with the Institute of Public Care (IPC): [www.ssiacymru.org.uk](http://www.ssiacymru.org.uk).

*Commissioning for Better Outcomes for Children in Need.*

*The Role of Commissioning in Improving Services to Children in Need* Together with other materials.

*Escalating Concerns with, and closures of Care Homes Providing Services for adults 2009.*

Readers are strongly advised to make regular use of these tools.

## Development Programme

The publication of the guidance will be followed up with a development programme to facilitate the development and sharing of good practice. This will be developed by the commissioning task group. Some subjects have already emerged through discussions and during the consultation process. These have included among others:

- Outcomes: There is a strong consensus that we need to make progress towards a more outcomes based approach to commissioning. However, we need to ensure that commissioners and providers have a common understanding of these outcomes together with service users. There also needs to be a direct link between outcomes for individual service users and strategic outcomes.
- Self directed care: It is difficult to predict the impact of the growth of self directed care through, for example, direct payments. This requires further analysis and planning.
- Exploring the possibility of providers making use of local authority Framework Agreements. The Framework Agreement for routine items of community equipment, for example, has improved quality and reduced costs for the statutory sector. Access to this framework could achieve the same impact for providers of residential care and nursing homes. There may be a range of areas to explore.
- Co-production - the process whereby service users and communities work alongside professionals as partners in the design and delivery of services to make them more responsive to needs and deliver better outcomes. There are examples of co-production but further work is required to raise awareness and improve practice across Wales. Co-production is a positive affirmation that people can develop their own futures with the support of others including professionals.
- Further development of service models appropriate to rural authorities.
- Improving the data base to inform commissioning on needs, services and workforce.
- Responding to the needs of minority groups. We need to ensure that we have the knowledge and skills to engage people from minority groups to obtain their views; together with the knowledge of how services need to respond to their needs. This applies, for example, to ethnic minorities BME, faith communities, gender, trans gender and LGB communities, Gypsy travellers and various groups of disabled people.
- Development of models for user/ carer engagement and raising the awareness of tools such as 'Appreciative inquiry'.
- Exploring the contribution that social enterprises could make towards delivering the social care agenda in the future. A social enterprise is a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather



than being driven by the need to maximise profit for shareholders or owners.

- Increase awareness concerning the use of social clauses. These are requirements within contracts or the procurement process which allow the contract to provide added social value by fulfilling a particular social aim, such as the need to train or give opportunities to the long term unemployed. The main barriers to the use of social clauses concern confusion about when they can be legally used, concern about the processes needed to include them in any contract specification and how to evaluate them.
- Developing a better understanding of the market for self funders i.e. people who fund their own care.
- Developing a better understanding of the contribution of Third Party Payments.
- Development opportunities for providers from both the third and private sectors to improve their business model and develop the technical skills required to respond to the commissioning challenges.
- Development of regional approaches to commissioning where appropriate.
- Models for commissioning team – understanding what constitutes a good commissioning team.
- Exploring the development of incentives for high quality services.
- Work involving commissioners and providers on costing service provision.
- Development of a common approach to the quality assurance of providers.

The guidance will be launched alongside the social care and housing related support procurement route planner developed by Value Wales. The Commissioning agenda therefore goes beyond the immediate publication of this guidance. It has to be supported by other tools together with a development programme to improve practice. At the end of the day we are striving to ensure that we develop good and confident commissioners working in partnership with providers of good quality services with both parties engaged in continuous improvement resulting in services which respond to the needs and aspirations of service users and carers.



# PART 1

## Commissioning Framework 2010

### Framework Guidance

#### 1. INTRODUCTION

Commissioning for social care is one of the most important activities undertaken by a local authority. It can have a very significant impact on people's lives. When it works well it contributes to significantly improving people's lives. When it does not it undermines them because services do not reflect their needs. This Framework is intended to help local authorities to improve the quality of commissioning practice and hence the quality and coherence of services for the people of Wales.

Many of the activities involved in commissioning are similar to the planning and development activities that all organisations need to do to be effective. However, as well as managing their own services, local authorities also need to influence and shape services provided by other organisations. This is particularly important for social care, with a mixed economy of provision and a heavy reliance on the private and third sectors, which must complement the care and support provided by families and unpaid carers. The commissioning decisions of local authorities also influence the range of services available to those who fund their own social care. It is not enough, therefore, for local authorities simply to be concerned with planning the services that they fund. They have a responsibility to ensure that social care services provided by the wide range of different agencies available to their area are well planned, designed and delivered.

Commissioning and procurement provide the tools which enable local authorities to use their resources and their influence to shape the development of services across the whole care system and to ensure that these services best address the needs of their citizens.

#### 2. COMMISSIONING STANDARDS

This Framework Guidance sets commissioning standards to help local authorities achieve effective social care commissioning and procurement and assist in establishing sound governance of the commissioning process. The standards are:

##### Standard 1

***Social Services can demonstrate how commissioning plans have translated their commitments in local strategic plans into consistent high quality linked or seamless services to meet the needs of local citizens.***

Commissioning plans interpret and translate high level strategies and plans into meaningful and effective services for specific groups of citizens requiring social care services. Local authorities need to ensure that key commitments in its

Health, Social Care and Wellbeing Strategy, it's Children and Young People's Plan, Community Safety Plan and in the Local Delivery Plan are secured effectively and efficiently. In addition Local Authorities use their annual Business Plans to establish and monitor commitments on the delivery of medium-term goals, and will in future use their Annual Report to update on progress and any necessary action on these commitments. Specific commissioning plans for particular population groups should ensure that these commitments are delivered in practice.

Commissioning plans should normally cover a period of 3-5 years and must include all directly provided and contracted social care services. They can adopt the same timescales as HSCWB and other key strategies. They may be refreshed annually but unless there have been significant changes there is no need to completely re-write plans each year. For capital schemes such as major building programmes, it may be necessary to extend the period covered to 5, 10 or even 15 years. They will each focus on meeting the needs of specific groups of citizens within the overall population.

Commissioning plans should be working tools of the authority and are not statutory plans. Social Services are responsible for developing, approving and delivering commissioning plans through their locally agreed managerial and governance arrangements.

Commissioning plans are also essential to enable local providers to develop their business plans. They should be public documents and should contain sufficient detail to signal the authority's intentions to potential service providers. It will be for the local authority to decide what commissioning strategies are required e.g. services for older people; older people with mental health problems, mental health, etc, etc. They will be designed so they can meet the funding and reporting arrangements under each strategic plan.

## **Standard 2**

***Commissioning plans have been based upon sound evidence and reflect national policy and guidance, local strategic plans, research and best practice. They include comprehensive population needs, service, market and resource analyses.***

Commissioners need to have a rationale for their commissioning plans and need to be able to explain to service users, carers, councillors, taxpayers, providers and inspectors, how they arrived at their commissioning decisions.

Hence, commissioning plans need to identify and explain the impact of national and local policies and strategies. They also need to incorporate research and best practice which has helped shape the thinking and decision-making processes, including a strategic population needs assessment. Commissioning plans need to include a clear picture of citizen's needs and wishes, as well as existing services, the providers, the cost, **together with gaps in service provision or quality.**

**Public Health Service Wales** often takes the lead in the needs analysis for the HSCWB strategies. Whilst their contribution together with their expertise should be welcomed; local authorities still have to engage and own this work. They will need to draw upon their own management information systems, care management processes, mechanisms for user and carer engagement and mechanisms for engaging providers to develop this analysis.

The Welsh Assembly Government has previously published data sets concerning services for children and young people, older people and people for learning disabilities. These are available on the following website <http://www.ssiacymru.org.uk/datasets>. Further work will be undertaken to update and extend this work to other client groups.

In addition the Welsh Assembly Government is working with the Institute of Public Care to develop 'needs based projection systems' for older people, younger adults, children and young people for all local authorities and Local Health Boards in Wales.

Data also needs to be improved in relation to those funding their own social care together with the use of third party payments to support residential care placements.

Qualitative information is also essential towards developing commissioning strategies. This will reflect the experience of service users and carers together with other stakeholders, and should be regularly collated through reviews of current services.

Commissioning plans should be developed jointly with commissioning partners such as members of CYPP, HSCWBS and with other local authorities, to ensure that all of the partners with responsibility for meeting the care needs of a particular group of citizens make best use of public money and collaborative opportunities are realised. Strategic partnerships such as, for example, the Children and Young Peoples Partnerships have an important contribution towards making joint commissioning successful.

Representatives of service providers need to be engaged at each stage of the analysis process as they can make valuable contributions towards identifying changes in need and with regard to the existing capacity to deliver services and options for future developments.

### **Standard 3**

***Commissioning plans have clearly specified the outcomes to be achieved for service users, and what services will best deliver those outcomes over time.***

Commissioning plans must identify what service changes are required to meet local needs and achieve better outcomes for users and the wider community. They need to specify the strategic outcomes which they are working towards, and the kind of services they need providers to deliver to achieve those outcomes. Further work involving all stakeholders will be undertaken to achieve a common understanding of outcomes. This will apply to all groups of service users including those from minority

groups. The focus on outcomes does not negate the need to get the process right in terms of securing services both for the individual and the population.

These plans must be based on an understanding of the needs of citizens as they are likely to develop over the lifetime of the plan, and must identify clear service development priorities to meet these needs. They need to include clear statements of the local authority's commissioning intentions over at least a 3-5 year time span. In other words, they need to be 'future-proofed' and based on an understanding of the kind of services that are likely to prove sustainable in the medium to long-term. Models of service delivery which promote *dependence* are not sustainable. Services that promote independence would include, for example:

- Support to parents and carers to cope effectively.
- Targeted services to minimise escalation in care needs.
- Routinely providing opportunities to restore independence or adapt to changing needs.
- Enabling users to make optimum use of universal services.
- Ensuring the physical care environment maximises independence.
- Making the most effective use of staff resources.
- Seek the optimum balance between capital and revenue costs.
- Deliver investment to secure benefits.
- Provide support for family carers.
- Support that enables individuals to reduce their reliance on social care services.
- Services which are linked to outcomes.

Good quality care services always strive to promote the independence of the service user both in terms of their decision making as well as help with care needs. This does not contradict the fact that some people will need long term care and support.

Some more old fashioned services which do not always promote dependence can nevertheless be popular. The change required to provide a more sustainable model of service delivery will require both cultural and political change.

#### **Standard 4**

***Commissioning plans have been developed with partners and have involved all key stakeholders including users, carers, citizens and service providers in the statutory, private and third sector.***

The range of public care services needed to support children, young people and adults' means that it is unwise for local authorities to devise commissioning plans on their own. Within the local authority itself, for example, it is important that social services commission in partnership with housing, education, corporate

services and other departments. Local Health Boards are essential partners in developing a coherent set of care services. Local Health Boards are still required to plan at the local authority level and therefore engagement between local authorities and local health boards should still be possible. Strong partnership working between commissioners can lead to a more coherent approach to funding services in other sectors. The strategic planning partnerships indicate the key partners to engage.

The quality and effectiveness of a commissioning plan will rely heavily on the extent to which it draws together the views and support of the full range of stakeholders and partners, including service users, carers and local citizens, private, public and third sector providers, care/case managers, clinical and care staff and other practitioners.

It is essential that users are able, with assistance if necessary, to contribute their views. They may be assisted by representative organisations in the third sector or through advocates. Commissioners also need to have mechanisms in place to consult hard to reach groups.

Although local authorities must lead and manage the commissioning process, effective commissioning requires a collaborative, mature dialogue between different partners to ensure that plans are realistic, sustainable and likely to meet future needs.

Arrangements should ensure that that care providers can participate fully in planning, activities without conflicts of interest, and this may be best facilitated through representative bodies. Providers can contribute, for example, to the Analyse stage of the Commissioning cycle outlined in part 2 without any conflict of interest.

Commissioners should work within the principles agreed between partners across Wales in the Memorandum of Understanding 'Securing Strong Partnerships in Care' (ADSS Cymru, February 2009).

Arrangements should be agreed with local voluntary councils, WCVA or umbrella bodies for the involvement of the third sector organisations in the commissioning process. The Third Dimension; the strategic action plan for the voluntary sector scheme published by the Welsh Assembly Government in 2008 identified the special qualities that the third sector can contribute. Amongst these were included:

- Very flexible and responsive, and able to meet needs quickly.
- Non-judgemental, independent and widely trusted, giving it credibility as an effective advocate.
- Able to penetrate more deeply than others into challenging areas, making public services and resources more widely accessible.
- A repository of special skills and expertise not available anywhere else.

These and other factors illustrate the importance of engaging the third sector in the commissioning process.

Commissioning strategies should record which and how stakeholders have been engaged in the process.

## Standard 5

***Collaborative options have been explored for securing directly provided and contracted care services with partners, including health services and other local authorities.***

In addition to undertaking the commissioning task in partnership wherever possible, local authority social care commissioners need to be proactive in looking for opportunities to secure services with partners where this will improve outcomes for service users. This includes seeking to jointly commission for local communities with colleagues in different parts of the authority, such as education, leisure, housing, youth justice or environmental services. It also includes working with commissioners and planners in closely related services such as the NHS, and with other local authorities and the Welsh Assembly Government where there are advantages from wider area arrangements.

Formal partnership arrangements using lead commissioning, integrated provision and pooled budgets should be considered. Formal partnerships between commissioning agencies provide a unique opportunity to achieve service redesign across service sectors. These might best be considered where partners have identified a clear sense of purpose, shared objectives and know the outcomes to be achieved. The advantages can involve more innovative services, greater transparency of objectives and resources, more coherent approaches to commissioning and performance management, stronger governance arrangements, and reduction in costs through avoidance of duplication.

To date there has been very little use of formal partnership mechanisms. Both local authorities and their commissioning partners need to give serious consideration towards identifying possible areas of service provision where formal partnerships would improve outcomes for service users and make more effective use of resources. Where there are informal partnerships in operation, even involving joint posts, the partnerships will need to check the robustness of the governance arrangements. If there was a critical incident, for example, how would the governance arrangements stand up?

Integration or alignment of resources and budgets is not a new concept. The Health Act 1999 enabled health and local authorities in England and Wales to work together better for the benefit of their citizens and provided a clear statutory basis to facilitate that. The provisions contained in the Health Act 1999 are now consolidated in the NHS Wales Act 2006. This is described in a series of advice notes produced by the Welsh Assembly Government. See <http://new.wales.gov.uk/topics/improvingservices/poolbudgets/;jsessionid=TWYbLhjGHYhmKjTwtnyX7NfzhgxH79yZyKdP1YNtJ5Ggn2vIKIbB!-225497037?lang=en> and in the Social Care and Housing Related Support Procurement Route Planner.

Partnership working for children should not be confined solely to health and social care or the NHS Act Wales 2006 arrangements. Section 25 of the Children Act (Wales) 2004 also facilitates broader partnership working. There are numerous examples where integration can bring benefits to delivering economies of scale and



accruing significant gains in effectiveness and efficiency and this may involve other partners.

Pooled budgets are increasingly seen as a key part of joint commissioning for Children and Young People partnerships. They are described in Welsh Assembly Government Guidance as one of the key features of an integrated strategy. Such a budget, more correctly called a 'pooled fund', offers scope to combine and concentrate money from a variety of sources effectively to shape local services around the needs of children, young people and their families. A pooled fund also has the potential to generate economies of scale and bring efficiencies. N.B. There are key differences between these NHS Wales Act 2006 and the provisions under section 25 of the Children Act (Wales) 2004. See forthcoming advice note 8 – Pooled Budgets under Section 25 of the Children Act Wales 2004 which will be published shortly.

There are other more simple examples to promote more effective practice. These may include the adoption of common policies, procedures and documentation where this is appropriate.

There has been a considerable amount of work invested in working in partnership in Wales. The key questions concern how we build upon good practice to seek further improvement in partnership working.

The national occupational standards for the commissioning workforce also relate to collaboration.

## **Standard 6**

***Directly provided and contracted social care services are citizen centred and meet all of the local authority's service quality and human rights commitments.***

Services which are citizen centred and offer value for money in public services are a key aim of the Welsh Assembly Government.

Citizen centred services are those which are flexible and responsive to the needs of individuals. They are able to respond to changing needs over time, and proactively seek to understand and respond to the expressed or the implied wishes of the service user. Commissioners need to encourage providers to be citizen centred, and to recognise the costs and challenges in developing these services in their procurement plans, specifications and contracts.

A citizen centred approach requires individuals and groups to have access to good quality information, advice and support on their rights and responsibilities.

Commissioners should ensure that specifications for both directly provided and contracted services, are all clear about the practice and quality standards expected of social care services, and these standards should meet all legislative requirements and the local authority's own policy commitments. Both contracted and directly

provided services should be required to meet the obligations of the Human Rights Act 1998, the UN Convention on the Rights of the Child 1989 and the UN Convention on the rights of Persons with Disabilities 2008.

Commissioners need to ensure that the workforce is sufficiently skilled and supported to deliver citizen centred services and this should be reflected in accompanying workforce strategies and plans. When people require help from social care services they expect to be treated with respect and dignity both in terms of decision making and during the times when they help with practical tasks of daily living. Services must be delivered in a manner which ensures that individuals are treated with dignity and respect.

What makes health and social care unique is the intimacy involved in the provision of help and support. Some will need assistance with some of the most basic tasks concerned with daily living. This requires sensitivity and skill. Ensuring that people are treated with dignity and respect is not something that we can afford to leave to the human decency of individuals providing care. Key to the success of delivering services is that provider workforces are of the appropriate size, diversity and have the right skills to deliver the quantity and quality of care required.

Providers submitting tenders in a procurement process should be encouraged to describe how they will ensure that their service is citizen centred.

Direct payments are in themselves citizen centred in that they more control and choice to the service user. The Welsh Assembly Government will continue to promote the use and uptake of direct payments. The ongoing relationship between commissioning and the take up of direct payments will continued to be monitored. The withdrawal of Direct payment users from traditional services will need to be monitored.

## **Standard 7**

***The local authority has ensured that its Financial and Contract Standing Orders allow social care commissioners to be efficient and effective in developing the local social care market.***

Local authorities should keep their Financial and Contract Standing Orders under review to ensure that they are fit for purpose to secure social care services of the quality required.

Local authorities need to ensure that their financial regulations are flexible enough to meet the specific needs of commissioning social care services. They also need to ensure that those regulations are not made so flexible that they breach the legislation and any related guidance (statutory or otherwise) that relates to the letting of contracts by public authorities.

In developing services that are responsive to citizens needs, it is important for local authorities to have financial regulations which allow them to support the development of a sustainable economy of care across the public, private and third sectors.

Sustainable means that short term considerations should not threaten medium to long term service delivery. Unrealistic fees, for example, may ease the pressure on the budget of the commissioner this year but if the service ceases to operate due to financial difficulties the savings will prove self defeating. Equally, the continued investment in services which may undermine independence or fail to promote independence may prove to be unsustainable both in financial and workforce terms. Social care commissioners will need to make judgements, based on their analysis of the existing market, about the most appropriate approaches to market development and procurement in their local area, including different contract forms, grants or in-house provision. Local authorities will need to ensure that council-wide financial regulations do not unnecessarily limit the capacity of social care commissioners to effect change in the local market due to overly bureaucratic or burdensome tendering processes.

Local authorities will also need to take account that maintaining sustainable service provision in rural areas can be more costly than in urban areas and that it may be difficult to attract new provision to such areas if existing services are lost.

Realistically social care markets will continue to combine a balance of services which may be delivered internally by the local authority or secured externally through grants or via a procurement exercise. Local authorities should consider the potential benefits and risks of the options available and have a clear decision-making process for deciding when to use different approaches. They also need to be aware of the potential impact of changes in social care services on the wider economic wellbeing of the community.

Services which are secured externally via a procurement exercise are subject to EU Procurement Directives which place a requirement upon the public sector contracting authorities to determine whether the services they procure fall into the, Part A or Part B categories of the legislation. The majority of social care services are designated as Part B and are therefore required to comply with only a subset of specific provisions, including (but not limited to) transparency; equal treatment; reporting of contract award notices; and inclusion within spend statistics provided to the Office of Government Commerce (OGC). Part A Services are subject to more onerous requirements than apply to Part B services.

Regardless of whether a service is classified Part A or Part B all public sector contracts remain subject to the provisions of the EU Treaty. The obligations of transparency and equal treatment mean that a contracting authority must ensure an appropriate degree of advertising sufficient to allow the services market to be opened up to competition and awards to be made on a demonstrably impartial basis.

It is the responsibility of individual contracting authorities to decide upon the relevance of the specific contracts to the market, and this should be the key factor in determining the nature of advertising and other procedures to be followed to meet the Treaty obligations.

Relevant factors to be considered include the subject matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the

market, commercial practices, etc) and the geographic location of the place of performance.

Local authorities may also wish to consider the use of social clauses. These are requirements within contracts or the procurement process which allow the contract to provide added social value by fulfilling a particular social aim, such as the need to train or give opportunities to the long term unemployed. The social outcomes are then “purchased” from the suppliers as part of the procurement process. It will be for local authorities to take their own legal advice on a case by case basis as to the legitimacy of including social clauses in any given contract. (See: Social Care and Housing Related Support, Procurement Route Planner.)

Local authorities are required to take into account the importance of the continuity of care for individual service users in social care provision. Commissioners require good quality information on standards of care and contract performance data. Clearly, in cases where the services provided have not met the quality required, improvements are necessary but initial steps should be to achieve these through discussion with the provider. The reasons for performance failure need to be investigated. This is in the best interests of service users and their family and local communities. The continuity of care to individual service users can be broken where local authorities insist on regular retendering even in circumstances where services are seen to be good and cost effective. In cases where improvement does not occur it is, of course, legitimate to seek a change of provider. The well-being of service users must be the primary concern.

## **Standard 8**

***Directly provided and contracted social care services have been developed in line with commissioning plans and associated procurement and business plans.***

Commissioning, procurement and internal service plans are the tools which enable local authorities and their partners to adjust services to meet required needs. Once commissioning plans have determined the nature and size of services required, procurement plans and internal business plans should spell out the detail of how these will be achieved. These should set out actions to be taken in relation to directly-provided, purchased and all other relevant services (for example those of partner agencies). In essence, the process is one of tailoring services to meet the specified outcomes and outputs.

In practice this may mean a wide range of different approaches, including:

- Maintaining existing successful services.
- Decommissioning services (or parts of services) which do not meet needs or have failed to improve.
- Managing changes to existing plans, contracts or service level agreements to secure greater value for money or ensure service sustainability or quality improvement.

- Re-tendering services or agreeing major changes to directly managed services where there is a clear need for a different approach to existing practice.

## Standard 9

***Directly provided and contracted social care services offer value for money and are fit for purpose.***

Value for money can be defined as the optimum combination of whole-of-life costs and quality (or fitness for purpose) of the goods or service to meet the user's requirement. Value for money is not the choice of goods and services based on the lowest cost bid.

(H.M.Treasury 2006 Value for Money Guidance.)

Value for money is the term used to assess whether or not an organisation has obtained the maximum benefit from the services it acquires and provides within the resources available to it. It balances quality, cost and effectiveness. When assessing Value for Money, commissioners must take into account quality issues as well as price.

In pursuing the value for money considerations the local authority commissioners need to take account of a number of wider considerations.

- The impact of some services, particularly, preventative services can reduce costs of other services. Investment in services such as community equipment and telecare, for example, can help to reduce the demand for domiciliary and residential care for older people as well as helping carers and promoting the independence of service users. Investment in family support services can reduce the need for children to be looked after in the care system.
- The potential benefits of using social clauses.
- The costs of providing services in rural communities are usually greater than those serving more densely populated areas.
- The decisions of commissioners will impact on the market and the choices available to other users such as self funders.
- There should be consistency of approach in establishing the value for money of directly provided and contracted care services.
- Tenders submitted should evidence the quality and depth of choice to be offered to service users within the service to be provided.
- Continuity of good quality service provision.

To support the public sector in making the best use of its resources the Welsh Assembly Government established Value Wales to work alongside public sector bodies in Wales, in pursuit of efficiency and better value public services. It does this by encouraging collaborative working, and promoting excellence and the

achievement of sustainability. Further advice and guidance on embedding an outcome focused approach to the procurement of social care services can be found on the Value Wales Social Care and Housing Related Support – Procurement Route Planner. [www.buy4wales.co.uk/prp](http://www.buy4wales.co.uk/prp).

## Standard 10

***Commissioners have understood the costs of directly provided and contracted social care services and have acted in a way to promote service sustainability.***

Commissioners will have to take into account the full range of demands on them and their strategic priorities, as well as the resources they have at their disposal in developing their commissioning strategies. As stated earlier the financial outlook is going to be very challenging for some time to come. This makes the commissioning framework more important.

In seeking long term value for money and determining the budget available for specific social care services it is necessary for commissioners to take into consideration a whole range of factors, for example:

- The national or local economic environment may be making it difficult for some provider organisations to remain financially viable.
- A requirement to improve the quality of services may be put a short-term strain on resources.
- The move to an outcomes- based approach may pose serious cultural as well as financial challenges.
- Recognition of the need for service providers to be able to recruit employees with the skills and aptitudes necessary to deliver good quality care, to provide them with the training they require to obtain qualifications relevant to their duties and to facilitate continuing professional development to extend their abilities.
- The need to re-train the workforce to respond to more up-to-date practices may have transition cost and service implications.

Thus, it will be important for commissioners, in contract, fee and service level negotiations, to recognise the financial and service challenges that are having an effect on providers, and consider both short and longer term scenarios.

Local authorities need to have mechanisms in place to discuss costs and performance with providers. Fee setting must take into account the legitimate current and future costs faced by providers as well as the factors that affect those costs, and the potential for improved performance and more cost-effective ways of working. The fees need to be adequate to enable providers to meet the specifications set by the Commissioners together with regulatory requirements.

Registered providers also have an obligation to ensure that the income which they receive for providing the service is sufficient to meet the cost of delivering a service which complies with all statutory requirements, contractual conditions and specified service standards.

Commissioners should have a rationale to explain their approach to fee setting. The primary concern is that services operate safely and effectively to promote the welfare of service users and carer and meet regulatory requirements.

The Memorandum of Understanding (“securing strong partnerships in care”) agreed between the Welsh Local Government Association, Association of Directors of Social Services Cymru, and Care Forum Wales, the Nursing Home Association and the United Kingdom Home Care Association provides a very positive framework for local engagement around these issues.

Commissioners also need to understand the impact they have on the market in terms of the distribution of services. In areas, for example, dominated by in-house social services provision there may be a need to encourage alternative service provision to promote choice, or offer the opportunity for individuals to top up their existing care package or to facilitate the use of Direct Payments to purchase services from providers.

Commissioners need to consider any local agreements or funding protocols with the third sector e.g. compact arrangements.

## **Standard 11**

***Commissioning plans, procurement plans and the services they secure have been monitored and evaluated to ensure they deliver the intended outcomes, outputs and can demonstrate continuous improvement.***

There are two levels at which the monitoring process needs to be effective. At the strategic level, it is concerned with understanding whether the overall shape and coherence of services is delivering the required strategic outcomes for the local authority. Progress on the implementation of any commissioning strategy together with service performance should be monitored and evaluated on an annual basis by the appropriate scrutiny board and will, in future, feature in Councils’ Annual Reports. These reports are scrutinised by the CSSIW.

At the operational level, it is concerned with knowing whether individual services are accessible and efficient and are delivering the outcomes appropriate to service user’s needs. A range of people have a role to play in monitoring and evaluating performance at an operational level. The care manager or social worker has a role through the care management and review process to report positive and negative performance. Commissioning and contracting officers need to monitor the performance of both internal and external services. Service users, family members and health and social care professionals need to know where they can report any observations or concerns. It is essential that the local authority has a coherent

approach to collecting intelligence about the quality of services provided. Commissioners need to be proactive in seeking service user and carer feedback.

Commissioners will also have a responsibility for liaising with the Care and Social Services Inspectorate for Wales, and should work within the principles of the Concordat between Bodies Inspecting, Regulating and Auditing Health and Social Care in Wales (Welsh Assembly Government, May 2005).

Most authorities are well organised and efficient in monitoring the outputs of services – what services were actually delivered - but few are geared up to monitor the outcomes they achieve. Local authorities and their partners need to improve their arrangements so that they can systematically monitor and evaluate with both service outputs and outcomes for citizens. Monitoring and evaluation applies to both in house and external services.

Collaboration between commissioners in terms of monitoring and evaluation would improve the quality of services whilst at the same time reducing the burden on providers. There are opportunities for the Local Health Boards and the local authority to develop a coherent approach to monitoring and evaluation by removing duplication of processes and strengthening other means of collecting intelligence in terms of user and carer feedback. There is also scope for commissioners to work more closely with CSSIW and other regulators.

## Standard 12

***Social Services work with all their providers, including directly provided services, to identify the key actions necessary to support them in recruiting and retaining managers and staff with the appropriate knowledge, skills and values to provide services to the required standards.***

Key to the success of delivering services is that provider workforces are of the appropriate size, diversity and have the right skills to deliver the quantity and quality of care required. Providers need to be able to recruit and retain the right staff. Providers need to comply with registration and inspection requirements in terms of the qualifications of staff. Providers also need to meet their responsibilities to the Care Council for Wales Code of Practice for Employers of Social Care Workers. Workforce plans and workforce development programmes will be required to achieve these goals.

Commissioners recognise that staff are the most important asset of any social care provider. In recent years a considerable amount of work has been undertaken to develop regional arrangements through Social Care Workforce Development Partnerships and their workforce strategies, and for specific groups across sectors such as in the workforce plans of the CYPPs, informed by the requirements of the human resources planning guidance, 'Planning for Caring' (Welsh Assembly Government, March 2003). Commissioning plans, contracts and service level agreements need to recognise the impact of change in services on staff, and include clear expectations about workforce investment, support and development.



Commissioners need to recognise the costs of these expectations. Local and regional workforce partnerships should take a lead in this area.

More work needs to be undertaken to integrate the health and social care workforce where this would improve outcomes for service users.

The range of National Occupational Standards available across the social care workforce is now very comprehensive. Managers using National Occupational Standards will find them useful to reinforce the link from strategy to operational management and to service standards. They have an important role to play in recruiting and retaining managers and staff with the appropriate competence. They can also be used to measure service outcomes, outputs and impact.

See 'A Manager's guide to Developing Strategic Uses of National Occupational Standards.' <http://www.ccwales.org.uk/qualifications-and-careers/nos/nos-managers-guide>.

Commissioners will also need to be aware of the impact of their decisions upon the recruitment and retention of the workforce. The use of short term contracts, for example, may have a negative impact on workforce recruitment.

The need to identify data to provide an accurate picture of the current workforce providing social care was a strong theme emerging through the consultation process.

### **Standard 13**

***Commissioners have been suitably trained, qualified, experienced and are available in sufficient numbers.***

Successful commissioning is dependent on a whole range of people playing their part in the process and this will be made clear in the next section of the framework, 'Roles and Responsibilities'. This standard, however, focuses on those whose day to day work involves commissioning or procurement activities.

Staff engaged in commissioning social care come from a variety of backgrounds, which enhances the quality of commissioning, but good commissioning will depend on staff having specialist knowledge and skills to carry out commissioning tasks. It is important that commissioning staff have sufficient, demonstrable knowledge and understanding of the social care sector, including its underpinning values and strategic direction.

It will be important to ensure that staff are supported to develop their knowledge, skills and values, in line with the National Occupational Standards for Commissioning, Procurement and Contracting for social care, and to gain qualifications and accreditation to demonstrate competence in commissioning. The local and regional workforce partnerships should take a lead in this area by detailing their intentions and evidencing the improvements secured. The Open University has worked with the Care Council for Wales to develop a NVQ in Commissioning; a qualification unique to Wales.

Councillors, Directors and other local authority managers all need to understand and play their part in the commissioning process and this should be reflected in their job descriptions and leadership development. Their professional development should also be informed by the National Occupational Standards for Commissioning, Procurement and Contracting.

In Wales, a considerable amount of social care services are provided by small and medium sized businesses. Commissioners should work in partnership with providers to help them develop their skills in handling a commissioning and contracting environment.

The shift to person centred outcome based commissioning will be significant challenge for commissioning teams, requiring workforce retraining.

Commissioning is a primary function of each local authority and commissioning involves frontline activities, whether engagement with service users and carers to determine what services are needed, to ensuring quality through contract compliance, or as the first port of call when there has been poor practice by providers. Lack of sufficient capacity to monitor or act on information about poor practice by commissioners will have a detrimental impact on services.

Commissioners of Social Care, working in local authority social services departments, should work in partnership with their colleagues in procurement. Both groups of professional have skills and knowledge that will add value. Procurement officers have considerable expertise about procurement but may have limited knowledge concerning the needs of individuals and families requiring social care. It will be important for the professionals to draw upon each other's expertise. Similarly, there may be gaps in knowledge for commissioners around the needs of specific groups of service users or purchasing process. It will be important to draw upon the appropriate expertise of others to develop an effective approach to commissioning.

### **3. ROLES AND RESPONSIBILITIES**

Responsibility for commissioning permeates many aspects of council activity. Those involved include councillors, chief executives, directors, senior managers, commissioning and procurement specialists, service managers and care managers. Commissioning arrangements vary from authority to authority and depend on the size of the authority, organisational structures and other local factors.

This section describes example roles and responsibilities of personnel involved in the commissioning process. Local authorities should ensure that all relevant people are clear about their responsibilities, and these should be developed locally based on the descriptions below.

All the important players referred to below have a responsibility for ensuring the quality of services.

**Councillors** who are cabinet members, those who hold social care portfolios and those involved in overview or scrutiny committees have an important role to play in the commissioning process. They provide political guidelines for commissioners,

agree corporate priorities, help determine the level of delegated authority to commissioning teams, they are often responsible for scrutinising and signing off commissioning plans and they are increasingly involved in monitoring the progress of commissioning activity. With their officers they will need to contribute to decisions about changes in service configuration, design or decommissioning, and on an ad hoc basis, they frequently ask for information and evidence of commissioning decisions. They also need to be able to communicate with all stakeholders and explain decisions taken. Other councillors get involved in the process when their own wards are affected or may contribute to discussions to determine commissioning priorities, comment on inspections, audits and reviews and help investigate areas of concern. Councillors need to satisfy themselves that adequate performance management arrangements are in place and that the reports available to them allow them to make judgements about the commissioning process and the range and quality of services available. The training needs of councillors need to be given consideration to improve their knowledge of commissioning.

**Chief Officers** are key to the success of commissioning. It is not enough for these officers to be involved in the development of high level strategic plans and then to leave the delivery process to specialist departments. They should support and help the specialist teams by creating a culture whereby joint commissioning and joint working with Education and the NHS is positive and effective and where the two organisations share information and have common databases. They should lead the cultural shift within their own organisations, so that outcome-based commissioning becomes a reality and that outcomes drive both strategic and operational activity. With Councillors they will play a key role in decisions about changes in service configuration, design or decommissioning, and they may need to lead the process where the decision is controversial but financially and socially sound. Perhaps most important of all, they will need to view commissioning as part of the wider process of 'place shaping,' seeing social care in the context of its relationship with housing, environment, welfare provision, the local economy, deprivation, employment and family mobility and how all of these factors impact on individual citizens and the nature and make-up of the local community. Chief Officers will also need to satisfy themselves that adequate performance management arrangements are in place and that the reports available to them allow them to make judgements about the commissioning process and the range and quality of services available.

Chief Officers and Senior Managers need to have an understanding of how decisions made by the Commissioning Authority will affect the sustainability of services provided by the independent sector and the capacity of services required to meet the needs of their citizens.

They should ensure that the principles of engagement with partners set out in the Memorandum of Understanding and also in Fulfilled Lives Supportive Communities are adhered to.

**Senior managers** with responsibility for commissioning are responsible for a range of important strategic inputs and decisions and there is often a significant overlap with the role of directors. They will need to ensure that the development of commissioning plans is properly resourced and that other senior managers

contribute to and support the plans. They will need to engender enthusiasm and belief in an outcome-based approach to commissioning and ensure service designs link across and complement other adult and children's services. They will need to agree the overall approach to involving citizens in the commissioning and procurement process, so that it meets the need to involve people in the process, whilst not burdening those who volunteer. They will need to promote and support effective joint working with health and with provider agencies, including the third sector. With Councillors and Directors they will need to contribute to decisions about changes in service configuration, design or decommissioning, and they will need to ensure that commissioning plans achieve their outcome and output objectives. Senior managers will also need to satisfy themselves that adequate performance management arrangements are in place and that the reports available to them allow them to make judgements about the range and quality of services available. Senior managers will have an important role in designing the framework for performance management and reporting arrangements.

Councillors, Chief Officers and Senior Managers all have an important role to play in the implementation of this guidance.

**Social care commissioning teams** are responsible for producing joint commissioning plans, which shape services over a three to five year period. The plans will need to translate high level strategic plans and evidence the underpinning rationale and commissioning intentions. The teams will be at the forefront of working with commissioning partners in the NHS and will need to develop information sharing protocols, pooled budget arrangements, where appropriate, and other mechanisms for making joint working a highly productive process. They will require the skills to gather and analyse information and complete a full needs assessment. The teams will lead the development and design of new service models for their specific care groups, involving service users, carers and local citizens at all stages in the process. They will promote effective partnership with service providers, third sector organisations and with care managers and other practitioners, in order to ensure that commissioning reflects the experience of professionals working in the community. They will identify where out-sourcing may be a serious consideration and will develop an options appraisal approach for senior officers and councillors as part of wider market management plans, which will determine how commissioning intentions will be delivered and will work with provider organisations to achieve their efficient delivery. They will review commissioning and contracting performance to ensure that outcome and output objectives are being achieved and will take corrective action where necessary. They will also contribute to the development and implementation of the Health Social Care and Well Being strategy and other key strategic plans.

**Corporate procurement teams** advise on a range of commissioning and procurement topics, so that commissioning teams act according to local standing orders and within EU regulations and contract law. In some instances, the corporate teams will carry out activities in relation to tendering and contract arrangements. It will be important for corporate teams to understand the complexities of social care commissioning and for Standing Orders to be reviewed to reflect these. It will be vital for the social care commissioning and corporate procurement teams to establish a positive and effective working relationship. A working protocol to clarify roles is strongly advised.

**Service managers**, who are responsible for directly managed social care services, are required to implement commissioning intentions relating to their services. Commissioning plans apply to council service managers in the same way as they do to managers of contracted services. It will be important for commissioning specialists to work in close partnership with service managers, in order to clarify understanding of the requirements, to agree timescales and to help facilitate changes.

Other service managers also operate as commissioners. They will assist senior managers in their role described above. They will also provide an essential link between operations involved with care management and commissioning teams. They will provide information on where outcomes are being achieved or not achieved and contribute to the monitoring of the quality of services through the care management process. They also play a key role in promoting constructive relationships with providers. They are assisted in these tasks by team managers.

**Care Managers and other front line practitioners** will need to understand and commit to an outcomes approach and ensure that outcomes are a central part of the assessment and review process. It will also be important when translating assessments into services that individual outcomes are an integral part of the care package agreed with providers. Practitioners are also uniquely placed to contribute to service design, to encouraging the involvement of service users and carers, and to support the development of good relationships with providers and the third sector. It will be essential for commissioning teams and care managers/practitioners to build a close working partnership, in order that these important commissioning activities are achieved locally. Care Managers also play a vital role in monitoring and reporting on the quality of service provision. Care managers also need to have a good understanding of direct payments and how they operate.

**Providers** have an important contribution to make towards commissioning with experience developed from direct service provision. Providers are encouraged to participate in planning through the appropriate independent sector forums established with the local authority and examine opportunities for developing and improving services together with working with commissioners to make better use of resources. They should provide services that deliver stated desired outcomes for service users.

The parties to the 'Memorandum of Understanding' will encourage the establishment of local independent sector forums to facilitate the effective planning and delivery of services. Lack of engagement of a significant number of service providers through representative bodies or other networks will hinder the implementation of change.

Providers are responsible for the quality of their services and must operate their own systems of quality assurance.

It is essential that commissioners and providers work together and develop constructive working relationships with a high level of mutual trust to ensure the best outcomes for service users.

## **Service Users and Carers**

The commissioning strategy should be person centred. This means that the service user and carer are active in the assessment process and are able to express their needs, strengths and aspirations as well as sharing information important to service provision. Service users and carers have expertise about the challenges they face on a daily basis. The user and carer have a right to objective and accessible information and will draw upon this to discuss options. Users and carers need to be able to raise concerns and should do so to enable commissioners and providers to respond accordingly. Service users and carers have a responsibility to raise any concerns about service provision. The assessment, planning and review processes will hopefully build confidence and empower service users and carers to speak up as equal partners and co-producers. The same considerations apply to service users and carers but they must also have the opportunity to contribute separately.

Users and carers will contribute to the commissioning process through the assessment, planning and review processes. It is also important that users and carers have other opportunities to contribute. Here user engagement protocols and tools such as 'Appreciative Inquiry' can be used.

With the development of 'Direct Payments' in recent years users will also take more responsibility for commissioning their own social care either, for example, through the direct employment of personal care assistants or through an agency. It will be important that they have access to advice and information to enable them to make this adjustment.

## **Care and Social Services Inspectorate for Wales (CSSIW)**

CSSIW provides a citizen centred regulation and inspection service. Its purpose is to encourage the improvement of social care, early years and social services by regulating, inspecting, reviewing and by providing professional advice. Through its work the CSSIW aims to raise standards, improve quality, promote best practice and inform people about social care and social services.

## **Care Council for Wales**

The Care Council for Wales is the social care workforce regulator in Wales responsible for promoting and securing high standards across the social services, social care and early years workforce. It does this by developing National Occupational Standards and Qualifications appropriate for specific parts of the workforce. It is also the Sector Skills Council (Skills for Care and Development) for adult and children social care and early years in Wales.

## **4. A SHARED UNDERSTANDING OF COMMISSIONING**

Given the wide range of people contributing to the commissioning process, it is important for there to be a shared understanding of commissioning.

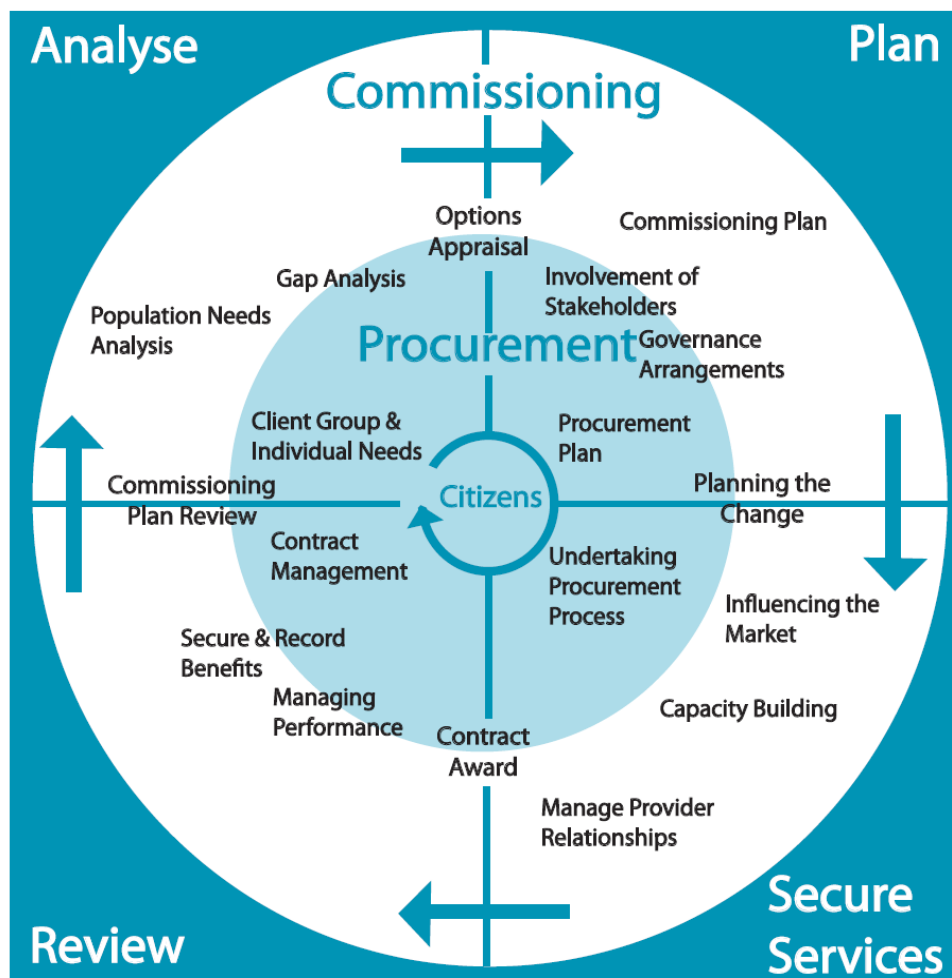
There are many different definitions of commissioning and procurement, emphasising different aspects of the tasks involved, depending upon the context in

which they are set. The definitions below have drawn on previous definitions but are specific to this framework and emphasise some of the core characteristics of local authority social care commissioning:

‘Social care commissioning is a set of activities by which local authorities and partners ensure that services are planned and organised to best meet the social care outcomes required by their citizens. It involves understanding the population need, best practice and local resources and using these to plan, implement and review changes in services. It requires a whole system perspective and applies to services provided by local authorities, as well as public, private and third sector services.’

‘Social care procurement is a set of activities by which local authorities secure best value services to meet the social care outcomes required by their citizens. It is one part of the commissioning process, and involves specifying requirements, securing services from the best providers and monitoring service effectiveness.’

The diagram below, developed originally by the Institute of Public Care at Oxford Brookes University, illustrates the relationship between the activities involved in commissioning and procurement. Grants are included within procurement and contract management.



Legislation and national policies shape all of the commissioning and procurement activities described. The Framework places commissioning within a 4 stage cycle – analyse, plan, secure services and review. It will be apparent that some activities are unique to commissioning, some unique to procurement and others shared – the latter are depicted as crossing the boundaries. There are four further activities, which are not only shared but bridge the quadrants of the commissioning cycle. The Framework is underpinned by six key principles, namely:

- Focus on client group needs across agencies.
- All four activities are equally important.
- The activities follow sequentially.
- Commissioning drives procurement.
- The procurement experience informs the ongoing development of the commissioning strategy.
- There is an on-going dialogue with service users/carers, case/care managers, providers and the third sector.



## **PART 2**

### **Commissioning Framework 2010**

#### **Good Practice**

##### **1. INTRODUCTION**

Part 2 of the framework explores some of the key challenges and activities necessary to help achieve the commissioning and procurement standards laid out in Part 1. Part 2 is divided into three sections, the first exploring commissioning challenges, the second addressing commissioning activities and the third describes how to access a range of guidance and resources tailored specifically for the procurement of social care services.

##### **2. COMMISSIONING CHALLENGES**

This section explores a number of challenges which commissioners of social care need to resolve in the modern commissioning environment, if they are to deliver high quality, value for money services.

###### ***CHALLENGE 1: Ensuring outcomes drive services and individual care plans***

Traditionally, social care and related health and wellbeing services tended to be supplied and measured on the basis of the outputs of those services – for example ‘The number of hours of home care provided by a service’, or ‘The number of beds provided by a children’s home’. Such outputs are often relatively easy to measure and can be useful in giving some indication of activity.

However, it has recently become recognised across social care that outputs are rarely sufficient for what local authorities need to know, in order to judge the effectiveness of a service – i.e. what impact it has on service users or the wider population. Outcomes are therefore increasingly used as a starting point in identifying the impact of services, either at a strategic level across the community or in terms of individual service users. So, for example, an outcome measure for a home care service might be ‘The number of people able to remain at home who would otherwise require residential care.’ For a children’s home an outcome measure might be ‘The number of children who complete formal education or achieve GCSE passes’. Although often more complex to measure, outcomes help commissioners to understand the true value of services in terms of their impact, and are an important element in developing effective social care and evidencing the value of social care to the wider public.

Data collection systems in local authorities currently tend to focus on recording information on outputs and service interventions. If they are to keep pace with modern commissioning practice, they will need to place greater emphasis on data sets and data capture systems, which respond to strategic outcomes.

If providers are to respond to users needs to deliver on outcomes they will need greater flexibility in how they provide services. This will depend on developing greater trust and progress towards partnership in their relationship with commissioners.

### ***CHALLENGE 2: Designing services using a whole system approach***

The social care system comprises a wide range of different types of care provider, with very different sources of funding, including:

- Individual carers and family members often providing informal care without financial support from the state. There are also examples of mutual care being provided within families. People with a disability, for example, contributing to the care for elderly relatives.
- Voluntary, not-for profit or third sector organisations which are supported through a wide range of sources including public donations, foundations and trusts, grants, service level agreements and contracts with national government, local authorities or other public sector bodies.
- Independent or private sector providers, funded through contracts with public sector bodies, through subscription or direct charges to individuals.
- Services provided directly by the local authority or partner public sector bodies, funded through local or national taxation.

As commissioners, local authorities have to take the responsibility, with their partners, for leading improvements across this whole diverse social care system, and across related health and wellbeing services. To do this, a 'whole system' perspective is needed, which means that commissioning has to be concerned with:

- Understanding the social care and health needs and priorities of the community and how these fit within the overall development aims of the Community Plan.
- Understanding the strengths and weaknesses of services provided to the population by different sectors, not just those delivered by the local authority.
- Understanding how changes in services in one area might affect services elsewhere, and the potential impact this might have on outcomes for the population.

Such a perspective is important in ensuring that local authorities and their partners are able to operate as 'intelligent commissioners', maximising the effectiveness of social care services, and minimising the risk of poor quality provision; to achieve collective aims.

### ***CHALLENGE 3: Putting citizens at the centre of all commissioning and procurement activity***

In its *Making the Connections* policy (2004) and *'Delivering Beyond Boundaries' Action Plan* (2006), Welsh Assembly Government advocated that local authorities and their partners should put citizens at the centre when developing local services. This included four strands: democratic accountability; better front-line access and support; greater responsiveness and stronger participation.

Commissioning for citizens is an important assumption underpinning this commissioning framework. It has 2 particular implications:

Firstly, through effective commissioning and procurement it is intended that all citizens, including service users and carers, should be able to influence the shape and nature of social care provision. There are many examples of good practice involving citizens in the development and implementation of commissioning plans, from formal representation on and to decision making bodies to service user and carer consultation events, focus groups and forums. At an individual level, effective case management and social work can ensure that the local authority is able to offer the citizen who needs social care, the opportunity, as far as possible, to specify the kind of support they want, when they want it and who they will receive it from. It is also important not to forget harder to reach groups, such as people who are homeless or who misuse substances. They too should have the opportunity of voicing their opinions, particularly about what would make it easier for them to access services. A key challenge for the commissioner is determining at what points in the commissioning cycle the citizen should be involved and how it will be achieved.

Secondly, commissioning for citizens means that social care cannot be looked at in isolation from other aspects of citizens' lives. When commissioning to meet social care needs, local authorities and their partners need to understand the interrelated effects that housing, environment, welfare provision, the economy, employment, health, deprivation and family mobility have on individuals, and consider how changes in these areas might have an impact on the social care needs of their citizens. A social care commissioning strategy should consider changes in areas beyond existing social care provision and contribute to the wider local authority 'place shaping' responsibilities.

### ***CHALLENGE 4: Making joint commissioning between the local authority and LHB a highly productive process***

One implication of a citizen-focused approach to commissioning is that often local authority departments or partner agencies need to work together to commission services. Joint commissioning is the process in which two or more organisations act together to co-ordinate the commissioning of services, taking joint responsibility for the translation of strategy into action.

Joint working can help with:

- Establishing a wide consensus around national strategies and local drivers.
- Securing more consistent approaches to data gathering, population needs and market analyses.
- Developing a joint commissioning plan.
- Ensuring commissioning plans and service design are based on the holistic needs of citizens.
- Establishing a common approach to procurement including managing contracts, grants and service agreements.
- Agreeing pooled budgets.

Most importantly, of course, it helps authorities achieve seamless care for its citizens.

Even where commissioning is not seen as a key tool by partners, they will very often need to use the same basic activities to enable them to use resources most wisely, so that joint plans can be developed, implemented and monitored in ways which ensure that the benefits of a joint commissioning approach can be secured.

The key challenge for commissioners is turning the theory into successful practice and the difficulty of achieving this cannot be underestimated. Local authorities and local health boards have very different cultures, financial and accountability arrangements and priorities. What they share, however, is a responsibility to their citizens to ensure that people are able to access quality services when they need them, knowing that services have been provided or secured at the best possible value and an interdependence in being able to achieve their aims. Some practical aids to improving relationships include:

- Agree role and terms of reference of joint commissioning groups (JCG) and establish appropriate seniority in representation of partners.
- Agree inter-agency values, goals and targets and common language for the process.
- Develop joint commissioning plans.
- Develop plans to pool budgets.
- Actively communicate commissioning and procurement plans within agencies.
- Review strategic and financial issues between partners bi-annually.
- Review commissioning plans annually.

### ***CHALLENGE 5: Strengthening services through effective partnership working with providers***

As well as being diverse, made up of organisations and individuals from various backgrounds, social care markets in Wales have other general characteristics which make them rather more complex than simple 'free markets'. These include:

- Professional social workers, care managers or others acting as service purchasers or 'honest brokers' on the part of both the local authority and the service user.
- Regulatory powers and high barriers to entry which ensure that the market is organised to minimise the risk of service failure.
- A relatively high degree of continuity in personnel across providing and procurement agencies in some areas and not in others.
- Often a small number of organisations in the local market, with the result that relatively few commissioners are in more or less continuing negotiation with a few providers. In this environment, judgments are often made on the basis of trust and reputation built up over time. In some cases the problem may revolve around too many very small providers.
- Although there are a significant proportion of self funders who will grow in future in some client groups such as older people and people with disabilities, social services are a near monopoly commissioner of the services in their area and carry additional responsibilities.

The effective social care commissioner needs to understand these dynamics and to design activities which make the best use of the arrangements. Local authority commissioners need to maintain a balance between encouraging competition to achieve value for public money and promoting constructive engagement and partnerships with providers. Many commissioners have taken a lead role in building strong relationships with their providers and facilitating good working relationships between provider organisations. Such a positive approach can help to improve services and outcomes for citizens. It can also provide greater continuity of care.

There are occasions, however, when it is not possible for commissioners and providers to enjoy such close working. Once the tendering process is underway, procurement rules have to be adhered to and they bar any bias towards a particular provider. This does not prevent commissioners from working with provider representative organisations that are not involved in the procurement process. Also, if corrective action is being taken, the nature of the relationship between the commissioner and provider will change but this should not stop the agencies working together to help resolve the difficulties.

Commissioners can strengthen the general environment for partnership working with service providers by treating directly managed services in a similar way to those of contracted services. This can be achieved when it comes to agreeing service specifications, the process of monitoring and review and, most importantly, through contract price and budget negotiation. Both sets of providers are part of the service market and should be treated in a similar way.

A key related challenge is that of agreeing a fair price for care, which reflects cost drivers faced by providers, whilst balancing the need for local authorities to achieve value for money and manage within financial constraints.

The traditional way of achieving this balance is through the tendering process. The European Union refers to this as MEAT, the Most Economically Advantageous Tender. This means identifying the best option on a basis which involves more than simply selecting the cheapest. While price is one criterion that may be considered, commissioners can also take into account quality, technical merit, environmental characteristics and delivery date (among other factors).

Councils often operate through an annual process of setting indicative fee-levels which they will pay for different types of care. Here the challenge is much greater and there is no simple solution to the problem. Perhaps the most important factor is to set up a mechanism for consultation, where both parties can exchange information and understand each other's financial position. Here are some factors which commissioners and providers should consider in the consultation:

- Commissioners should be aware of the general economic environment and the impact on both the LA and on providers.
- Commissioners should brief providers on the overall financial position of the Council, the pressures it is under and its strategic priorities.
- Commissioners should recognise provider costs and the factors that affect them.
- Commissioners should take into account provider costs driven by legislation, (e.g. minimum wage rates) and market trends (e.g. utility costs).
- Commissioners should understand the cost structure of services, in order to recognise opportunities for efficiency savings.
- Commissioners must be able to show that they have taken serious and reasonable account of provider representations in their decision-making.
- Providers should be willing to explore ways in which performance may be enhanced and the quality of services improved.
- Providers should embrace the change to outcomes.
- Commissioners and providers should make every effort to reduce transaction costs for providers by paying bills promptly and eliminating unnecessary bureaucracy.
- Providers should participate in their local organisation and consider how they can ensure professional representation for their perspective in the commissioning process.

The Memorandum of Understanding (“securing strong partnerships in care”) agreed between the Welsh Local Government Association, Association of Directors of Social Services Cymru, and Care Forum Wales, the Nursing Home Association and the United Kingdom Home Care Association provides a very positive framework for local engagement around these issues.

## ***CHALLENGE 6: Enabling the Third Sector a key contributor in developing and providing local services***

The Welsh Assembly's Strategic Action Plan, The Third Dimension, describes the third sector as follows:

There are community associations, self help groups, voluntary organisations, charities, faith based organisations, social enterprises, community businesses, housing associations, cooperatives and mutual organisations. They display a range of institutional forms, including registered and unregistered charities, companies limited by guarantee (which may also be registered charities), and unincorporated associations. Each organisation has its own aims, distinctive culture, set of values and way of doing things, but they all share some important characteristics in common, being:

1. independent, non-governmental bodies;
2. established voluntarily by citizens who choose to organise;
3. 'value driven' and motivated by the desire to further social, cultural or environmental objectives, rather than simply to make a profit; and
4. Committed to reinvesting their surpluses to further their social, cultural or environmental objectives.

Social care in Wales is hugely reliant on voluntary and not-for profit organisations, who provide much needed and valued support. They can be innovative, provide a wide range of services including specialist services and are often more acceptable to hard to reach groups. Local authority commissioners and their partners need to ensure that the activities undertaken to commission and procure services in a systematic and fair way do not inadvertently disadvantage third sector organisations, which may have limited resources and less experience of activities such as tendering, contracting and performance management. Please see "Procurement and the Third Sector: Guidance for the Public Sector in Wales" and the Social Care and Housing Related Support Procurement Route Planner for further information.

One important mechanism for engaging some third sector organisations is the allocation of grants. Grants are forms of financial assistance, which encourage organisations to undertake social care activities that would not normally be undertaken by the statutory sector or arranged through the case/care management process.

Grant funding is an appropriate funding methodology where a local authority is seeking to develop a partnership with an organisation to support it to develop services or activities that complement other services, and it involves people and communities in developing and organising solutions to their needs.

Grants remain one mechanism for ensuring the delivery of social care services. See Social Care Procurement Route planner for more information concerning the use of grants.

Full cost Recovery (FCR) is often raised as an issue in relation to the third sector. FCR means that third sector organisations receive payment not only for the direct costs they incur by providing a service (e.g. staff salaries in the case of residential care services) but also for overhead costs of governance, HR support, utilities and information technology services.

Under a competitive procurement regime, purchasers should be clear that they expect third sector providers to be aware of the risk of not bidding on a FCR basis. See 'Procurement and the Third Sector; Guidance for the Public Sector in Wales, 2008.

"A third sector organisation (or a private company) bidding for a contract should submit a price based on a clear understanding of the overhead costs that the organisation needs to cover, as well as the direct costs associated with delivering the contract. In general, however, the details of overhead costs would not be disclosed to the purchaser, nor should the purchaser seek this information since it would not normally be expected from a private sector supplier" - Working with the Third Sector, National Audit Office 2005.

### ***CHALLENGE 7: Strengthening bridges between commissioners and case/care managers***

Strategic social care commissioning plans need to be complemented by more detailed arrangements for securing services. Activities within the procurement process are important in ensuring that local authorities and their partners have the right kind of arrangements in place to secure services from external organisations to complement publicly provided social care. Local authorities' plans for directly provided services also need to be driven by the requirements of commissioning plans.

For individual citizens, assessment, care management and service brokerage are the key activities in ensuring that those with social care needs are able to gain access to the best possible, most appropriate services to support them. It is therefore very important that within an effective commissioning framework, there are close links between the strategic planning and commissioning processes described above, and the assessment, planning, delivery and monitoring of individual packages of care. Information about use and effectiveness of services to inform future commissioning priorities needs to stem from this.

### ***CHALLENGE 8: Ensuring commissioning plans and procurement activities complement arrangements for Direct Payments and self-directed care***

Direct Payments are given to service users as a means of increasing the control they have over their own care, giving them more choice and flexibility. They involve regular payments from social services enabling people to purchase their own care, instead of receiving help directly from the department or one of its chosen providers.

Direct Payments (DPs) challenge the traditional control which commissioners and care managers have had in determining who would receive what service and from which provider. They also challenge service providers, who once they had won a



service contract, could be sure of continuing to provide it. Under DPs the service user can decide to make their own arrangements.

This has important implications for commissioning and procurement, such as different forms of contract (e.g. framework contracts/agreements or cost and volume contracts), may be required in order to build in extra flexibility into the system.

As yet we do not know enough about the impact of the uptake of direct payments upon existing service provision. As more people take up direct payments the sustainability of some existing services will be brought into question and this may eventually result in the de-commissioning of services. Commissioners will need to monitor the withdrawal of Direct Payment recipients from traditional services. In many cases service users will prefer to employ their own personal care assistants directly. In other cases they may wish to purchase the service from an agency. Providers need to be aware of opportunities to respond to these developments.

***CHALLENGE 9: Recognising the needs and importance of the workforce in commissioning and provider services***

Commissioning and procurement have developed enormously over the past ten years and it has been difficult for commissioning teams to keep pace. It will be important for staff to be competent in their role, having the knowledge, skills and values as reflected in the National Occupational Standards for Commissioning, Procurement and Contracting for social care including:

- Working with commissioning partners such as the LHB.
- Engaging with citizens, service users and carers.
- Working collaboratively with a wide range of service providers.
- Leading service design and change management processes.
- Identifying strategic outcomes and monitoring measures.
- Developing commissioning plans.
- Understanding the business environment of for profit providers.
- Stimulating and managing the market.
- Promoting improvement and innovation.
- Making sound financial investments which lead to sustained value for money services.
- Taking corrective action or decommissioning services when they fail.
- Developing models of services for particular client groups which enable the projection of future service needs and the impact of different service configurations.
- Keeping up to date with new developments and work in an evidence based way.

Commissioners too have a large part to play in helping support the development of the wider social care workforce, including those of the third and independent sectors. Commissioners will need to work closely with providers to understand and address workforce issues in their local area. There are many common issues, including:

- Skill shortages in particular areas, which will make it hard for providers to deliver good quality and consistent services.
- Skills and expertise, which will need to change in order to maintain pace with new forms of care.
- Diversity in the workforce, which will need to reflect the changing mix in the community being served.
- Offering services in Welsh, other languages BSL.
- Appropriate levels of reward, which will need to be commensurate with pay levels in an area.

The NOS for Commissioning, Procurement and Contracting for Social Care relate specifically to all the skills noted above and should therefore be very useful to commissioners and managers.

The National Occupational Standards Navigator tool developed by the Care Council is a resource to be used to assist the development of the commissioning workforce and can be used by employers to recruit, develop, retain and value their commissioning employees. It can also be used by commissioners themselves to benchmark their practice and to identify their existing strengths and training and development needs.

The Commissioning, Procurement and Contracting for Social Care NOS can be located at <http://www.ccwales.org.uk/qualifications-and-careers/nos/commissioning-procurement-contracting>.

### **3. KEY COMMISSIONING ACTIVITIES**

#### **Scoping**

Like any management task, commissioning activities need to be carefully scoped, planned and resourced to ensure that they address the right issues, involve the right people, and include the right activities to get the job done. Successful development and implementation of a commissioning plan will require clear answers to the following questions:

- Whose commissioning plan is it, and what type of documents will be produced?
- Who are the citizens whose needs the commissioning plan is intended to meet?
- What period will the commissioning plan cover?

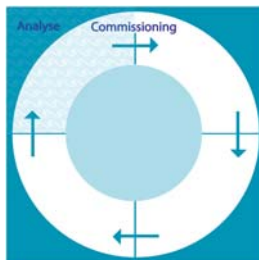
- What national requirements and what local strategic commitments will the commissioning plan address?
- What services need to be considered in the commissioning plan e.g. health, education, social care, housing, youth justice?
- When does the commissioning plan need to be completed – when does it need to be implemented?
- How will citizens, service users and carers be involved in the development of the commissioning plan?
- How will other stakeholders, including the third and private sectors, be able to contribute to the commissioning plan?
- Who will do the work to develop the commissioning plan, how much time will they need?

Many of these questions are complex and will need to be agreed between partner agencies in the light of the specific needs of the relevant group of citizens for whom a commissioning-led approach is being considered.

The NOS are statements of competent practice and should directly inform all commissioning work. The NOS for different parts of the adult and children social care and early year's workforce can be located at

<http://www.ccwales.org.uk/qualifications-and-careers/nos>.

## Analyse



Once the commissioning activities have been scoped, planned and agreed, the analysis stage of the commissioning cycle involves six key components, namely:

- National policy and guidance.
- Strategic plans, such as the Health and Well Being Strategy or the Children and Young People's Plan.
- Research, evidence and best practice for the citizens group concerned.
- Population needs.
- Local services and markets.
- Available resources.

It is important to ensure that from the start, those involved are clear about what key policies, guidance, strategic plans, and research and best practice should underpin the work. The first part of the analysis stage involves drawing together and analysing these elements, and ensuring that they are shared with all stakeholders, including commissioning partners, service users and carers and service providers.

The population needs analysis is concerned with ensuring that commissioning intentions are informed by an understanding of the needs of the local population, in

relation to the availability and quality of service provision. A fully comprehensive needs analysis includes:

- Demographic and socio-economic analysis.
- Prevalence and incidence and population risk factors.
- Findings from service user and carer research and the views of local citizens.
- Consultation with service providers.

Sources of information may be readily available through the Welsh Assembly Government, the Office for National Statistics, the National Public Health Service for Wales, local planning departments, local authority returns and local one-off studies. In addition, it may be necessary to complement this quantitative data with more qualitative information about what outcomes service users, carers and local citizens need from services in the future. This might be undertaken through:

- Existing service user networks/support groups.
- Postal questionnaires.
- Focus groups.
- One-to-one or small group structured interviews.

Commissioners are strongly advised to use the Welsh Assembly Government strategic needs assessment templates, when commissioning or carrying out needs assessment.

An analysis of markets and services should complement the population needs analysis by providing an overall picture of the range and quality of services to meet the needs of the population, both now and in the future. It might involve the following activities:

- Mapping of current services across all sectors.
- Analysing costs and activities.
- Mapping existing contract/SLA and other service arrangements.
- Analysing the quality and outcomes of services.
- Identifying any planned service development or existing commitments to service change.

The mapping of relevant services provides an invaluable database of information and needs to be undertaken as comprehensively as possible. So for example, this might include services which are provided by the local authority, by partner public sector organisations, by the private and third sectors under contracts, service level agreements or grants, by organisations which directly serve individuals without support from local authorities, and services which are provided by individual carers or family members.

The quantitative information, of course, should be underpinned by qualitative data in terms of service accessibility, equity, efficiency, effectiveness, sustainability, appropriateness and coherence. Service reviews, inspection results and looking at complaints, compliments, incident reports and service user views can all shed light on the quality of services being provided.

The final component in this stage of the commissioning process is a resource analysis, namely, determining the existing and potential resource base available for commissioning services in the future. This can be complicated by having a number of different funding streams and different agencies contributing to the process. Nevertheless, without this vital information, any commissioning plan will not be robust and sustainable.

It will then be necessary to draw together all the key features of these analyses and to hone them into a document for sharing with stakeholders, in order to secure their early commitment to the development process.

A key decision which links Analyse and Plan is whether to out-source services (the 'make or buy' dilemma) and it is a very difficult judgement for Councils to make. It requires a carefully managed options appraisal process, in which the evaluation criteria have been agreed at the highest level. The criteria would certainly include unit costs, performance in terms of outcome and output measures, social and community factors, system coherence, political considerations and environmental factors.

### **Good Practice Actions**

- Identify policies, guidance, strategic plans, research and best practice and analyse key messages.
- Commission or carry out a comprehensive population needs analysis.
- Commission or carry out a service, market and resource analysis.
- Draw and shape the above analyses together and share with key stakeholders in readiness for the planning stage of the process.
- Carry out an options appraisal process where serious consideration is being given to in-house services being outsourced.

## **Plan**



The planning stage, set in the context of the analyses highlighted above, has as its main purpose the development of a commissioning plan to steer the future development of services. It should be based upon a rigorous analysis of the information and intelligence gathered in the analysis stage above.

This stage involves identifying gaps and overlaps in service provision, and determining the strengths and weaknesses of particular services,

whether they are provided by the statutory sector or by the third or independent sectors. It involves identifying:

- Where there are gaps in particular types of service.
- Where services need to be revised or updated to meet best practice.
- Where services are inappropriate or in inaccessible locations.
- Where there is over-provision of particular services compared to the needs of the population.
- Where improvements are needed in cost effectiveness, efficiency or performance of services.

It is also important to assess the coherence of pathways between services, as inspections often reveal that, whilst individual services may be highly effective, their relationship one with another can be a huge weakness.

The analysis should provide the basis for establishing commissioning intentions, namely:

- Where to continue to invest in current services.
- Where disinvestment or the de-commissioning of services or parts of services will be required.
- Where new services will need to be developed or procured.
- Where existing services will need to be reconfigured or re-organised.
- The rationale behind proposed changes.
- The resource and risk management implications of the changes.

Further consultation with partners and stakeholders is obviously an important and valuable part of this stage, to ensure that the local authority and its partners are proceeding with a plan for change which is sustainable and realistic in the long-term.

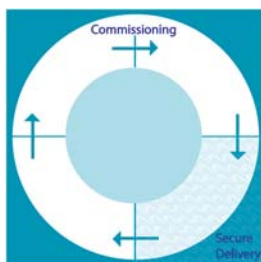
The degree of change required by a commissioning plan will need to be carefully considered, along with the risks to the whole system in introducing change. From time to time, it becomes necessary to take a fresh look at the whole system and to re-design it as a whole to meet changing needs and circumstances, and this obviously needs to be carefully evaluated with partners.

The culmination of the planning stage is the completion of a commissioning plan. For an example outline commissioning plan see **Appendix 1** to this document.

### Good Practice Actions:

- Carry out a thorough assessment of the strengths and weaknesses, gaps and overlaps, and investment profile of existing services.
- Develop strategic outcomes in the light of analyses and assessments.
- Design or reconfigure service systems.
- Carry out a risk assessment of the emerging arrangements.
- Devise commissioning intentions.
- Bring together all of the components into a draft commissioning plan.
- Consult with all key stakeholders on the plan.
- Arrange for the plan to be signed off in accordance with local governance arrangements.
- Publish the agreed plan.

### Secure Services



between providers.

The purpose of the delivery stage is to ensure that the commissioning plan is implemented, and that services deliver the commissioning intentions and outcomes. It involves shaping the provider system or market, through change management and procurement processes. In addition, this stage involves the commissioner in facilitating effective relationships between commissioners, between commissioners and providers and

There are 2 main routes by which commissioning plans are implemented by local authorities and their commissioning partners, firstly, through changes in the procurement of services for organisations external to the local authority and secondly, through changes in services provided by the local authority. Modern commissioning practice attempts to treat in-house and externally provided services equally, with a view to achieving best value and consistency across the system.

At a strategic level, it is necessary to start by assessing the readiness of providers to change, whether they are internal or external. It is important to be aware of their future plans and what additional services they may be interested in providing. There is also a need to assess what other providers operate in the region or nationally and might be persuaded to extend their range of services.

In the context of these activities, commissioning invariably involves working with providers of services to facilitate and manage change, with the purpose of securing the best possible arrangements for the future, minimising service breakdowns and maintaining commitment to service users and carers. To be successful commissioners need to address the kind of barriers that the Beecham Review of Local Service Delivery: Beyond Boundaries (Welsh Assembly Government 2006) identified to change in the configuration of public services including:

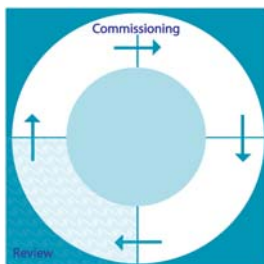
- Attachment to or reliance on traditional models of provision.
- The political process, which tends to protect local institutions rather than encourage innovation.
- A lack of trust in the motives of organisations or leaders proposing change.
- The case for a new model of provision not made convincingly enough.
- Local organisations divided on the need for change.
- Budget pressures in one organisation, leading to cost shunting.
- Insufficient ownership of the overall budget or understanding of the opportunity costs of failing to change.

To build successful relationships between commissioners and providers and between providers, it is necessary to encourage active commitment to change from the earliest stages of the commissioning process. This can be done through regular written communication and interactive stakeholder events, in which early findings are shared and the opportunity given for emerging ideas and proposals to be challenged. In addition, it is necessary to involve and support those likely to deliver change on the ground throughout the development and change processes.

#### **Good Practice Actions:**

- Devise a market management plan to guide implementation of commissioning intentions.
- Shape the provider system in accordance with the market management plan.
- Build a positive and trusting working relationship with and between providers across the social care system.

#### **Review**



This stage of the commissioning cycle is concerned with two fundamental questions:

- Firstly, are citizens receiving the services they need? Specifically, to what extent are services across the public, private and third sectors configured in the ways intended in the commissioning plan and are further changes needed?
- Secondly, and perhaps more importantly, what impact are services having on meeting the social care outcome needs of the population, and does this need to change?

To answer these questions requires information from a range of different sources, drawn together within a regular systematic analysis, including:



- The changing needs of the population.
- The impact of services on individual service users, from sources such as assessments, care plans and reviews, as well as service users own experience.
- The activity, performance and impact of individual services from sources such as local authority performance monitoring data and contract monitoring arrangements for procured services.
- Patterns of activity, performance and impact across the whole system drawing on data supplied from all of the sources above.

For most social care services much of this information should be collected already as part of internal local authority performance management arrangements or as part of contract requirements. However, even in situations where plenty of monitoring data may be available, an effective review of progress is not inevitable. The key task of the commissioner at this stage is to draw regularly on monitoring information to systematically analyse progress to inform any changes required in commissioning plans. Regular systematic reviews of progress can have 5 different but related purposes:

- To establish the extent to which progress has been made in delivering the commissioning plan and through this, the strategic aims of the local authority and partners.
- To compare the activity, performance and impact of services in the local area with other comparable areas.
- To provide the evidence to inform all stakeholders, not just the commissioners, about progress.
- To revise, where necessary, commissioning priorities.
- To generate enthusiasm and commitment to the commissioning plan.

Regular reviews are therefore not just to do with data collection – they are fundamental in ensuring that all of the key people who are interested in the development of social care services have a chance to understand where progress is being made, and to contribute to further change. An effective review needs to address the following questions, and to be undertaken in a way which allows partners, providers, services users, carers and other citizens to contribute and to know about the results:

- What changes in the environment (for example, economic changes or policy developments) have influenced services in the last period or are likely to influence them in the coming period?
- What changes in services, service configuration, performance and outcomes for users have occurred over the last period?
- To what extent have commissioning priorities been met over the last period, and what are factors which have influenced this?
- What changes to commissioning priorities are needed and why?

**Good Practice Actions:**

- Ensure that comprehensive performance monitoring arrangements are in place and operate efficiently.
- Ensure that contract/SLA monitoring arrangements operate effectively for all services.
- Carry out a systematic strategic review in order to monitor progress of market development against commissioning plans.
- Annually, adjust/refine commissioning plans to ensure that they are able to deliver the required services.
- Share outcomes of the review processes with stakeholders.

#### 4. KEY PROCUREMENT ACTIVITIES

For further information on procurement activities and how to embed an outcome focused approach into the procurement of social care services, please see the Value Wales Procurement Route Planner (PRP).

The PRP is a web-based resource available to provide support to the Welsh public sector for undertaking procurement.

Available at [www.buy4wales.co.uk/PRP/index.html](http://www.buy4wales.co.uk/PRP/index.html) simply follow the “Social Care” sign to access a range of guidance and resources tailored specifically for the procurement of social care services, including a number of templates and case studies.

Targeted at newly appointed commissioning and contracting staff, the PRP - Social Care and Housing Related Support signposts the Legislative and Strategic Framework within which organisations work and is designed to promote a structured, step by step approach to the procurement of Social Care services in line with the Institute of Public Care (IPC) model of Commissioning and procurement.

For further information on the PRP or for support and guidance on procurement policy, please email [vwpolicy@wales.gsi.gov.uk](mailto:vwpolicy@wales.gsi.gov.uk).

Also *Commissioning Support Tool for Partnership*, Partnership Support Unit, WLGA.

# Appendix 1

## Outline Commissioning Plan

### Introduction

- The purpose of the plan and shared values and vision.
- A brief picture of the service area under consideration, the priorities and the outcomes that the strategy is trying to achieve.
- A brief description of how the strategy was developed and how it links with other key planning documents.

### National and Local Guidance and Research

- An overview of the population concerned.
- A brief outline of the main messages from research, national guidance and good practice that have informed the plan.

### Needs Assessment

- The size and nature of needs to be addressed by the plan.
- Demographic analysis - showing the size and prevalence of need.
- Findings from local research or consultation with whole populations, patients, tenants, service users/carers.
- An overall assessment of needs of the care group concerned and the implication of this data.
- The outcomes that the strategy is intended to achieve for the population concerned, and how these are different to the outcomes experienced by the population now.

### Service Review

- A picture of existing services and their use as well as a wider picture of the market and an assessment of current gaps in service availability or performance.
- A map of services showing where services are located and the type of organisation providing them.
- Service quantity – is there under or over supply of services.
- Service performance – whether services are meeting needs fully or partially.
- The contractual and grant arrangements in place and any strengths/weaknesses in the arrangements.

- A picture of the financial resources available now and potentially over the period of the plan.
- Current and future trends in service provision across the public, private and voluntary sector.
- A summary of known oversupply, shortfall or pressure points in provision, now or in the future, and areas of poor performance.

### **Gap Analysis and the Design of Future Provision**

- The shape of future services and the strategic priorities/outcomes necessary to achieving them within the timeframe of the plan.
- Appraisal of the options available, including risks.
- Key commissioning objectives the rationale behind them and the resource implications.

### **Service Development, Procurement and Market Management Plans**

- How the planned service changes will be implemented in practice through procurement and internal service development plans.
- How links will be made through local authority annual business plans, which will detail improvement actions to be taken across all relevant services, including those directly-provided and procured.
- A plan for how the market will be managed, including any changes to contracting, partnership or grant-making arrangements.

### **Monitoring Arrangements**

- How both the commissioning plan and services/contracts will be monitored in the future to determine whether the plan is shaping services in the way intended.

### **Appendices**

- The full needs and market analysis.
- Results of consultation exercises.
- All key social care and health performance indicators, and other important indicators appropriate to the care group.
- A glossary of terms used in the plan.
- Key research and guidance documents.
- Action plan.

## Appendix 2

### Commissioning Framework Glossary of Terms and Abbreviations

<b>Best Value (BV)</b>	A legal requirement of all local authorities to make sure that they deliver value for money across their services. This is implemented by carrying out reviews, consultations and monitoring of BV performance indicators.
<b>Brokerage</b>	Facilitating service users to make direct arrangements for their care services.
<b>Care Package</b>	A collective name for the service(s) a person can expect to receive following assessment.
<b>Carer</b>	A person providing care who is not employed to do so by an agency or organisation. A carer is often a relative or friend looking after someone at home who is frail or ill; the carer can be of any age.
<b>Care Management</b>	The process of meeting needs at an individual level, which is sometimes known as micro-commissioning.
<b>Commissioning</b>	The process of meeting needs at a strategic level for whole groups of service users and/or whole populations, and of developing policy directions, service models and the market, to meet those needs in the most appropriate and cost effective way.
<b>Community Care</b>	Care or support provided by social services departments and/or the NHS to assist people in their day-to-day living.
<b>Contract</b>	A mutual agreement enforceable by law.
<b>Contracting</b>	The process of negotiating and agreeing the terms of a contract for services, and on-going management of the contract including payment and monitoring.
<b>Decommissioning</b>	The process of planning and managing a reduction in service activity or terminating a contract in line with commissioning objectives.
<b>Direct Payments</b>	Payments given to service users as the means of controlling their own care, allowing more choice and flexibility. They are regular monthly payments from social services enabling people to purchase their own care, instead of receiving help arranged by social services.

## Commissioning Framework Glossary of Terms and Abbreviations

<b>EU Procurement Directives</b>	The European Union (EU) procurement directives which together with UK legislation set out the law on public sector procurement. Along with the EU treaty principles including openness, transparency and equal treatment and relevant European and domestic case law, their purpose is to open up the market for goods and services purchased by public sector bodies. This also accords with the EU principle of the free movement of goods and services within the EU.
<b>Form of Tender</b>	The document provided by the purchasing agency on which the service provider or supplier makes its formal offer.
<b>Framework Agreement/ Contract</b>	A contract or agreement listing a range of providers who have demonstrated that they are able to provide specified goods or services. Once in place, organisations or individuals (direct payment or individual budget holders) can call upon one or more of the providers for goods or services as required. "Call-off" of services from the framework must operate in accordance with the criteria set out when the framework was established.
<b>Grants</b>	Grants are forms of financial assistance, which encourage organisations to undertake or to continue activities that would not normally be undertaken by the statutory sector. Grants are usually not repayable but they only cover some of the project costs.
<b>Independent Sector</b>	An umbrella term for all non-statutory organisations delivering public care, including a wide range of private companies, voluntary and community organisations.
<b>Joint Commissioning</b>	The process in which two or more organisations act together to co-ordinate the commissioning of services, taking joint responsibility for the translation of strategy into action.
<b>Local Service Boards</b>	Cross-agency partnerships of key leaders from the statutory, private and third sectors with the aim of improving joint working and facilitating whole system delivery of citizen centred services in a particular locality.
<b>Place-shaping</b>	The shaping of social care in the context of its interrelationship with housing, environment, welfare provision, economy, employment, health, deprivation and family mobility and the impact these have on individual citizens.
<b>Make or Buy</b>	The 'make or buy' question is a fundamental dilemma faced by private and public organisations, namely, whether to keep services, technologies and processes in-house or to purchase them from an outside supplier. The phrase was first used in manufacturing and hence the use of the word 'make'.

## Commissioning Framework Glossary of Terms and Abbreviations

<b>Most economically advantageous tender (MEAT)</b>	The criteria, other than price, that a purchasing agency can take into account when awarding a contract, such as technical merit or quality.
<b>Non-statutory Sector</b>	Voluntary, independent and private sector provision.
<b>Outcomes</b>	The impact, result or effect of services on the community or of a service intervention on an individual, e.g. the reduction in crime in a local community or completion of formal education.
<b>Outputs</b>	The number of units of care delivered by the provider, e.g. the number of service users receiving support or the number care plans completed.
<b>Partnering</b>	A relationship between purchasers and providers of goods and services throughout the supply chain which is designed to maximise the effectiveness of each participant's resources.
<b>Pooled Funds</b>	A mechanism for commissioning partners to bring money together, in a separate fund, to pay for agreed services.
<b>Provider</b>	A generic term for an organization that delivers a care service.
<b>Local Health Boards (LHBs)</b>	Locally managed free-standing NHS bodies, responsible for delivering health care and health improvements to local residents. They commission or directly provide a range of community health services as part of their functions. These bodies are subject to structural and other changes in Wales, which will directly affect their role in commissioning and related matters.
<b>Procurement</b>	The process of identifying and securing a provider, including stimulating/managing the market and competitive tendering, and, thereafter, monitoring and evaluating the effectiveness of services.
<b>Providers</b>	Any person, group of people or organisation supplying goods or services. Providers may be in the statutory or non-statutory sectors.
<b>Purchasing</b>	The process of buying or funding services.
<b>Purchaser</b>	A budget-holder who contracts to buy a service from a provider.
<b>Service Level Agreements (SLAs)</b>	Written undertakings agreed between purchasing authorities and their in-house provider departments.

## **Commissioning Framework Glossary of Terms and Abbreviations**

<b>Social Enterprises</b>	Businesses with primarily social or environmental objectives. Their surpluses are re-invested in the business or in the community. Social enterprises include cooperatives, development trusts, community enterprises, housing associations and social firms.
<b>Statutory Body</b>	A body set up by legislation whose duties are laid down by law.
<b>Tender</b>	A formal offer to provide services as a response to a specification, usually for a stated price or in accordance with a schedule of stated prices.
<b>Tenderer</b>	A person or body that has, or been invited to, submit a tender.
<b>Third sector</b>	Includes the full range of non-public, non-private organisations which are non-governmental and 'value-driven'; that is, motivated by the desire to further social, environmental or cultural objectives rather than to make a profit.
<b>Voluntary and Community Sector</b>	An 'umbrella term', referring to registered charities as well as non-charitable non-profit organisations, associations, self-help groups and community groups, which operate on a non-profit-making basis, to provide help and support to the group of people they exist to serve. They may be local or national and they may employ staff or depend entirely on volunteers.