



# Commission Impossible?

Shaping places through strategic commissioning

Dr Laura White

Edited by Tom Shakespeare

With foreword by Rt Hon Hazel Blears MP



# About Localis

## **Who we are**

Who we are Localis is an independent think-tank dedicated to issues related to local government and localism. We carry out innovative research, hold a calendar of events and facilitate an ever growing network of members to stimulate and challenge the current orthodoxy of the governance of the UK.

## **Our philosophy**

We believe in a greater devolution of power to the local level. Decisions should be made by those most closely affected, and they should be accountable to the people which they serve. Services should be delivered effectively. People should be given a greater choice of services and the means to influence the ways in which these are delivered.

## **What we do**

Localis aims to provide a link between local government and the key figures in business, academia, the third sector, parliament and the media. We aim to influence the debate on localism, providing innovative and fresh thinking on all areas which local government is concerned with. We have a broad events programme, including roundtable discussions, publication launches and an extensive party conference programme.

## **Find out more**

Please either email [info@localis.org.uk](mailto:info@localis.org.uk) or call 0207 340 2660 and we will be pleased to tell you more about the range of services which we offer. You can also sign up for updates or register your interest on our website.

# About Mears

Mears is the UK's leading provider of social housing maintenance and care services. More than 13,000 people work at Mears and every year we are welcomed into the homes of over 500,000 people.

## **Mears working in partnership**

Mears continually looks for ways to drive service improvements. We do this in partnership with local authorities, housing associations, health authorities, charities, local communities and individuals. We use our experiences to invest in innovations that secure long-term outcomes rather than short-term targets.

## **Why is Mears supporting this publication?**

Commissioning has a vital role to play in improving the quality of life for groups and individuals which is why we welcomed the opportunity to support Localis and Essex County Council in delivering this timely and valuable report.

To find out more please contact:

Abigail Lock

Head of External Relations (Interim)

[pr@mearsgroup.co.uk](mailto:pr@mearsgroup.co.uk)

0780 8647836

[www.mearsgroup.co.uk](http://www.mearsgroup.co.uk)

# Contents

<b>Acknowledgements</b>	<b>3</b>
<b>Foreword by Rt Hon Hazel Blears MP</b>	<b>4</b>
<b>Executive Summary</b>	<b>6</b>
<b>Introduction</b>	<b>10</b>
<b>1 What is Strategic Commissioning?</b>	<b>12</b>
<b>2 Approaches to Strategic Commissioning</b>	<b>24</b>
<b>3 What Does a Strategic Commissioning Council Look Like?</b>	<b>38</b>
<b>Conclusion</b>	<b>45</b>
<b>Appendix</b>	<b>48</b>
<b>Bibliography</b>	<b>53</b>

# Acknowledgements

This project was led by Dr Laura White, Policy & Strategy Officer at Essex County Council and edited by Tom Shakespeare, Director of Policy and Research at Localis.

We would like to thank numerous others from Essex County Council, Mears and Localis who contributed to the research and drafting at all stages. Finally, we would also like to acknowledge the input and insight of the following individuals throughout the research and consultation, although this list is by no means exhaustive: Laurence Ainsworth (Chester West & Cheshire Council), Louise Beatty (Cabinet Office), Ian Campbell (Wakefield Council), Cllr Paul Carter (Kent County Council), Justin Griggs (NALC), Paul Jenner (3SC), Cllr Mike Jones (Chester West & Cheshire Council), Emma Jupp (Age UK), Henry Kippin (2020 Public Services Hub), Ian Lewis (Hackney Council), Gordon Murray, Kate Mulley (Action for Children), John O'Brien (London Councils), Helen Randall (Towers and Hamlets), Cllr Steve Reed (Lambeth Council), Steve Spiers (South Gloucestershire Council), John Tizard (LGIU), Nicholas Webb (Camden Council).

# Foreword by Rt Hon Hazel Blears MP

Councils have sometimes struggled with competing priorities when trying to strategically commission services and in the past have perhaps been too keen to rely on a small number of commissioning models that have arisen from political instead of practical concerns.

These two somewhat stylised models have inherent flaws. The Nicholas Ridley manifestation of hands-off government encouraged councils to act as holding companies, meeting once a year to award contracts to private companies and focusing solely on economic value and the bottom line. On the other hand, the classic statist model, which some councils have used to provide all services from leisure centres to adoption services, delivered a controlling model that lacked personalisation and overlooked community involvement.

The challenge for councils is to find a middle way between these extremes – finding new relevant models that can effectively and efficiently commission services that achieve good value. By highlighting some of the innovative examples of strategic commissioning from across the country, this timely report offers an extremely useful contribution to the debate about the future of local services.

The report specifically refers to the London Borough of Lambeth and the co-operative council model that is being pioneered by Cllr Steve Reed. It is empowering local residents, community groups and mutuals to shape and take control of their local services, embracing and using local knowledge to commission services that really work.

There is real innovation going on in my own constituency too. Salford Council's 'Unlimited Potential' is a social enterprise that employs more than 40 people working on health projects commissioned by the council and in partnership with the NHS targeted at those most in need of support, and this year will be reinvesting their surplus back into the local community through an Innovation Fund, helping local people to help themselves

As these examples and the report shows, councils are taking different approaches to tackle the variety of challenges that their areas face. The reason that these have been successful is because they represent a break from stale models of the past and show how commissioning can be developed to localise and personalise services.

The challenge for local councils is to determine what exactly they want to achieve, and then how best to commission to implement their strategic goals. This will differ from place to place and each council's aims should reflect the needs and aspirations of their local community with renewed focus on accountability.

People need to know who is responsible for the services they use, and it is the role of councils to ensure adequate and improving service provision, but this can only reflect what local people want if they feel engaged in the process. Much of this relies on a redefinition of the interaction between citizen and state and moves away from contracted transactions to a relationship placing both on a more equal footing.

By commissioning more effectively and collectively not only will councils benefit from greater efficiencies that will allow savings to be made in a difficult financial climate, but working with local people and giving them greater involvement and responsibility over the way that their money is being spent will bring together service providers and service users in partnership to drive continual improvement.

The report's conclusions are relevant for central government and councils of all political persuasions, and will undoubtedly become increasingly pertinent in the years ahead.

# Executive Summary

## ***The time is right for councils to radically rethink how services are delivered***

The role of councils is changing in the face of economic pressures and the Government's plans to decentralise power from Whitehall to local government and beyond. This report suggests that councils have a once in a generation opportunity to cement their position of enhanced power by taking a 'strategic commissioning' approach to the delivery of local services.

Strategic commissioning, defined broadly as: "the process of identifying needs within the population and developing policy direction/service models and the market to meet those needs in the most appropriate and cost effective way",<sup>1</sup> offers opportunities for councils to better fulfil their role as 'place-shapers' of their local areas. The commissioning process is best visualised as a back-and-forth 'steering wheel' motion between need assessment, the market, resources and delivery, rather than the typically cyclical model used at present. This places a particular emphasis on a continuous dialogue between various bodies.

Local strategic commissioning involves a move away from an outdated focus on cost which dominated the Compulsory Competitive Tendering (CCT) era of the 1980s, through to the centralised 'best value' regime which dominated the Government's approach to local government over the last decade, towards a more localist understanding of 'value'.

Councils have already recognised the importance of strategic commissioning, and 81% of council leaders and chief executives surveyed for this report say they are considering taking on an even greater strategic commissioning role in the near future.<sup>2</sup> In this report, we take the position that strategic commissioning should be 'provider neutral', focusing on local need and the best pathways to deliver that need. The public, after all, prioritise an effective public service above and beyond who provides that service.

## ***Strategic commissioning offers substantial benefits for councils and local residents***

By focusing on what is most important for local residents, strategic commissioning can result in a wide range of benefits, including:

- **Greater efficiency** – The commissioning process opens up new possibilities to deliver services in more efficient ways, as well as opportunities to take advantage of initiatives such as pooled budgets and early intervention investment (eg social impact bonds) to deliver long-term value for money for council-tax payers.
- **A focus on outcomes, not processes** – By studying the needs of local residents, and by measuring the long term local 'value' of particular services, councils

<sup>1</sup> National Procurement Strategy, in ECC (2010) 'Procurement Strategy: 2011/12-2013/14', p.6.

<sup>2</sup> Localis survey – see Appendix

can ensure the provision of services which deliver the most important outcomes for residents – improving lives, not ticking boxes.

- **Stimulating local enterprise** – By taking a comprehensive strategic commissioning approach, councils could leverage their significant resources and significant buying power to create new markets in the provision of services, which could create new jobs and growth, as well as the potential to drive competition, choice and innovation in local services.
- **Focus on what is strategically important** – By ‘externalising’ the provision of services, there may be opportunities to resolve any conflict in the council’s role as both commissioner and provider of services. More specifically, councillors may be able to take a more strategic approach by focusing solely on the commissioning and scrutiny of services rather than the day-to-day provision.

Most councils predict a shift in service provision from in-house to voluntary organisations (82%), public sector shared initiatives (80%), SMEs (75%) and large private organisations (68%), with only 5% of councils saying that more services will be delivered in-house.

### ***Some councils are already looking at innovative ways to deliver better services***

Some councils are already using, or plan to use, innovative approaches to deliver on their strategic commissioning plans, including outcomes focussed contracts (97%), pooled budgets (86%), flexible contracts (84%), payment by results (78%) and social return on investment models (53%). A handful of councils have already made significant steps towards becoming wholesale strategic commissioners of local services. These include:

- **Mears and Hertfordshire County Council** – This is a joint initiative between a private company and a local authority to implement a payment-by-results model for reducing contact time, promoting independence and improving outcomes for users of a ‘Telecare’, enabling people to manage their long term health conditions whilst living independently. This way, there is an incentive for the provider to ‘perform’ and for both the provider and council to make financial savings
- **London Borough of Lambeth** – The co-operative council, as trialled by Lambeth, is an innovative model which aims to involve local residents in co-producing and co-commissioning their services and pooling personal resources to create micro-mutuals. The council remains at the core of the commissioning process, adopting a facilitating role. Councillors and officers will retain their responsibility for safeguarding and scrutiny, but will also effectively take on the role of community organisers.
- **Essex County Council** – By providing customer-centric ‘trip-advisor’ style performance data ‘Essex Assist’ on their local care services, ECC have created a platform from which will promote good quality service providers and drive up standards. They have also set up a social care trading company ‘Essex Cares’ which has helped to redefine the relationship between staff and customers by empowering staff. This has led to ‘Essex Cares’ achieving a 99% user satisfaction rating.
- **Selby District Council** – Selby are one of a number of councils taking steps to decouple the council’s decision making function from the provision of services by creating a new service delivery vehicle ‘Access Selby’, which may involve a mixture of private, public and third sector ownership.

### ***There are barriers to achieving the strategic commissioning approach***

Despite the steps taken by of a number of councils, there remain a number of barriers to the sector-wide implementation of a wholesale strategic commissioning approach. These include:

- **Barriers to innovation** – One of the biggest barriers to innovation is the limited market and the limited engagement between the public sector and providers. However, despite this, councils were optimistic that opportunities would be given for external organisations to enter the market in the future, with approximately 80% saying that more contracts would be given to voluntary and community sector (VCS) and small and medium enterprises (SMEs), and 68% to larger companies. In addition, risk is so narrowly defined, and the political dimension of commissioning is shied away from, particularly in times of austerity. It is important not just to recognise that commissioning is about political decisions, priorities and fundamentals, but to positively embrace this.<sup>3</sup>
- **Contractual barriers** – There is a residual fear that by taking a more strategic commissioning approach, councils will lose sovereignty over service provision. Whilst opportunities exist to break-up, adjust the length or renegotiate contracts, there still seems to be a degree of rigidity in local government. For example, a 2008 Ipsos MORI survey noted that 66% of the sampled PFI contract managers devoted less than half of their time to managing the contract; it also noted that 42% of the contracts sampled had failed to levy any performance deductions in the past 12 months. These two statistics point to the crux of the problem; contract management is woefully under-resourced and contract managers are often unaware of their rights under the contract or how to enforce them.
- **Information barriers** – Another major barrier is the lack of relevant information to make informed commissioning decisions. For example, 75% of councils surveyed thought that the availability of clearer national benchmarking data on provider performance would help with the commissioning process, and 90% thought that there were barriers around sharing data. Internal council communication between officers and members, and between departments was also cited as a barrier.
- **Cultural barriers** – Few councils have any real confidence that strategic commissioning can take place without a significant shift in culture towards a less siloed approach to the delivery of services, with councillors taking on greater roles as community advocates and scrutinisers of performance. In our survey 91% of councils said that culture was a barrier to a more strategic commissioning approach, 65% said that the internal council structure was a barrier to strategic commissioning and 88% thought that the role of elected members would need to change. Furthermore, 70% said they needed more commissioning experts in order to make the transition.
- **Barriers to joint working** – There was an almost unanimous view (91%) that councils should take the lead on the strategic commissioning of local services across the public sector. Yet despite this, 70% thought that national structures were a barrier and 97% said there were challenges around reforming the siloed nature of budgets. Much emphasis has been placed on rhetorical partnership working but within the constraints of individual budgets, practical progress in terms of holistic and whole life provision can be limited. Within the council itself, there is a siloed separation of subject matter experts, commissioners, procurement managers and corporate policy and high-level priority setting.
- **Capturing and measuring value for users and communities** – This is a challenge both in terms of practical application and measurement and assessment. There have been many efforts to develop models to do measure value, but as yet, there has been limited progress in finding workable solutions. In the absence of being able to definitively measure social return, a focus on outcomes (be that contractually or otherwise) is one answer, and this is gaining credence nationally. However, these practices are currently very sporadic, and in many cases products are commissioned rather than services.

<sup>3</sup> See, for example, Unison, APSE & LGIU (2011) *Think Twice*.

***This report makes a number of recommendations for central and local government***

The report draws out a number of lessons, including a number of recommendations for central and local government, under nine broad themes:

- **Address siloed nature of public services** – Central Government should offer continued support and resources for pooling budgets, data sharing across the public sector and giving councils greater financial flexibility to better reflect the long-term nature of investments in early intervention initiatives. Health and Wellbeing boards should also be given ‘teeth’ to enable effective partnership commissioning.
- **Focus on outcomes not processes** – Central Government should promote national availability of benchmarking data on provider performance to enable commissioners to make informed decisions. Councils should be open minded about methods for achieving savings before moving to tender eg new providers, local authority trading companies (LATCs), support for Voluntary and Community Sector (VCS) or shared services.
- **Support a thriving market for all sectors** – Central Government should support councils in trying to evidence social return. Councils should adopt various mechanisms to improve service design and procurement – including exploring innovative methods for supporting market and building capacity for VCS and SMEs before reaching procurement stages, and should look to utilise innovative funding models to revolutionise the way that services are delivered.
- **Redefine risk** – Councils should work with partners to redefine risk, internally and externally, to ensure that money is spent on services which deliver the long term outcomes. They should amend SME risk categorisations so that small stable and profitable businesses that are high risk due to their size in relation to the contract value can still be awarded suitable contracts.
- **Create smarter, more flexible contracts** – Councils should capitalise more on opportunities to value test and re-negotiate their contracts.
- **Redefine the roles and responsibilities of councillors and officers** – Councils should support elected members to take on a greater role as community advocates and actively encourage members to take up scrutiny roles. They should embrace the culture change towards becoming strategic commissioners through officer and member training.
- **Make commissioning distinct from procurement and outsourcing** – Councils should move from transactional to transformational savings, and work collectively to promote a clear vision of what commissioning means, including how this is distinct from outsourcing.
- **Work towards a new, more localist, understanding of value** – Councils should continue to develop their own measures of local ‘value’, working together with other councils to compare and benchmark performance.
- **Involve communities in the commissioning process** – Councils should give greater focus to how communities and providers can be involved in the commissioning process and priority setting, and should encourage and enable residents to share information and intelligence on their experiences of services, using the feedback of others to inform choices.

# Introduction

'Strategic commissioning' has been a popular idea in local government for many years. Whilst very few authorities would claim that it is an approach which is applied consistently across all service areas (only 7% of councils surveyed said their services were 'mainly outsourced'), and the precise terminology differs in various political contexts, the aspiration of more effective and joined-up service design and delivery is widespread. While councils already deliver a wide range of services, from social care to waste management and from leisure facilities to local schools, the Government's forthcoming public service reforms will make this aspiration even more imperative at the local level, and local government will have a crucial role to play.

Although touching on procurement and contracting issues, this report purposefully does not make prescriptions regarding the type of service that should be commissioned or most suitable providers for any particular service. This is because, as will become clear, strategic commissioning necessitates a willingness to look at how things can be done differently and innovatively, in some cases moving beyond traditional mechanisms of council provision. This report does also not claim that there is a one size fits all solution for strategic commissioning, and a structure that works for one locality may be very different to a successful one elsewhere.

Of course there have been examinations of strategic commissioning in the past, and the analysis which follows will build on this canon of research. At a time of intense deliberation about the future of public services, it is now more vital than ever that councils consider how strategic commissioning could play a role in shaping their localities. This report explores the different contexts behind commissioning and provision and considers how council structures, officers and members, in collaboration with local residents, can promote best practice across local government.

The landscape for public services is changing in the face of both economic pressures, and new emerging approaches to addressing local need. The role of local government therefore is also quickly evolving as locally-devolved decision making, choice and personalisation become the norm within a broader agenda for public service reform. The time is clearly right for the strategic commissioning council, with over 80% of local authorities set to take on this role in the short-to-medium term.<sup>4</sup>

<sup>4</sup> According to a survey of over 100 councils conducted by Localis. See 'A Note on Methodology' and Appendix A.

This report will therefore explore a range of thorny issues relating to the implementation of a more strategic commissioning approach in local government. The report is divided into three main sections:

- **Part One – What is Strategic Commissioning?** The first section draws together relevant literature with qualitative and quantitative evidence to provide a detailed context to the commissioning debate. It traces the history of commissioning from Compulsory Competitive Tendering in the 1980s through to the Best Value years and emerging calls for a better focus on outcomes.
- **Part Two – Approaches to Strategic Commissioning.** There are many barriers – bureaucratic, financial, technical and specific – which arise in the standard commissioning process. This section addresses the procedural barriers to strategic commissioning, explores innovative approaches and highlights the key features and outcomes of good commissioning. The issues include the need for greater innovation in contracting and delivery, the importance of understanding value and commissioning for outcomes not processes the development of local markets, and intelligent procurement.
- **Part Three – What Does a Strategic Commissioning Council Look Like?** Drawing together the above discussions, this section focuses on the structural barriers to strategic commissioning, and reveals paths to improvement. It explores how councils are evolving (and need to evolve) in order to facilitate more strategic commissioning. As will be illustrated, councils across the country are already making strides here, but this section will highlight the ongoing need for less siloed council and public sector structures, as well as the potential for councils to embrace the emerging roles and responsibilities for officers and members as part of a new conception of accountability.

If the shift towards the commissioning of public services is to be truly transformational in terms of quality, efficiency and efficacy, then it is crucial that these barriers to *commissioning strategically* are overcome.

#### ***A Note on Methodology***

The research which informed this report has been largely qualitative in nature. The methods employed have included semi-structured interviews and participant observation (through a private roundtable discussion). There has also been extensive consultation at all stages with commissioners, academics, private and voluntary sector providers, and commentators. This information has also been supplemented by quantitative data obtained through a survey which explored the theme of strategic commissioning. A questionnaire was sent to every council in England of whom 105 responded to questions on a range of topics from decision making processes to the delivery of services. Respondents came from various council types, and were based in all parts of England. The results of this survey are included in Appendix A.

The focus of the report has been on current developments relevant to strategic commissioning and it is important to note that the models and case studies discussed throughout are about emerging innovations to address the issues identified, and as such do not necessarily focus on presenting results or findings.

# 1. What is Strategic Commissioning?

The term commissioning has long been common currency in both local and national government, and has started to be discussed more widely in the public arena, in light of the proposed reforms to the NHS. However, there is still a good deal of confusion as to what commissioning really means, how it is distinct from procurement, and to what extent councils can truly be said to be 'commissioning', even where they are purchasing or 'procuring' a wide range of services from external providers.

Commissioning should in essence be 'provider neutral',<sup>5</sup> focusing on local need and the best pathways to deliver that need. With this in mind, commissioners may pursue any one of a number of options including procurement from public sector partners, private sector or third sector supply, or in-house delivery where capacity exists. In practice then, it could also result in the adoption of a wide variety of mechanisms: contracts, grants, shared services, local authority trading companies or even asset transfer. At present, outsourcing itself represents only about a fifth of total UK government expenditure.<sup>6</sup> Provision is largely mixed across councils in the UK with analysis from our survey revealing that around 60% of commissioners would describe the mix of provision in their council as 'fairly even', with only 7% describing services as 'mainly outsourced'.<sup>7</sup>

Since 2006 the Cabinet Office has defined commissioning as 'the cycle of assessing the needs of people in an area, designing and then achieving appropriate outcomes. The service may be delivered by the public, private or civil society sectors'.<sup>8</sup> It is worth noting however that within councils, procurement, which is one means of implementing commissioning, may adopt very similar definitions. For instance, the definition set out in the National Procurement Strategy – the DCLG's guidance on procurement practice in local government – is as follows:

*'Procurement is the process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. The process spans the whole life-cycle from identification of need, through to end of a services contract or the end of the useful life of an asset.'*<sup>9</sup>

This compares, for example, to the following typical council definition of commissioning, which has many similarities:

*'Commissioning is the process of identifying needs within the population and developing policy direction/service models and the market to meet those needs in the most appropriate and cost effective way'.<sup>10</sup>*

5 Unison, APSE & LGIU (2011) *Think Twice: The Role of Elected Members in Commissioning* (London: Unison, APSE & LGIU).

6 Jameson, H (2011) *Ensuring High Quality Public Services: recognising the role of the workforce in the future of outsourcing* (London: IPA)

7 Localis Survey (June, 2011), see Appendix A.

8 Cabinet Office (2010) *Modernising Commissioning: Increasing the Role of Charities, Social Enterprises, Mutuels and Cooperatives in Public Service Delivery*, accessed at [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk) [19/04/11], p.7.

9 National Procurement Strategy, in ECC (2010) 'Procurement Strategy: 2011/12-2013/14', p.5.

10 *Ibid.*, p.6.

As these definitions make clear, there are significant overlaps between elements of procurement and commissioning, rendering close working relationships and formal mechanisms of interaction between procurement and commissioning functions essential. However it is also perhaps not surprising that, as research suggests, some officers and providers struggle to make the distinction between procurement and commissioning, a pattern which also became evident in the fieldwork for this study.<sup>11</sup> Moreover, it is particularly problematic if procurement is simply categorised as the business-end of transactions, where efficiency savings are to be made, with little consideration of how these processes of designing appropriate tenders to meet prescribed budgets, actually relates to broader strategic aims. In addition, the National Audit Office (NAO) has been careful to outline the distinction between ‘cuts-driven’ and ‘intelligent decommissioning’; a distinction which will become increasingly pertinent as more and more councils adopt a commissioning approach against a backdrop of tightening budgets.<sup>12</sup>

### **Place-Shaping**

Crucial to the concept of strategic commissioning is a strong consideration of how services interact with the locality more broadly. In 2006, the Local Government White Paper set out the importance of partnership working at the local level, and the importance of local government as a strategic leader and ‘place shaper’. The two key tenets of this new place-shaping role were the Local Strategic Partnerships (LSPs) and the Local Area Agreements (LAAs).<sup>13</sup> The LSPs represented the ‘overarching strategic partnership for an area’ and the LAAs were introduced in 2006 as a statutory requirement for county and unitary partners to prepare a ‘delivery plan for the strategy’, in consultation with LSP partners.<sup>14</sup>

Against the back-drop of an increasingly centralised approach to local co-ordination, the importance of the unique role of the local authority as a place shaper was also highlighted during the Lyons Inquiry (2006 – 2007), which promoted a ‘wider strategic role for local government’ and the ‘creative use of powers and influence to promote the general well-being of community and its citizens’.<sup>15</sup>

In 2007 Lyons set out the key responsibilities for a local authority as a ‘place shaper’ as follows:

- to exercise leadership in the joining up of resources and activities to ensure that community interest is reflected in public services.
- to use their purchasing power to shape the market and facilitate greater user engagement with service delivery.

These features remain crucial to understanding the role of the council as a strategic commissioner. Lyons also emphasised that LAAs should be ‘developed in a way which leaves enough space for local priorities’, as well as the significant barrier presented by the inflexible funding system for local government.<sup>16</sup> This included a recommendation to establish outcomes-focused targets for the LAA. Outcomes are defined as ‘the changes that occur for stakeholders as a result of the activity’.<sup>17</sup>

### **Where does Strategic Commissioning fit in?**

Despite various attempts to define ‘strategic commissioning’, it remains highly contested. The idea of taking a more strategic approach to commissioning has emerged as part of the general trend towards exploring greater opportunities for outsourcing to the private sector and has therefore often been used, or perceived as, shorthand for ‘efficiently outsourcing in all possible service areas’.

11 See, for example, Murray (2009) ‘Towards a Common Understanding of the Differences Between Purchasing, Procurement and Commissioning in the UK Public Sector’, in *Journal of Purchasing & Supply Management*, 15, pp.198-202.

12 For more detail on this see National Audit Office (2011) ‘What Decommissioning is Not’, [www.nao.org.uk](http://www.nao.org.uk) [19/08/11]

13 The LSPs had already established in 2000 to oversee the spending of the Neighbourhood Renewal Funds

14 DCLG (2006) *Strong and Prosperous Communities: The Local Government White Paper*, accessed at <http://www.communities.gov.uk/documents/localgovernment> [20/04/11]

15 Lyons, M (2007) *Lyons Inquiry into Local Government. Place-shaping: A Shared Ambition for the Future of Local Government*, accessed at <http://www.lyonsinquiry.org.uk/> [06/04/11]

16 *Ibid.*, p.18.

17 Cumming, L.M. & Dick, A., Filkern, G. & Sturgess, G.L. (2009) *Better Outcomes* (London: 2020 Public Services Trust), p.19.

As a consequence, the truly provider neutral implications of the concept have, we believe, not been sufficiently debated to date.

It is necessary then to determine what 'strategic commissioning' really means in the context of the broader definition of commissioning and commissioners, as set out above. To do this it is helpful to start with a simple definition. The Oxford English Dictionary defines strategic as: 1 relating to the identification of long-term or overall aims and interests and the means of achieving them; or 2 designed or planned to serve a particular purpose. You can only be strategic then in the pursuit of specified aims, interests and purpose.

With this in mind, we need to consider what it might mean to act 'strategically' in the process of weighing up need, outcomes and cost. Since the purpose of local government is to serve the community it represents, the key strategic role for councils is to facilitate an approach to fulfil the needs and requirements of that community and to act as a 'place shaper' in order to sustain this approach in the long term.

### **Who/What is a Commissioner?**

Central to the definition of commissioning, although often ignored, is the question of who/what is a commissioner? Interview responses showed a variety of interpretations of commissioning, strategic commissioning and who is the commissioner. Many, as is to be expected, used commissioning and procurement as virtually synonymous. Most talked only about commissioning as a centralised vehicle for outsourcing services (or investing externally) to the private or voluntary and community sector (VCS). However, at the same time it is evident that there is also a real awakening to the role of individuals and communities as commissioners. There is currently a good deal of interesting work encouraging us to think differently about who should take the lead in the design, delivery and assessment of public services, looking at the role of co-production, and social productivity for example.<sup>18</sup> These sentiments, although not always expressed in these particular terms, were also reflected in the aims and aspirations of many of the people who contributed to this research.

Therefore, commissioners need not be just councils as organisations, but might also be individuals, communities or councillors themselves. And commissioning starts with the democratic process. So 'strategic' commissioning is therefore not just about decisions made by key individuals but about how priorities are shaped and pursued, and how outcomes delivered for residents. Discussing commissioners in this much broader way helps us to take a step back from some of the more entrenched practices within elements, particularly procurement, of the commissioning process.

Another challenging issue related to the question of 'who commissions?' is the extent to which councils can be both commissioners and providers. At the heart of the debate is to what extent innovation and insight is really captured from the very beginning of the commissioning process – that is, developing and setting priorities, analysing need and designing services, as well as giving providers more opportunity to feed into procurement processes and tenders. Within councils however, there are still question marks over the extent to which the provision of services interferes with strategic commissioning process, or whether the 'externalisation' of provision might enable councillors to take a more strategic, 'place-shaping' approach. This report attempts to consider all of these complexities in the discussion of strategic commissioning which follows.

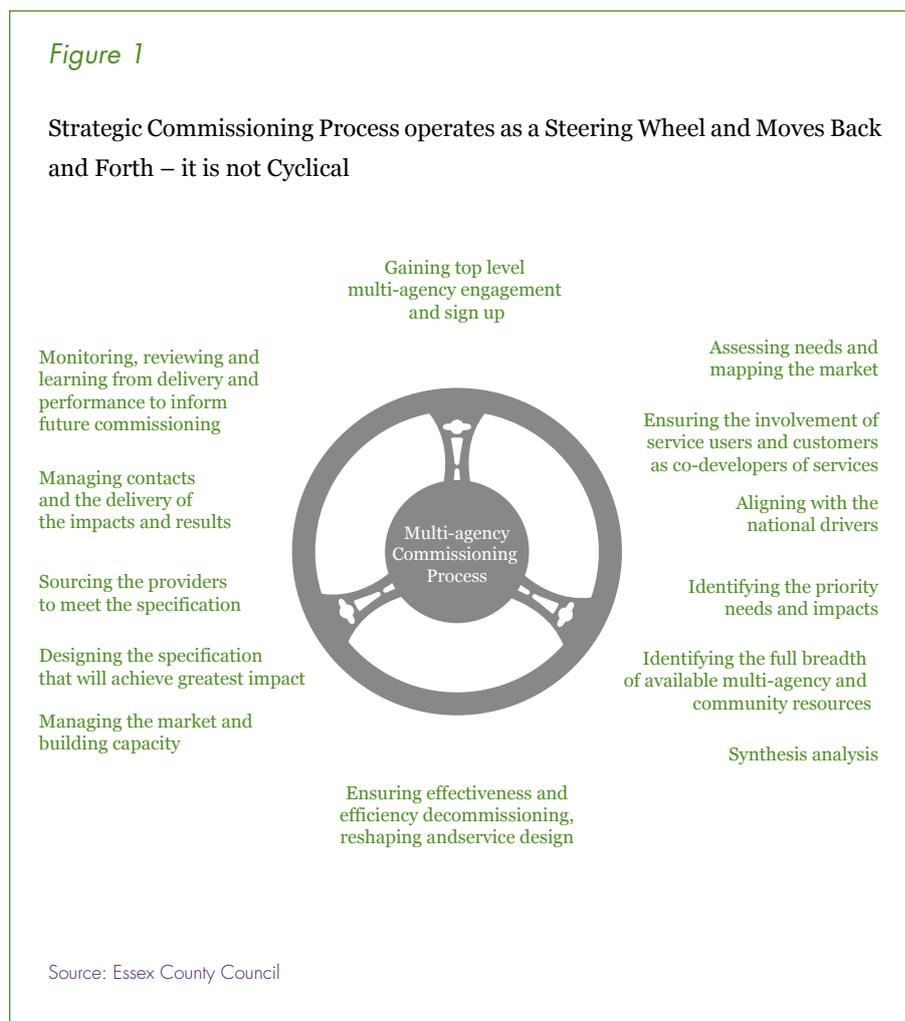
<sup>18</sup> On co-production, see, for example, Boyle, D., Slay, J. & Stephens, L. (2010) *Public Services Inside Out: Putting co-production into practice* (London: Nef & NESTA). On social productivity, see, for example, 2020 Public Services Hub & LSIS (2011) *The Further Education and Skills Sector in 2020: A social productivity approach*, accessed at [www.thersa.org](http://www.thersa.org) [30/05/11]

### Visualising Strategic Commissioning

The commissioning process should be one which spans the breadth of the council and begins at the very top of the decision making structure and at the very grassroots simultaneously. In this way, the commissioning process should begin and end with the councillor's democratic relationship with residents. There are a number of key features of commissioning as captured in the below Cabinet Office cycle.<sup>19</sup>

1. Assessing needs
2. Identifying priority needs and outcomes
3. Designing the specification which will achieve these outcomes
4. Sourcing the providers to meet this specification
5. Managing the delivery of the outcomes
6. Monitoring, reviewing and learning from delivery to inform future commissioning

The commissioning process is usually described as a cycle because the above stages are ongoing, and interrelated. In fact, a standard cyclical representation probably doesn't go far enough – it might be more helpful to visualise the process as a steering wheel, because it is important to understand that the different stages are inherently indistinct and will happen in no particular order, and often simultaneously. The stages of the process go back and forth, rather than consecutively. With this in mind, the below diagram is particularly helpful.



This is an excellent representation of the many complex facets of effective commissioning. Of note in particular for the discussion which follows is the 'synthesis analysis' which is the process by which an understanding of need, the market and ongoing effectiveness are reconciled with an appreciation of the available resources.

### Key Lessons

- It is important to break down misconceptions around commissioning as this can create a barrier both within and outside councils – small providers in particular cannot engage with the process if they do not have proper understanding of those processes (see Murray, 2011).
- Within councils opportunities for procurement and directorates to work together are often missed due to misunderstandings and excessive compartmentalisation of procurement and efficiency savings. Closer working would be beneficial in ensuring that cost savings and service improvement are better joined up.
- Commissioning should be provider neutral focusing on local need and the best pathways to deliver services that meet that need.
- Commissioners need not be councils as institutions but can be individuals, communities or councillors.
- There are a number of important questions that councils must address when shifting to a more strategic commissioning approach, including the extent to which council's roles as both commissioners and providers are in conflict, and whether 'externalising' provision would enable a more effective strategic commissioning approach.

### The Benefits of Strategic Commissioning

The main benefit of strategic commissioning is really the process itself. The systematic process of understanding need, the market, performance and an appreciation of available resources enables councils to focus on ensuring the delivery of quality services and value to communities. However, the process itself can also result in a wide range of benefits, including:

- **Greater efficiency** – By taking a provider-neutral approach to the delivery of services, the commissioning process opens up new possibilities to deliver services in more efficient ways, such as through shared services or by capitalising on the benefits that the private, public or third sector can bring. It also potentially opens up opportunities to take advantage of initiatives such as pooled budgets, which can deliver financial savings across the public sector. Early intervention investment such as through social impact bonds offers another opportunity for councils to deliver long-term value for money for council-tax payers, transferring risk and capital investment away from local government in times of austerity, thus enabling them to deliver value in the long term as well as the short term.
- **A focus on outcomes, not processes** – By studying the needs of local residents as part of the commissioning process, and by taking a long term, locally specific to the definition of 'value', councils can tailor the provision of services to deliver the most important outcomes for residents. This might mean that some

services which have been delivered for historic reasons may be delivered in new ways to reflect changed circumstances, or in some instances not at all. On the other hand, some services might be perceived to be delivering more 'value' than was first anticipated, and there may be opportunities to extend that service to deliver further outcomes locally. In this way, strategic commissioning can justifiably claim to improve lives, and not just tick boxes.

- **Stimulating local enterprise** – By taking a comprehensive strategic commissioning approach, councils could leverage their significant resources and buying power to create new local markets in the provision of services, which could create new jobs and growth, as well as the potential to drive competition, choice and innovation in local services.
- **Focus on what is strategically important** – By 'externalising' the provision of services, there may be opportunities to resolve any conflict in the council's role as both commissioner and provider of services. This may mean separating the council's decision making function from delivery through an arms length organisation, for example. The benefits of such an approach may be both cultural and practical as the leadership of the council focuses on taking a strategic approach to delivering value for local residents.

### Key Lessons

- The main benefit of strategic commissioning is the commissioning process itself, which enables councils to think more strategically about how to best meet the needs of local residents.
- Strategic commissioning can also result in a number of other benefits including greater efficiency, a focus on outcomes and the stimulation of local enterprise.

### Historical Approaches to Commissioning in Local Government

Despite the popular image of an inflexible sector, slow to change, adaptation for local authorities in the way they deliver services is not something new. Local government has already undergone a significant transformation over the last 20-30 years, and its number of statutory duties has doubled between 1997 and 2010.<sup>20</sup> Modern-day authorities have long been open to working with the private or voluntary sector to ensure the delivery of public services, and for many decades this was done sporadically and at the council's discretion. However, the first major shift in terms of commissioning and procurement was when compulsory competitive tendering (CCT) was introduced through the 1980 Local Government, Planning and Land Act. For local authorities, this initially only applied to construction and maintenance (although it was often implemented more widely), but was extended as part of the 1988 Local Government Act to also include a greater number of specified services including cleaning, refuse collection, catering, grounds maintenance and vehicle maintenance.<sup>21</sup> Following this a series of secondary legislative instruments ensured that by 1995 CCT also extended to sports and leisure, and a wide range of professional services including legal, property, financial and personnel.<sup>22</sup> However, it is worth noting that CCT in professional services was not widely implemented in practice, due to various complications such as pre-emptive voluntary agreements with preferred contractors and local government restructuring.

The introduction of CCT was part of the then Conservative Government's efforts to restructure how public services were delivered and to reduce what it

<sup>20</sup> See DCLG 'Review of Statutory Duties on Local Government', <http://www.communities.gov.uk/statements/localgovernment/1935018> [01/07/11]

<sup>21</sup> See Patterson, A. & Pinch, P.L. (2000) 'Public Sector Restructuring and Regional Development: the impact of compulsory competitive tendering in the UK', *Regional Studies*, 34(3), pp.265-275.

<sup>22</sup> *Ibid.*

perceived to be unnecessary waste in local government. It has been suggested that the Government introduced the legislation in response to limited pursuit of competitive tendering at the local level, despite what it perceived as the 'overwhelming evidence of efficiency gains from competition'.<sup>23</sup> This proved to be a controversial approach and some saw it as placing too much emphasis on cost, at the expense of quality. Since a key component was to ensure competition, lower bids from private contractors could not be rejected without 'good reason' and consequently, as revealed by research undertaken by the Department for Environment, around 91% of contracts were awarded to the lowest bidder in the first round of CCT. Considerations which were defined as 'non commercial' (such as pay rates and employee conditions) were not to be considered as part of the decision to award a contract.<sup>24</sup>

### **Changing Perceptions of 'Outsourcing'**

By the early 1990s the characterisation of outsourcing was starting to evolve from a purely transactional approach to something more collaborative. Ideas around partnership and collaboration, although not traditionally associated with competitive market economics, were also emerging as part of a desire to devolve responsibility for public services from the government to private and voluntary sector.<sup>25</sup> In this way there was some recognition of the possibility for and desirability of outsourcing to achieve ongoing service improvement as well as efficiency. This trend was evident in New Labour's 'Best Value' legislation, introduced in the Local Government Act, 1999, which was supposedly a response to the failures of CCT, but did not represent a significant challenge to the emerging orthodoxy.<sup>26</sup> Under Best Value, each local authority has a duty to 'make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness'.<sup>27</sup>

Over the past several years then, there has been a discernable (if not wholly transformational) shift away from the traditional distinctions between public and private/voluntary sector service provision. The standard perception that in-house delivery involves no external parties, and outsourcing is purely transactional, has been eroded somewhat throughout the Best Value era.<sup>28</sup> The rise of public-private partnerships in procurement was a key feature of this. Public-private partnerships come in a variety of different forms, including: strategic service delivery partnerships where partners each contribute a particular expertise to some part of commissioning, procurement and delivery; Private Finance Initiatives (PFIs), which are financially driven, and; purchasing consortia, which focus more on economies of scale than delivery.<sup>29</sup> It is interesting to note that our survey indicates, when procuring services externally, 44% of councils regularly take input from providers when developing tenders – with almost 41% doing so on at least an occasional basis. Public-private interaction then, is nothing new.

PFIs in particular have attracted a lot of controversy. It is estimated that there have been over 700 PFI schemes to date, including the construction of new schools, hospitals and prisons.<sup>30</sup> The National Audit Office found that although unsuitable in some instances, PFIs can provide good value for money where the government behaves as an intelligent consumer.<sup>31</sup> Furthermore, there appears to be no intention for the Government to stop using PFIs, as in times of economic downturn, they can also play a role in giving the public sector the chance to access capital. However, as an August 2011 Treasury Select Committee report noted, it would seem that opportunities for the sector to harness its significant spending power in intelligent ways have sometimes been missed. Further attention will be needed in the coming years to identify and explore more imaginative approaches to ensure that both public and private partners, as

23 Parker, D. (1990) 'The 1998 Local Government Act and Compulsory Competitive Tendering', *Urban Studies*, 27 (5), pp.654.

24 See Patterson, A. & Pinch, P.L. (2000) 'Public Sector Restructuring and Regional Development'

25 Fotaki, M (2010) 'Towards Developing New Partnerships in Public Services: Users as Consumers, Citizens and/or Co-Producers in Health and Social Care in England and Sweden', in *Public Administration*, pp.1-22.

26 Local Government Association & CBI (2009) Commissioning strategically for better public services across local government (London: CBI), p.9.

27 Local Government Act 2000

28 Bovaird, T(2006), 'Developing New Relationships with the 'Market' in the Procurement of Public Services' *Public Administration*, Vol.84, No. 1, p.84.

29 *Ibid.*, p.85.

30 Cave, R. (2011) 'HM Treasury 'in dark' over 'excessive' PFI profits', *BBC*, accessed at <http://www.bbc.co.uk/news/>

31 National Audit Office (2011) *Lessons From PFI and Other Projects*, accessed at <http://www.nao.org.uk> [22/06/11]

well as local tax payers, can derive the maximum benefits, and balance short and long term interests. According to a survey<sup>32</sup> performed by Ipsos MORI in 2008 81% of PFI projects had not gone through any value-testing exercise since they had been signed. Furthermore, the survey noted that 66% of the sampled PFI contract managers devoted less than half of their time to managing the contract; it also noted that 42% of the contracts sampled had failed to levy any performance deductions in the past 12 months. These two statistics point to the crux of the problem; contract management is woefully under-resourced and contract managers are often unaware of their rights under the contract or how to enforce them. Public sector contractual rights are going unused, and this is the elephant in the room; there is an expensively negotiated contract gathering dust at the bottom of a drawer that must be reviewed to unlock and ensure full value and excellent service for the public sector.

### **Towards a Joined-Up Approach**

In line with this emerging outcomes focus, the last few years of the Labour Government also saw a growing emphasis on engaging with the community in order to identify and understand these outcomes. An important aspect of this was developing a shared understanding of local need which partners could draw on in their efforts to promote better health and wellbeing. The Local Government and Public Involvement in Health Act 2007 set out the requirement for a Joint Strategic Needs Assessment (JSNA) to be carried out by local partners with stakeholder involvement and engagement.<sup>33</sup> The JSNA was intended to identify areas for priority action and help local commissioners and providers to shape services to address these priority needs.<sup>34</sup> It was, in short, an attempt to recast the user as a potential shaper.

In 2008 this emphasis on local consultation was extended to apply directly to the procurement aspects of commissioning. The statutory guidance on 'Creating strong, safe and prosperous communities' expanded on the best value principles in the Local Government Act and introduced new duties to 'inform, consult, involve' local people in decision making and the duty to create a sustainable community strategy.<sup>35</sup> Authorities were urged to 'co-design/work' with 'representatives of local persons' in designing policies and services, in particular relating to commissioning. As well as the emphasis on community engagement, there was also a strong agenda for improved partnership working across the public sector. This was encapsulated in particular in the 'Total Place' pilots, launched in 2009 which sought to explore how a 'whole area' or so-called 'place-based' approach could deliver 'better outcomes and improved value for money'.<sup>36</sup>

Consequently, the first decade of the 21st century saw an emergence of a more holistic approach to commissioning (including a greater focus on outcomes and engagement), and a defined mandate for local authorities as place shapers, as part of the growing recognition of the role of public services in wider local economic development.<sup>37</sup> It also saw increased emphasis, at a national level, on notions of 'joined-up' government: the idea that thinking of a problem in the context of the wider system, rather than merely in and of itself, would lead to greater efficiency across the board. It is increasingly acknowledged that investment in one area of policy can have a knock-on effect for another – for instance, housing on health, education on law and order – and commissioning, by partially decoupling from the siloed cultures and structures of local government, can make a telling contribution to this process.

However, it is still important to note that the shift towards 'strategic commissioning' has happened in the context of a move towards greater outsourcing of services. This explains a great deal about why the term commissioning has become

32 PWC (2008), *Is PFI working? Buying Excellent, Settling for Average*

33 Local Government Improvement & Development, *Joint Strategic Needs Assessment (JSNA)*, <http://www.idea.gov.uk/idk/core/page.do?pagelid=7942796>

34 Department of Health (2007) *Joint Strategic Needs Assessment*, accessed at [http://www.dh.gov.uk/en \[01/08/11](http://www.dh.gov.uk/en [01/08/11)

35 DCLG (2008) *Creating Strong, Safe and Prosperous Communities: Statutory Guidance*, <http://www.communities.gov.uk/publications/localgovernment/strongsafeprosperous>

36 HM Treasury & DCLG (2010) *Total Place: A Whole Area Approach to Public Services*, [http://www.hm-treasury.gov.uk/psr\\_total\\_place.htm](http://www.hm-treasury.gov.uk/psr_total_place.htm), p. 14.

37 See Patterson, A. & Pinch, P.L. (2000) 'Public Sector Restructuring and Regional Development'

synonymous with procurement. Discussions about how to commission more effectively have often been 'stuck in the rut' of discussing the desirability or otherwise of in-house delivery.<sup>38</sup> Mutuals and co-operatives are helping to shift the debate, but this is still an ongoing process. Moreover, CCT has, in the past, prevented cross-subsidisation by requiring that there be separate trading accounts for each service, and a significant culture shift is therefore been required to ensure that commissioning becomes more joined-up.<sup>39</sup> The inconsistent results of this siloed approach created in turn an ever greater need to extract the best deal, and an increased level of distrust between public and private sectors. Our survey reveals some residual mistrust of the private sector, with only 1 in 4 respondents believing they offered the potential for greatest innovation (though it should also be noted that less than 1 in 3 backed the public sector to perform in this regard).

Lastly, it should be pointed out that the rigidly defined nature of local government finance does not correspond to the fluid, market driven nature of the private sector, limiting opportunities to commission strategically on the basis of long-term priorities. If, as our survey indicates, the majority of councils are expecting the private sector to fill part of the gap a reduced level of in-house provision will leave behind, local government commissioning processes should be able to adapt and respond accordingly. To do this effectively there will need to be a more strategic partnership approach, with jointly agreed outcomes between commissioners, users and providers and better joined-up internal structures.

### Key Lessons

- Commissioning has historically been tied up with Compulsory Competitive Tendering, which focused on cost, sometimes at the expense of quality or wider 'place-shaping' considerations.
- PFIs, despite their disadvantages, can still offer a useful tool for councils in austere times. Local government is not capitalising sufficiently on opportunities to value test their contracts and re-negotiate them.
- Despite some limited progress in the last few years, there is still some way to shift the siloed public sector culture towards more joined-up, long term aims.

### Emerging Thinking on Strategic Commissioning *Towards a New Understanding of Value*

In light of the above developments, there is now a general recognition that an emphasis on outcomes for citizens and communities should be an integral feature of commissioning. This question is about how to identify and pursue those outcomes for communities. A key barrier to this is understanding and interpreting value – i.e. what outcomes could and should be valued, and how we might recognise when they are being achieved.

As useful as the Best Value system has been in shifting the focus from cost (under CCT) to an appreciation of the wider value, it has also been criticised for creating a culture of central conformity to the detriment of locally appropriate outcome accountability and transparency. This has been evidenced by the steady increases in 'performance', as assessed by the Audit Commission, whilst at the same time, continual decreases in resident satisfaction<sup>40</sup>. In 2011, Best

38 See Whitfield, D (2011) 'Commissioning – Better in-house provision is needed', LGC Online, [www.lgcplus.com](http://www.lgcplus.com)

39 Patterson, A. & Pinch, P.L. (2000) 'Public Sector Restructuring and Regional Development'

40 See, for example, Shakespeare (2010) 'For Good Measure', Localis, [http://www.localis.org.uk/images/articles/Localis\\_For%20Good%20Measure\\_VWEB.pdf](http://www.localis.org.uk/images/articles/Localis_For%20Good%20Measure_VWEB.pdf)

Value guidance is still in place, with councils still operating under the duty set out in the Local Government Act 1999.

Recent moves to remove certain statutory duties and replace them with ‘light touch’ guidance may help to redress this balance and promote greater collaboration with the local VCS and small businesses.<sup>41</sup> These changes will also place more emphasis on the local authority to develop their own principles for good practice, and are taking place within the context of a broader reassessment of how to measure success. This presents an opportunity to move beyond Best Value and develop a new understanding of ‘value’ in order to secure better services and greater efficiency for taxpayers.

The National Audit Office (NAO) currently defines value for money as ‘the optimal use of resources to achieve the intended outcomes’,<sup>42</sup> and can be understood and integrated throughout the entire commissioning cycle.<sup>43</sup> The definition is underpinned by the three Es – Economy, Efficiency and Effectiveness. There is also a fourth E which is applied in ‘some places’ – Equity, which is defined as ‘the extent to which services are available to and reach all people that they are intended to’.<sup>44</sup>

However, the NAO’s models and principles do not extend to the identification of or prioritisation of outcomes and mechanisms for determining which outcomes are the most valuable. The definition of value used by the Social Return on Investment (SROI) Network is therefore distinct in calling for the recognition of ‘the relative importance of changes that occur to stakeholders as a result of an activity’.<sup>45</sup>

Clearly, there is much progress to be made in this regard, and as yet there is little in the way of a consistently applied methodology for measuring ‘value’ as defined by the SROI network. However, there are perceptible moves towards recognising this value and its importance in targeting public spending more effectively. For example, the Social Enterprise and Social Value Bill, if enacted, would require contracting public authorities to ‘*promote rather than just consider wider, economic, social and environmental value in the context of procuring goods, works and services.*’<sup>46</sup> Although, as a Private Member’s Bill, the successful passage of this measure remains difficult, its spirit has clearly already entered the consciousness of the sector and stimulated change – conversations with procurement managers in the course of this research revealed that guidance on how to apply these principles across council procurement procedures is already being prepared.

### **Commissioning and the New Localist Agenda**

If perceptions of value are shifting, so too, as part of the Big Society agenda, are views on the relationship between people and the state. There is some recognition that if community and voluntary organisations are to play a more active role in ensuring that local needs are met in times of near universal financial constraint, then commissioning processes will have to take better account of the distinct value (both in the long and short term) which community-based groups might contribute. The Coalition Government is keen to promote opportunities for the VCS to contribute to public sector improvements and the 2010 Modernising Commissioning green paper sought the input of both sectors “on how the Government can create a level playing field for charities, voluntary groups and social enterprises that want to bid for public service contracts”.

These proposals sought to ‘progress the Government’s aspiration to award 25 per cent of public sector contracts to SMEs,’ and formed part of a wider call for

41 See DCLG (2011) *Best Value: New Draft Statutory Guidance. Consultation*, accessed at [www.communities.gov.uk](http://www.communities.gov.uk) [14/04/11]. NB. The two tier code (this code, introduced in 2003, requires private contractors who employ new staff to deliver public services, to do so on terms that are “overall no less favourable” to those who have transferred from the public sector) and the whole statutory guidance ‘creating strong, safe and prosperous communities’ will be revoked. There are also plans to repeal the remaining statutory duties – ‘duty to involve’ and ‘duty to prepare a sustainable community strategy’. See, for example, John Tizard (2011) ‘Two tier code scrapped for local government’, *The Guardian*, accessed at <http://www.guardian.co.uk> [14/04/11]

42 National Audit Office (2011) *Assessing Value for Money (VFM)?*, accessed at <http://www.nao.org.uk> [22/06/11]

43 *Ibid.*

44 *Ibid.*

45 SROI Network (2011) *Commissioning for Maximum Value*, [www.sroinetwork.org](http://www.sroinetwork.org)

46 Emphasis added.

evidence to inform the White Paper on Public Service Reform. The key issues raised were around how to enable and value VCS participation in public service delivery. Although the barriers highlighted in the green paper are not new, there is clearly a growing momentum for reform to promote greater opportunities for VCSOs and SMEs to deliver services.<sup>47</sup> That said, there is clearly an expectation that larger private companies will fill some of the gap which is created by the anticipated reduced public sector role in delivery (almost 6 in 10 survey replies made this point), and it is important that the public sector retains its 'provider neutral' stance, allowing fair access for all sectors.

The recent Open Public Services White Paper, which sets out the alternative to the old public service agreements (PSAs), emphasises the importance of bringing to an end the default position of public sector delivery and encourages consideration and articulation of why the state should deliver a particular service rather than an alternative provider. Going forward, it will be crucial to the success of strategic commissioning that the Government's public service reforms are focused on outcomes as well as joined up service design and delivery. The public, after all, prioritise an effective public service above and beyond who provides that service.

### **Reform to Health and Social Care**

As the Government makes major changes to the NHS, including the introduction of GP commissioning consortia, important questions are being asked about how to ensure that the public sector becomes more joined up. To some extent, how decisions are made and who makes them, is a different issue to the question of who should deliver them. As the NHS Future Forum point out, the issue of GP's having more control is overshadowed by the need to address how these decisions should join up across the public sector. Central to the debate is the difficult question of how to fund adult social care in an ageing society. To this end, the Dilnot Commission on Funding of Care and Support has set out a series of recommendations which look to create a sustainable and fair funding settlement for the future.<sup>48</sup> Related to this, the Government has also presented the Health and Wellbeing White Paper. As part of this discourse on health and care there are a number of key trends which seem to be focusing more sharply on empowering the local authority in its role as a place shaper. Key to this is Public Health, and the new Health and Wellbeing Boards, which look set to place local councils at the centre of a strategic commissioning board which will bring together a range of representatives, including from the NHS Commissioning Board.<sup>49</sup> These proposals are part of a growing recognition that the commissioning of health and social care cannot be treated separately, as well as the need for greater co-ordination across the public sector in order to achieve more targeted early interventions. As these reforms progress, there may be further opportunities to incorporate other local services, in particular housing and education, into the new Health and Wellbeing Boards to ensure that a joined-up approach is taken.

A recent review by Graham Allen MP has recently focused attention on the crucial role of early intervention strategies, this time in the context of vulnerable children. His recommendations focus on how to develop policies and programmes which focus on establishing 'the social and emotional bedrock' which very young children require in order to fulfil their potential in later life.<sup>50</sup> However, the principle that costly and damaging social or health problems can be prevented by less expensive interventions before they have developed, is one that can be applied across the terrain of public services and is clearly a key consideration in any strategic commissioning approach.

47 See I&DEA (2011) 'National Programme for Third Sector Commissioning', <http://www.idea.gov.uk> See also Audit Commission (2007) *Hearts & Minds* and HM Treasury and Cabinet Office (2007) *The Future Role of the Third Sector in Social and Economic Regeneration – Final Report*.

48 For a detailed breakdown on these proposals, see the Commission on Funding of Care and Support (July, 2011), <http://www.dilnotcommission.dh.gov.uk/>

49 For more detail see the Health and Social Care Bill 2011.

50 G. Allen MP, *Early Intervention: The Next Steps*, <http://www.dwp.gov.uk/docs/early-intervention-next-steps.pdf>, p.xiii.

### **Further Government Initiatives**

The new Community Budget pilots are also making the logical link between place shaping and early intervention. These programmes have initially focused on looking at how families with complex needs can be supported in the most efficient and effective way, taking a whole life and whole family approach. Although their initial scope was felt to be somewhat limited, as discussed below, the Government's recent announcement to pilot four pooled budgets has reaffirmed their commitment to this agenda of joined-up commissioning.

Alongside this continued emphasis on place-shaping, at the core of the proposals set out in the Open Public Services White Paper is a move towards greater personalisation. The adoption by local authorities of personal budgets has been steadily growing over the past several years. The Open Public Services White Paper affirms this trend and clearly sets out the government's Open Public Services White Paper that 'wherever possible, we will increase choice by giving people direct control over the services they use'. Where this is not possible 'power should be decentralised to the lowest appropriate level'.<sup>51</sup> The Government has committed to consult on decentralising commissioning responsibility for natural environment support, public transport support, skills and services for families with multiple problems. The commissioning role set out for local authorities therefore is in supporting its residents to make these choices, and ensuring that where individual choice is not appropriate, decisions about who should provide services and how are made at the lowest possible level. It can appear to be difficult to reconcile strategic priorities with personal choice. However, in reality, the strategic priorities of a democratically representative body should already have the desires and needs of its residents at their core.

Furthermore, recent announcements by the Government to give councils more financial autonomy, including the local retention of business rates growth, may provide councils with the incentives they need to take a more strategic commissioning approach, particularly in regard to investment in developing a local market for service provision. It may also provide some vital up-front capital to invest in other early intervention initiatives and pooled budgets.

Local Enterprise Partnerships (LEPs) between councils and businesses may provide further opportunities for councils to promote joint working by pooling resources and investing in cross border collaboration. The Government's Big Society agenda may also have an influence on devolving the responsibility for commissioning beyond local government to communities and beyond.

### **Key Lessons**

- There is a need for councils to continue to develop their own measures of local value, working together with other councils to compare performance.
- Significant progress has already been made towards a strategic commissioning approach through Community Budgets, personalisation, early intervention and the Government's reforms to public services. However, there are further opportunities for central and local government to create a coherent approach to strategic commissioning through NHS reforms, LEPs and the Government's plans for 'Open Public Services'.

<sup>51</sup> HM Government (2011) *Open Public Services White Paper*, <http://www.cabinetoffice.gov.uk/resource-library/open-public-services-white-paper>, p. 29-30.

## 2. Approaches to Strategic Commissioning

This section of the report will focus primarily on the practical barriers within the commissioning process. It will consider what good strategic commissioning really looks like, and touch upon the prisms – mutualising, outsourcing or retaining in-house delivery – that can deliver it. For clarity it is helpful to consider each issue in turn, but it is also important to remember that these areas are all intimately linked, given the ‘back and forth’ nature of the commissioning process.

### Fostering Innovation in Public Services

Strategic commissioning necessitates an openness to innovative approaches and mechanisms for delivery, both within and outside the council. In this regard, there are two main areas for development: building a better understanding of the market; and embracing different models for delivery within the public sector.

Firstly then, it is widely acknowledged that the market for some public services is underdeveloped. As the National Audit Office has observed, the public sector has thus far often failed to behave as ‘an intelligent customer’. In other words, many organisations have yet to harness their huge spending power to challenge providers, drive up standards and choice, and maximise value for money.<sup>52</sup> In the case of local government, councils are in an ideal position to make better use of customer intelligence using the feedback which service users can provide on their own outcomes and satisfaction. More creative use of evidence and data on providers to inform decision-making is also key and nearly 75% of those surveyed felt that the availability of clearer national benchmarking data on provider performance would aid commissioning and procurement.<sup>53</sup>

One of the key strands of a strategic commissioning approach is that it should be provider-neutral, i.e. it should lead to the selection of the provider that best meets the desired outcomes in a locality, regardless of who they are. However, the terrain is complex. There are some areas of provision, where potential for profit is limited, or where existing arrangements have proved ineffective, for which voluntary sector organisations or public sector mutuals with their bottom-up, community-led approach may be the best option.

The government has taken a lead on this – with the Minister for the Cabinet Office unveiling a series of Mutual Pathfinders, bringing in private sector co-operatives such as John Lewis, the Social Enterprise Coalition and the Employee Ownership Association to lend their expertise to public service mutuals in Havering, Rochdale and several other locations.<sup>54</sup> Selby are one of a number of councils taking steps to decouple the council’s decision making function from

<sup>52</sup> National Audit Office (2011) *Lessons From PFI and Other Projects*

<sup>53</sup> See Appendix A.

<sup>54</sup> Cabinet Office (2011) ‘The Mutual Futures of Public Services in Swindon’, <http://www.cabinetoffice.gov.uk/news/mutual-futures-public-services-swindon>

the provision of services by creating a new service delivery vehicle, which may involve a mixture of private, public and third sector ownership. Building and maintaining VCS capacity, capturing grass-roots insight, and enabling clear and accessible routes for VCS delivery must therefore form a significant part of this process. This, as mentioned, does not necessarily involve VCS and the private sector competing against one another, but must be judged on a case by case basis.

### Case Study: 'Access Selby'

Selby has taken steps to de-coupling the council's core democratic decision-making function from the physical provision of services by transferring the majority of its staff to a new 'service delivery vehicle' branded as 'Access Selby'. Access Selby is not currently a separate legal entity, and its officers continue to be employed directly by the council, with no changes to their terms and conditions. The council does not have a fixed long-term view of how Access Selby will develop, but it could potentially become a mutual, a business (either privately owned or partially or wholly owned by the council), or some other form of joint enterprise.

Access Selby will be governed by a board comprising three councillors and one non-voting co-opted member as non-executive directors and two non-voting officers as executive directors. Two of the councillors will be drawn from the majority group (Conservative), and the other will be the leader of the opposition (Labour).

Access Selby will eventually have around 70 per cent of the staff previously employed by the council. While this initiative is still in the early stages, it will be interesting to see whether this model will help the Council to address any real or perceived conflict between the provision and commissioning of services, whilst also delivering its stated aim of reducing its overall budget.

Councils are of course inherently concerned with developing their local economies. However, there is perhaps less recognition of this role as an integral part of a broad strategic commissioning process. Councils are increasingly taking steps to ensure that local SMEs are able to compete in the procurement process, for example amending risk categorisations so that small stable and profitable businesses that are high risk due to their size in relation to the contract value can still be awarded suitable contracts. Inevitably though, the nature of procurement (as discussed below), does create limits on the extent to which processes should and can positively discriminate, and many councillors and officers feel frustrated that competition and best value rules are too restrictive to enable councils to actively support SMEs. However, it is also and perhaps more important to first establish a local market of suitable providers of all shapes and sizes.

However, at the service user level, there is a very real risk that, whilst the user might be free to choose, they will 'have little control over the available choice' because the market is not sufficiently diverse or robust to provide options to meet their particular needs.<sup>55</sup> However, there is emerging evidence in areas such as Essex, where personal budgets are already widely used, that

<sup>55</sup> See Fotaki, M (2010) 'Towards Developing New Partnerships in Public Services'.

personalisation is expanding the local market, and there are a number of ways that this relationship can be enhanced. For example, Trafford Council have attempted to stimulate 'creative market responses' in a non-prescriptive way with their 'Putting People First' Innovation Fund. Providers were invited to come forward with ideas that met the council's 'putting people first agenda' to bid for funding from a pot of between £100,000 and £150,000, which was created by top slicing the Social Care Reform Grant. Several of the successful projects, including a 'time banking' initiative, have formed the basis of subsequent efforts at local capacity building and the creation of platforms for access which support 'meaningful personalisation'.<sup>56</sup>

The second important area for innovation is within the public sector itself. Nearly three-quarters of those surveyed thought that sharing services or trading within the public sector is likely to notably increase in the future. The below case study illustrates how this approach is growing the market and leading to better provision in Essex.

## Case Study: Essex County Council

### 1. Essex Assist

Essex County Council (ECC) has been looking at how it can utilise a more customer-centred approach and responsive service to create commercial opportunities. In doing so, the council has been trying to apply the lessons of other customer-focused sectors.

A good example of this is Essex Assist, which has been developed to improve brokerage for care and care services, offering those who self-fund their care or have personal budgets better access and value for money. Essex Assist will create a one-stop shop for customers and provide them with the opportunity to interact with other service users and determine value for money through 'trip-advisor' style ratings systems. By engaging the customer and offering quality assurance, Essex Assist will improve the delivery of the council's statutory obligations, while creating a platform from which it can appeal to good quality providers who will value the role which Essex Assist can play in promoting their services to individual users. This commercial element also offers the opportunity for the council to generate and redistribute additional resources for residents.

### 2. Essex Cares

Established in 2009, Essex Cares was the first social care local authority trading company in the country and as such it is serving as a trailblazer for other authorities, as well as for Essex County Council itself. ECC has found that local authority trading, through companies such as Essex Cares, can enhance effective commissioning through the opportunities it provides to empower the staff who deliver services, and to be more responsive to, and engaged with customers. The relationship between staff and customers is key to delivering a service which truly fulfils the needs of its users. In social care for example, where there is often a relationship between 'provider' and 'user' built up over many years, this is especially the case. However, it is clear that the strict distinction

<sup>56</sup> See Trafford Council's 'Putting People First Innovation Fund' Case Study, accessed at [www.beacons.idea.gov.uk](http://www.beacons.idea.gov.uk)

between these two parties can be a barrier to maximising value for all involved, and devolving services away from a traditional centralised model, when done properly, can offer an opportunity to redefine this relationship, as well as improving vital services.

Following a successful transition to the new Essex Cares structure, which engaged and enthused employees, the council, and most importantly Essex residents, are now reaping the benefits of this new approach. At a time when new solutions are needed to meet social care needs within constrained budgets, Essex Cares has made a promising start. Within the first year of operation it had managed to meet its efficiency savings requirements, exceed predicted profit levels, and deliver a dividend return to the Council. There have also been opportunities to branch out into delivering discretionary services to generate additional revenue and greater adaptability provided by the trading company model has made partnership working across the public sector more straightforward.

Most importantly however, frontline staff have been brought to the centre of the way in which the service operates. It is no coincidence that a more engaged workforce, as demonstrated by a decline in sickness absences, has translated into increased user satisfaction, with 99% of those surveyed satisfied with the service they received.<sup>57</sup> The flexibility with which Essex Cares and its staff now operate has provided more opportunities for users to partake in this innovation and offer feedback to shape services in a way which meet their own personal need more effectively.

### Key Lessons

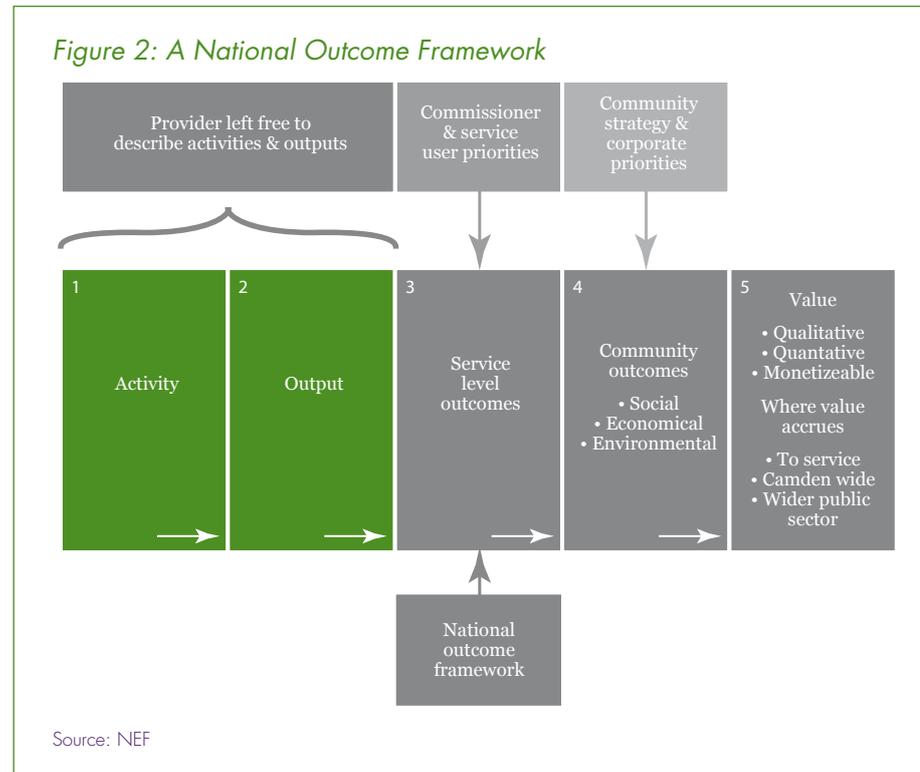
- Sharing information and intelligence on service user's experiences of services is a useful tool to inform choices in the commissioning process. National provider benchmarking data would also assist councils in the commissioning process.
- There is an underdeveloped market for providers of public services, particularly for VCS and SMEs. Commissioning has the potential to be a twofold gain – providing better value for money in the short term, whilst empowering citizens to become informed consumers. Councils could use their purchasing power, adjust risk categorisations, support the use of personal budgets and make effective and targeted use of their commercial and trading powers to support the development of the local market.

### Capturing Value and Focusing on Outcomes

For commissioning councils wishing to improve outcomes, there are two main considerations. The first is how to measure impact and understand if need is being addressed in the most effective way, and the second is to ensure that provision to meet that need produces the maximum value for all – not just direct users, but communities and the wider public sector.

<sup>57</sup> Essex Cares (2010) *Impact Report 2009/10: Making a Difference to People's Lives*, [www.essexcares.org](http://www.essexcares.org)

In recent years a good deal of attention has been paid to developing mechanisms for measuring social return on investment. Essentially, this is a process of quantifying outcomes and understanding how they impact on future and current public spending. The New Economics Foundation (NEF) has devoted a good deal of time to developing suitable models, working closely with councils such as Camden, to create workable solutions. As illustrated in the model below, NEF have stressed that commissioners should take account of the outcomes for service users, but also for the broader community.



Whilst some progress has clearly been made, the general consensus is that applying SROI models in commissioning processes can still prove expensive and difficult. Many authorities are seeking to integrate these principles into commissioning, procurement and the funding of discrete projects. But the UK is still, despite the Government's decision to pilot a series of Social Impact Bonds, some way off being able to consistently apply a workable methodology across all areas of spend.

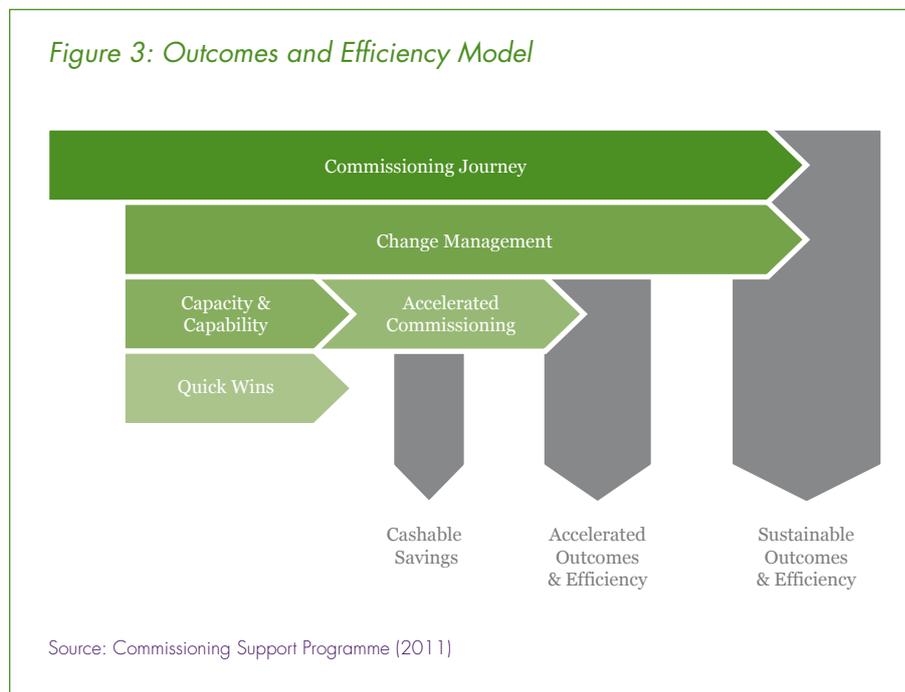
In the absence of being able to properly measure social return, a focus on the outcomes – as opposed to outputs – for service users (be that contractually or otherwise) is a good way of ensuring a better appreciation of true value for money. This approach is clearly gaining credence. Of the councils we surveyed, almost everyone uses or plan to use outcomes-focused contracts in some capacity.

At the same time, these practices are currently rather sporadic. Partly because appropriate outcomes are not always fully understood, but mostly because of a combination of bureaucratic and financial challenges which make joining up desired outcomes, local intelligence and service design very difficult. Moreover, anecdotal evidence suggests that the capability of procurement professionals to consistently apply an outcomes focus in the tender process varies considerably, as this represents a departure from the kind of practices which many will be used

to. There is also understandable confusion between outcomes and outputs at all levels. The language of outcomes is new and, for some, will take time to learn.

With this in mind, there are two key issues to consider – firstly how to identify and focus on the outcomes, and secondly how to develop and finance services which deliver against these outcomes. Learning to think differently about what a service should look like and how it should be commissioned clearly requires a significant shift in culture and approaches.

It is clear that progress is being made on the first point. This is particularly the case in Children’s Services where there have been considerable efforts to create a joined-up approach and develop clear outcomes framework at a national level. The Commissioning Support Programme (CSP) was launched in 2008 and works with all local authorities and their partners to help them achieve better outcomes for children, young people and their families. Although it is no longer being funded by government, the website and resources are still available, including an outcomes and efficiency model (led by and developed with local government) which is available to all authorities ‘to help them make significant cuts in their budgets without limiting the effects on service delivery’.<sup>58</sup> As illustrated below, this model is designed to accelerate the commissioning journey of all local areas and deliver both short-to-medium term cashable savings and long term efficiencies through improved outcomes for communities. This is through a top-led, bottom-up design. Key features of this process (illustrated below) include reviewing all needs and resources and developing a new commissioning system; applying simple tools to identify quick wins; embedding cultural, political and emotional change; developing communication between frontline staff, officers and residents; and building joint capacity.



Early intervention and prevention is also clearly linked to the language of outcomes. As discussed in the Allen Review, the benefits of early intervention are now nearly universally recognised.<sup>59</sup> The below case study discusses how an established programme in South Gloucestershire is evidencing short-term cost savings as well as potential long-term value in terms of prevention.

<sup>58</sup> Commissioning Support Programme (2011) *Outcomes and Efficiency: Accelerating the Delivery of Better Outcomes and Efficiency Through Commissioning*, accessed at <http://www.commissioningsupport.org.uk> [17/06/11]

<sup>59</sup> G. Allen MP, *Early Intervention*

## Case study: Breakthrough Mentoring – South Gloucestershire

Breakthrough Mentoring is an internal traded service in South Gloucestershire Council. It works to improve the lives of pupils with challenging behaviour through individual mentoring and support, and seeks to improve their outcomes through early intervention. Breakthrough supports vulnerable and excluded young people facing a range of challenges. These include those at risk of school exclusion, in residential or foster care, young carers, and those in the criminal justice system.

Breakthrough was established in 2002 with a small grant awarded by the Children's Fund, intended to focus on working with groups of children facing exclusion from school. At the time council spend in this area was fragmented and Breakthrough spotted a gap in the market for provision in this area. Over time they have developed a mentoring model which although bespoke, and focused on individuals, could be offered to children's services as a block purchase to provide positive outcomes for vulnerable young people that met a range of objectives held by both the council and other public sector partners, including the desire to avoid expensive residential care and special schooling. As services have pooled their budgets this has meant that Breakthrough has been able to offer 15% discounts on these purchases, ultimately freeing up resources for the council to re-invest or invest in other areas. In this way the trading model has both fostered innovation and provided scope to achieve better value for money while improving and continuing investment in key services.

For the team at Breakthrough, these initial savings are crucial in facilitating their role in early intervention, working in areas where cost savings are more long-term and may be harder to demonstrate, but where the added value of their approach is evident. Some of the preventative work which the project does by mentoring vulnerable young people can be hard to set a value on, but the savings made on delivering the acute services have helped them to generate income to devote to focusing on added value activities. Moreover, the evidence they are starting to gather is already supporting their efforts to make the case to budget holders for reinvestment into preventative work. An analysis has been undertaken looking at the savings made by Breakthrough's achievements in delaying/preventing foster or residential care, or removing the need for expensive additional schooling and this has revealed net savings of £377,703 across the 12 pilot projects. These are relatively 'quick wins' observed in interventions between early 2008 and November 2010. The longer term value has yet to be determined. The team are currently working with five authorities across North Somerset and Gloucestershire to roll out the model more widely in the region. Having already worked with local PCTS, they are also looking to develop their relationship with the NHS to create a role in public health.<sup>60</sup>

<sup>60</sup> South Gloucestershire Council (2011) 'Breakthrough Mentoring: A Short History', <http://www.southglos.gov.uk/NR/exeres/2c984640-2b05-4d19-98f0-63b04a447e2f>

There is a sense that an outcomes-focus in social care contracting for example, particularly for the elderly, may be further off. This is a reflection of the complexity of determining which variables might lead to these outcomes and the smaller evidence base available for practitioners to draw on. And while there has been a growing discourse around early intervention, perhaps understandably it has tended to focus on early years. Anecdotally, it is clear that social care commissioners are committed to prevention measures, but the focus is usually on shorter time-scales and developing fairly direct mechanisms. Because of the huge funding challenges which the sector is facing, spending on early intervention and more holistic approaches is more difficult to justify, and many authorities feel that it is more cost effective to restrict social care provision to those with critical to substantial need, although this approach is not universal. Sunderland City Council, for example, place prevention at the core of their services, with telehealth (the use of electronic equipment to monitor the health of the vulnerable and feed the information through to support staff) in the home a key part of this, and as such they offer support to many with moderate or even low needs. Interestingly, while officers are now starting to build an evidence base for this approach, the initial commitment to this innovative approach has been attributed to early attempts to engender trust and confidence in the process.<sup>61</sup>

At a time when adult social care is under severe and growing pressure, a focus on innovation in contracting is both especially challenging, and especially timely. Going forward, and with the emphasis which the Dilnot Commission (partial or total adoption pending) has placed on early intervention, encouraging future care users to save far in advance and giving councils the statutory requirement to provide advice on this, commissioning may well be operating in an entirely new playing field. Increasingly long term outcomes will be given due prominence. However there are already examples of emerging innovative approaches to commissioning for outcomes in social care and it is important to remember that existing social care commissioners have a wealth of valuable experience and insight to draw on, helping them to identify the outcomes which are needed by service users, in collaboration with both users and providers. The below case study, which focuses on telecare, illustrates how payment-by-results models can be used to facilitate both improved outcomes and better value for money, as well as being effective at addressing the requirements of individuals with varying levels of care need.

There is clearly some cause for optimism, with models like this demonstrating that there is scope for innovation in the sector. It is important to note however that an outcomes-focus is not a panacea. In light of the complexity of determining which variables lead to which outcomes, some officers involved in the research were keen to stress that a complete polarisations of outcomes vs outputs can be misleading. Therefore it is important to maintain some focus on the nature of the service itself, as is acknowledged in the above model. It is also worth noting that for providers to be able to deliver payment-by-results, they will of course have to be willing to take on greater risk.

Of course the issue is not just about quantifying outcomes in order to invest finances more wisely, but also about embracing opportunities to generate added value wherever possible. To date, our survey shows, councils have generally been responsive to taking social/environmental value into account when commissioning and procuring. Over a third of councils have formal mechanisms to build such externalities into the decision making process, and 6 in 10 point to more informal methods. Our research revealed the often neglected potential

<sup>61</sup> Brindle, D. (2011) 'How Does Sunderland Provide Social Care to All Those who Need it?' *The Guardian*, <http://www.guardian.co.uk> [15/06/11]

of the private sector to develop the social and environmental value, given the potential they have to commit resources to absorb 'extra' costs, and draw on funds set aside for corporate social responsibility. Private sector providers might also bring a strong commitment to investing in innovative approaches to achieving the maximum value from an investment.

### Case study: Mears and Hertfordshire County Council – Payment-by-Results Telecare Pilot

Mears and Hertfordshire County Council (HCC) are currently working together to examine how telecare can change care delivery by diminishing contact time, promoting independence and improving outcomes. The key factor which is enabling both parties to take this innovative approach is the application of a payment-by-results model.

This is a pilot project which will involve 50 people at any one time, none of whom use telecare initially, and will run initially for 12 months. When Mears begin working with a new service user who has no telecare, they will conduct an assessment to establish if and how the installation of telecare services could help support the independence of the service user. If the service user agrees, telecare will then be purchased and installed and the full cost of this will be met by Mears.

The progress of the service users in the pilot will be assessed by HCC against a control group of non-telecare care service users. Mears and HCC will review progress on a bi-monthly basis and there will also be a Working Group who will focus on the day-to-day and feed into the review.

The focus will be on service improvement and enabling of user. In line with this, performance will be measured against the following key outcomes:

- Satisfaction with service for the service user
- Satisfaction with the service as expressed by the main informal carer if there is one
- Change in number of care hours delivered per individual over a year, versus the control group
- Number and nature of residential care and hospital visits needed

If Mears are able to demonstrate savings in the provision of care for pilot users in comparison with the control group then an equivalent payment will be made to Mears to meet cost of the initial investment made by the company in equipment and installation. Above and beyond full cost recovery, any additional savings are to be shared equally by Mears and HCC. If no savings are made, Mears will see no return on their investment.

In this way all parties (council, provider and user) can potentially benefit significantly from the payment-by-results model. Moreover, there is a strong incentive for the provider to meet the needs of the user while the risk of implementing new approaches is not borne by the council.

Capturing real value also requires an openness to embracing different funding mechanisms as part of the commissioning process, and a willingness to invest in listening to providers about their experiences of local need. The below case study illustrates the role which grant funding with the VCS, for example, can play in enabling councils to generate added value from future investments in services.

### Case study: Camden – Co-production with the voluntary sector

Camden Council has an established history of focusing on outcomes-based commissioning. Recently they have developed a model, which uses ‘outcome stars’ to measure progress for (primarily social) service users receiving support in order to maximise independence or other goals. They have also piloted various models to measure value and social return on investment.

Camden has identified co-production with the VCS as an important vehicle for delivering meaningful outcomes for communities. To facilitate this, Camden are investing in a new ‘equality and cohesion fund’. Voluntary and community groups will be invited to apply for discrete funds by identifying 1-3 year projects they would like to deliver. Officers will then work with successful groups to jointly agree clear outcomes to be achieved, based on an exchange of insight and ideas about community need, and to co-design outcomes and evaluation frameworks. This is an alternative to contracting with the VCS but attempts to be much more engaged with identifying outcomes than a traditional grant mechanism or SLA. Camden sees the process as not about procuring a service and monitoring it, **‘it’s about saying we are investing in you to provide a solution’**.

What Camden have recognised is the need to engage with the VCS long before the procurement cycle might begin, in order to build up capacity, capability, and in turn to generate more solutions to entrenched problems. This process of early and non-prescriptive engagement allows councils to use local insight, from all sectors, to inform the prioritisation and identification of outcomes before even getting to stage of service design.

The principle of ‘investing in you to provide a solution’ can also apply to relationships with providers in the private sector. This kind of process helps to inform the council’s understanding of how to engage and consult with providers during the procurement process itself, as well as leading to the development of better, more outcomes-focused evaluation frameworks.

### Key Lessons

- Social Return on Investment, payment by results and other innovative funding models have the potential to revolutionise the way that services are delivered. In the absence of sufficient data on the financial savings of early intervention, a focus on ‘outcomes’ may be a useful way to help shape the development of the social investment market.

## Integrating Procurement into Strategic Commissioning

The confusion over terminology mean that many discussions of commissioning tend to focus on procurement processes, with barriers to effective procurement being debated at length by both authorities and providers, at the expense of debate on the definitions debate on the fundamentals of service design and delivery. However, there is no doubt that many of the barriers to strategic commissioning manifest themselves in the procurement aspect of the cycle.

It is beyond the scope of this report to attempt a systematic exposition of every situation in which procurement policies undermine strategic commissioning or vice versa. However, in the course of the research a number of key themes emerged. These can be summarised as follows:

- **Contracts and associated barriers of entry** – Two factors are prevalent. Firstly the length of the contract – if commissioners and service users want to focus on impact and results, any proposed contract will need to cover a suitable time frame, often much longer contracts than are currently offered. This would also give the providers a better opportunity to demonstrate innovation, and offer more flexibility by using payment by results and transfer risk (the longer the contract, the greater the risk the commissioner is taking). Secondly, the size of a contract – small providers may be unable to compete for large contracts, even if they have the relevant expertise and understanding to deliver the best outcomes for service users – consequently this undermines the broader commissioning aims. Suffice to say, a delicate balance needs to be found here – between a system that places all the risk on the commissioner, and one which does not allow for innovation or diversity of providers where appropriate.

It is important to remember also that tender processes need to be proportionate to the size of the contracts, to ensure accessibility to suitable providers who may lack the skills and capacity for complex tenders. It is clear that procurement may need and will continue to invite tenders for large contracts to make efficiency savings in the short term. However, both commissioners and providers should take steps to ensure that the limits this places on accessibility are minimised throughout the commissioning process. Part of this may come from the larger companies themselves, and the role they play in supporting local business, for example by subcontracting elements of contracts to local providers. Some larger providers also make a point of employing local people to deliver services e.g. 90% of Mears' staff live in the communities in which they work. The UK banking sector may also have a role to play here via the Business Growth Fund – a £2.5bn equity investment fund – and Project Merlin – a pledge to make £190bn of lending available for (predominantly small) businesses.

For local authorities, capacity building and training programmes in the local private and voluntary sector could be a key aspect of helping smaller providers tender for and deliver larger contracts (see for example, Welsh Assembly Programme). Obviously, this will need to be financed – in these times, never easy. However, this should be viewed as a long term investment.

There are clearly legal limits to this within competition rules, as discussed below, but if the process is sufficiently generic these should not be insurmountable. Encouraging and being open to consortia building is another effective way of supporting smaller organisations to deliver large contracts. In some cases the authority may play an active role in building suitable consortia, but it is also the responsibility of providers to recognise that working with their competitors could be the best way to ensure the long term sustainability of their enterprise. The case study below demonstrates how even very large contracts can be delivered by the VCS working *en bloc*.

The loss of sovereignty over the provision of services also potentially inhibits councillors from taking a more wholesale strategic commissioning approach, particularly where councils are locked into contracts for statutory services over long periods of time. However, as well as ensuring that there are sufficient get-out and delivery clauses within the contract, there may be further opportunities to renegotiate contracts mid-term, particularly if this means better client (council) satisfaction and the potential for future business for the commissioned service provider.

- **Lack of consultation and use of intelligence/evidence** – Service providers themselves should be seen as a vital resource in the commissioning process. This will help to avoid some of the issues which may become apparent when the service has already gone to tenders, such as unsuitable contract length, poor specification, missed opportunities to include other services in the tender and/or to generate added value. However, opportunities to engage providers from all sectors in market analysis and service specification are often missed. According to our survey, only 44% of councils regularly have provider input into developing tenders when procuring services externally. Even within the competition rules more can be done to maximise their insight, and this is especially the case with local charities and community bodies, who may be providing services in an area without delivering formal contracts. But it is also the case for larger private sector or other public sector providers, who may have more experience of service delivery than the commissioners. Firstly, there should be formal and informal mechanisms to engage with the market as early as possible. This should also facilitate greater scope for providers to offer innovative solutions. Where competitive dialogue is used, it should be a genuine and face-to face dialogue structured but open and transparent with proper feedback, and allow opportunities for innovative approaches, or suggestions on how to add value. This type of open dialogue also a good opportunity to involve service users and communities. As co-developers of services, residents might join procurement managers to visit sites or observe providers delivering services where applicable.
- **Overly bureaucratic procurement processes and EU rules** – discussions with commissioners and members revealed that EU procurement rules are still perceived as one of the biggest barriers to ensuring procurement which reflects a strategic commissioning approach. Many see these restrictions as preventing authorities from developing the market and working with small local providers. They are also seen as a barrier to knowledge exchange between councils and providers in the procurement process which could lead to more innovation. The EU is currently consulting on its procurement rules (a report is due in 2012), focusing in particular on whether or not these rules should be modified to allow social and environmental issues to be taken into account, but also on whether they are currently too complex for local authorities and too restrictive in terms of accessibility for SMEs. Clearly, this period of review should be seized upon as an opportunity to build momentum for reform. This should also be seen as an opportunity for positive dialogue between councils and VCS/SMEs. Overall, the way in which procurement rules are implemented can be as significant as the rules themselves in terms of presenting a barrier to strategic commissioning. In addition to reform, existing rules need to be applied sensibly.

Providers from all sectors need to be responsive and proactive themselves and where opportunities arise be willing to offer innovative solutions. It is important for providers to remember that procurement processes, which may seem inaccessible or exclusive, are just a small part of broader commissioning process and to engage with these broader issues and agendas as well.

Perhaps the most important issue to emphasise in this section is the importance of integrating procurement into broader commissioning processes. It cannot be left to procurement to make efficiency savings without serious consideration in the earlier stages of the process, as to how this will impact on the identified outcomes. It is also vital that officers across the council have an appropriate understanding of and suitable training in procurement and commissioning, commensurate with their budgets and responsibilities. It may be the case that problems which arise at the point of tendering for services, such as an underdeveloped local market, inadequate local or provider intelligence, or poor access for smaller providers, could have been addressed in part as an aspect of broader strategic aims.

### Case study: 3SC – a VCS response to large contracts

3SC are a consortia of voluntary sector organisations who bid for large national public sector contracts.

A large contract is often a barrier to the VCS, but 3SC facilitates the co-operation of a number of organisations, thereby minimising the risk for individual organisations. It means that bidding for contracts is less labour resource intensive for individual organisations and less of a drain on capacity for delivery.

So far 3SC have delivered several major contracts. It was one of the prime contractors for the delivery of the 'Future Jobs Fund' and achieved 100% delivery fulfilment on first two programmes. It is currently in discussions with the preferred providers for the Department for Work and Pension's new Work Programme to explore the opportunities for civil society contribution to the delivery of employment related support services across England.

3SC have recognised that 'part of the challenge for the sector is to work in a commercially focused way'. Consortia building is one way in which VCSOs might be able to do this without compromising their underlying ethos. Organisations 'don't always see how work fits into bigger picture' and working as part of a consortia can help this.

According to 3SC, this model can and does also work on a local level. Of course, co-operation of this kind is not necessarily a natural state. VCSOs are in competition, like any sector, but consortia building is an important way of securing sustainable income. Thus 3SC's experience is also a useful example to SMEs.

Nonetheless, one issue which remains for both sectors is access to capital and cash flow. Consortia building cannot necessarily overcome those barriers. However, consortias could potentially be a vehicle for VCSOs and others to explore innovative financing mechanisms, such as social impact bonds, with the added security and capacity which joint working brings.

## Key Lessons

- Councils need to have good linkages between commissioning and procurement processes, more formal joined-up working between procurement and directorates, and more consideration of how efficiency targets in procurement impact on outcomes and overall vision for the service. I.e. A move from transactional to transformational savings. Care needs to be taken to avoid price-driven procurement to reduce expenditure.
- Councils need to invest in further training in commissioning and procurement across the organisation– training should not be restricted to particular roles but should be sufficient to allow all parties to engage with other aspects of the commissioning cycle.
- The sector should initiate a discussion over the extent to which local authorities choose to apply the more restrictive procurement regime for Part A regulations (such as financial and IT services) to services which by law do not have the same restrictions, such as Health and Social Care, and why this is the case.<sup>62</sup>

<sup>62</sup> For more detail on these grievances refer to NAVCA & Citizens Advice Bureau (2011) *The Modernisation of EU Procurement Policy. Towards a More Efficient European Procurement Policy: A Co-ordinated Response from NAVCA and Citizens Advice*, [www.navca.org.uk/downloads/generate/927](http://www.navca.org.uk/downloads/generate/927)

### 3. What Does a Strategic Commissioning Council Look Like?

Having discussed what a strategic commissioning council should look like, we now address the structural and practical implications of adopting a strategic commissioning approach. This is crucial because, as yet, it seems that ambitions lag behind organisational realities. For example, when given the chance to comment on what a place based approach might look like, over 80% of our survey respondents felt that councils should be empowered to take commissioning decisions over health, education and employment policy, and 90% or more had similar views regarding social care, the local economy and the environment. Yet whilst nearly 82% of the councils we surveyed suggested that their council was taking on a greater role as a strategic commissioning organisation, only just under 13% felt that they currently had the required mix of skills and expertise to fulfil this. Perhaps unsurprisingly then, nearly 65% also saw internal council structure as a barrier to strategic commissioning.

Of course, given that a council is a political structure, strategic commissioning is not just a practical issue, but also a political one. As the recent case of Suffolk County Council has shown us, seeking to pursue a strategic commissioning approach can involve committing to fundamental structural change, and as such is a highly political issue, which must be presented in the context of a sound evidence base and clear strategic direction. Brighton & Hove similarly found that their proposed re-packaging as a strategic commissioning council was initially not well articulated and hence poorly received. This is certainly where it pays to consider the concept of strategic commissioning more broadly, and explore the different options which can work in varying political contexts. For example, Lambeth's re-organisation, whilst very different in terms of how it has been packaged and received politically, is similar in essence in that it represents a fundamental restructure of the council, with the aim of enacting an entirely new approach to delivering and designing services.

Our survey reveals that whilst councils are comfortable (91%) that they are the vehicle to implement strategic commissioning, normally have experience of outcomes based commissioning (76%), and usually (85%) consult when developing tenders, there is still some doubt as to what a commissioning council might look like. However, there are a number of examples where councils have taken a more strategic commissioning approach – both high level structural changes, as well as instilling a new approach in a more specific area.

There are many complex questions to consider. For example, who should have input into the commissioning process, and how? What is the role of elected members, democratic institutions, and of officers? What is the role of service users and citizens?

### Working across Public Sector and Community Structures

A strategic council is one which is able to leverage and disperse available funds in line with its strategic vision for the community. Throughout the research, difficulties in general partnership working and difficulties in pooling budgets across the public sector, emerged consistently as two of the most important barriers to councils operating as strategic commissioners. This illustrates the obvious but important fact that a council cannot be a strategic commissioner or 'place-shaper' in isolation.

As outlined in Part One, the work undertaken around 'Total Place' and more recently 'Community Budgets' emerged from a recognition of the barriers which existing public sector structures have presented to a council's place shaping mandate. Over recent months, there have been some concerns that the Community Budgets programme is too limited in scope, and has not reflected the scale and importance of the challenge which partnership working presents to the aspiration of better strategic commissioning.<sup>63</sup> However the government has recently enhanced its commitment to the programme, which focuses on families with multiple problems, announcing its expansion to include a further fifty pilots across the country this year, to be followed by an additional sixty in 2012. The Deputy Prime Minister has also announced two pairs of more in depth pooled budget pilot projects. The first pair will involve developing neighbourhood budgets focused around a particular issue and with decision-making devolved to local communities. The second pair will draw further on the experience of Total Place and involve the pooling of all Government departmental budgets for a defined locality, creating a single pot of money for public services in the two chosen pilot areas.<sup>64</sup>

This demonstrates a clear national policy drive to address these major structural issues, and there is reason to be optimistic that important innovations will emerge over the next several years. Specific elements of Total Place, such as the DWP Worklessness Co-design pilot which brought together Whitehall, councils and other local partners to address unemployment issues, has already led to the publication of guidance on areas which have long presented challenges, such as data sharing, which was highlighted as a significant barrier by the councils we surveyed (see DWP guide: Data sharing to tackle worklessness).<sup>65</sup> However, our data on pooled budgets is telling. Whilst almost two thirds of respondents expressed the view that the difficulties of pooling could be a major barrier to strategic commissioning, 39% stated their authority was already using them, with a further 46% pointing to future plans to do so. The below case study illustrates an example of the sort of innovations which are emerging at the local neighbourhood level, but could potentially provide useful examples for councils nationwide.

This kind of partnership working at the local level, centred around key points of contact, is clearly important. However, community-based commissioning is also about engaging and empowering the grassroots, and some feel that better partnership working and sharing of resources can be achieved more effectively by devolving budgets and responsibilities. Perhaps then, a strategic commissioning council is one that fundamentally redefines its relationship with residents. One example of this approach is Balsall Heath Forum – a community

<sup>63</sup> Tizard, J. (2010) 'Community Budgets: A Compromise Too Far', *Public Finance*, [www.opinion.publicfinance.co.uk](http://www.opinion.publicfinance.co.uk)

<sup>64</sup> See Community Budgets (2011) 'Deputy Prime Minister Makes CB's Announcement', [www.localleadership.gov.uk](http://www.localleadership.gov.uk)

<sup>65</sup> DWP (January 2011) *DWP Worklessness Co-design Interim Report*, <http://www.dwp.gov.uk/docs/dwp-worklessness-codesign-ir.pdf>

group which has helped to transform a deprived inner Birmingham suburb into a thriving community and by engaging local people to stand up to crime and anti-social behaviour, has saved an estimated 10% (£10m) of the local statutory budget in the process. Dick Atkinson, Chief Executive of Balsall Heath Forum is keen to stress the important lesson that commissioning strategically with the community is not about encouraging community groups to “compete against each other to provide services cheaper than the council”, but about transforming the role of the council from ‘provider’ to ‘enabler’.<sup>66</sup> By employing a capacity builder, neighbourhood manager and wardens and a ‘green team’ at a cost of £350,000, the council’s relationship with residents through neighbourhood groups, as well as the nature of service provision, has been transformed.

### Case study: HHEET Centre, Chester West and Cheshire Council – partnership working at local level

The Housing, Health, Employment, Enterprise and Training (HHEET) Centre is, as the name implies, a one-stop shop to address the problem of worklessness and help residents overcome the multiple challenges to entering the job market. The centre, which is located in Ellesmere Port, provides a hub for integrated services supporting residents to develop all the necessary skills, confidence and capability to gain employment. It also provides a place where partners can come together at the neighbourhood level to address these barriers together.

The council works with over 16 partners to offer surgeries, appointments, training and support at the HHEET Centre. This also provides an opportunity for partners to develop links to make referrals to other services, such as job centre plus, or probation, where necessary.

The HHEET Centre officially opened in February 2011 and therefore it is still too early to attempt to assess its success or measure outcomes. However, the important innovation which this model demonstrates is the ambition to see this service hub not just as an opportunity for joined-up working between partners, but also to take a more holistic approach to the problem of worklessness and embrace the potential of the centre as a vehicle for ‘identifying and developing employment routes linked with potential economic growth in the local economy’.

This model illustrates the difference between a traditional top-down model of service delivery and the new relationship between state and citizen as envisaged by the community in Balsall Heath – one in which the VCS is strong, not weak, and the public sector institutions operate as enablers.

### Key Lessons

- Community groups have a vital role to play in the commissioning process, and can deliver better outcomes for residents at lower cost. Where feasible, councils should act as ‘enablers’ rather than providers of services, supporting community groups to transform local services.

<sup>66</sup> D. Atkinson [2010] ‘Community in Action’ in T. Shakespeare, ed., *Small State, Big Society*, pp. 38-43.

## Financing Strategic Commissioning and Reforming Internal Structures

There are a number of other barriers to implementing a strategic and holistic commissioning process. Firstly there is the issue of finance. Despite the recent announcement that councils will be allowed to retain more of their business rates locally, councils may still not have the predictability and stability required to commission for outcomes against long-term strategic goals. There is clearly still more which could be done by central government to give individual councils greater flexibility and develop funding cycles which better reflect the long-term nature of the investments required to support preventative approaches and address the fundamentals.

Even within the current funding structures however, there are still opportunities for councils to use funds more flexibly. For example, as part of the Community Budgets pilot the option of top-slicing education budgets has already been explored. Councils already retain around 10% of the Dedicated Schools Grant (DSG) to pay for special educational needs provision. However, it would be possible, in consultation with special schools and alternative provision providers, to pool some of these funds with other service areas in order to create a community resource which could be focused on funding holistic and community-rooted solutions to meeting the needs of these pupils, as part of a wider strategy for achieving better outcomes for families with multiple problems.<sup>67</sup> If models like Balsall Heath, or indeed any 'joined-up' commissioning strategy are to have a transformational effect across the country, and one which impacts on all areas of service provision, then councils will need to find more imaginative ways of slicing budgets.

Another barrier is that of culture, with over 60% of those we surveyed saying that the current culture within councils presented a major barrier to strategic commissioning. This was the second biggest barrier we identified. To neutralise this problem, officers need to be encouraged to see how their unique contributions and expertise can lead to better outcomes for residents and to understand the variety of innovative approaches which this might entail. Also, ensuring staff understand the difference between commissioning and procurement is essential, and presenting a clear and simple overview of the council's own commission process would be greatly beneficial. Initiatives such as mutuals and co-operatives must not founder due to an unwillingness to adapt. At all levels, councils need to embrace the changing relationship between state and citizen, and the changing skill sets required for both officers and members. Our survey revealed the widely held concerns that councils are currently ill-equipped to meet the challenges of strategic commissioning. As we have seen, of the councils we surveyed, less than 13% felt that they currently had right mix of skills in their workforce to match their transition to a strategic commissioning organisation. Nearly 70% felt that more commissioning experts are required, and 50% suggested that they specifically needed more procurement expertise. However, it is important to consider opportunities to draw out these skills within the current workforce, especially given the unique insight which those with more hands-on experience of delivery can bring to key commissioning aspects of needs and market analysis.

There is no one size fits all model which a council should adopt to facilitate more strategic commissioning. Options include the co-operative model, as trialled by Lambeth, with local residents co-producing and co-commissioning their services and pooling personal resources to create micro-mutuals and the council at the core of the commissioning process, adopting a facilitating role. Councillors and officers will retain their responsibility for safeguarding and scrutiny, but will also effectively take on the role of community organisers.

<sup>67</sup> See the Department for Education (2011) 'Using Schools Funding in Community Budgets for Families with Multiple Problems', *Finance Officer News*, <http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/financeofficernews/a0077486/using-schools-funding-in-community-budgets-for-families-with-multiple-problems#>

Many councils are choosing to opt for a flexible model which facilitates a greater mix of approaches, including in-house, outsourced, traded and co-produced services. This should be underpinned by a structure which allows high level strategic priorities and a focus on local outcomes to join-up at all stages of the commissioning process; and provides scope to innovate both internally and externally in the process of service design and delivery.

### Key Lessons

- Councils need to draw out the current commissioning expertise which exist within services, build and enhance current capacity as part of a more flexible but strategically focused structure.
- The nature and sources of funding are crucial, and more could be done to give councils greater financial flexibility to better reflect the long-term nature of investments in early intervention initiatives.
- The existing cultures within councils are perceived by councils themselves as a significant barrier to strategic commissioning. This could be addressed by ensuring that a clear distinction is made between commissioning and procurement.

### Redefining Accountability and Risk

Local government has long been characterised as risk averse and this has, in turn, often been cited as a barrier to reform in the way in which public services are designed, conceived and delivered. We have seen how approaches such as payment by results, will to some extent provide opportunities for councils to transfer or share financial risk in the short-to-medium term.

However, throughout this research an interesting theme has begun to emerge. While there is general agreement that public bodies are right to want to avoid taking excessive risks when spending public money, what is missing is not clear cut. Every council and public sector body has responsibility for the provision of certain services or in certain localities where, despite their best efforts, they have not been able to deliver the desired outcomes or improvements for individuals and communities. Given this history, we believe that to continue to approach these services in the same ineffective ways is the real risk for both the tax payer and the service user, and we therefore argue that to innovate and explore new approaches is, in this context, actually the less risky option. By re-orientating the conversation around risk in this way, it is possible to commission innovatively, whilst maintaining an open and honest conversation with service users and communities.

A major systemic failure, such as failing to provide a service for which an organisation is commissioned, must clearly be avoided if all possible. Thorough and strategic commissioning processes which retain and maximise expertise from both within and outside the council can help to minimise (if never completely remove) the risk of systemic failure. There must also be clear financial and contractual consequences for failure as outlined in the Open Public Services White Paper, with careful 'continuity regimes' put in place which ensure that failure is quickly identified, and intervention to minimise the impact on service users is swift.<sup>68</sup> As explained above however, risk of failure is not an issue which is confined to services which are externally procured.

<sup>68</sup> HM Government (2011) *Open Public Services White Paper*, [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk) p. 48.

As the Open Public Service White Paper makes clear, clear lines of accountability and transparency are essential through 'strong mechanisms of accountability through open data, public participation and democratic oversight'.<sup>69</sup> This is obviously especially important in relation to services for the most vulnerable. This drive for better standards and availability of data was echoed in our survey, with nearly 75% of councils surveyed suggesting that commissioning and procurement processes would be enhanced by clearly available national benchmarking data.

Given the widespread aspiration to involve communities and service users in commissioning, it is right to consider the implications this will have for local democracy and accountability, and more specifically on what this means for the future role of local councillors. It is vital that the relationship between councillor and resident is not weakened in the shift towards commissioning models. Concerns have been expressed that the shift towards intelligent commissioning models, which transfer greater responsibility to communities or providers, could lead to the role of elected members becoming restricted.<sup>70</sup>

However, a move to strategic commissioning ensures central role for the executive in the commissioning cycle in setting the strategic direction which should inform all stages of the process. Moreover, elected members will continue to have a clear scrutiny role regardless of how services are procured or delivered. Conversations with council leaders during this research confirmed the widespread recognition that it is this function, and not that of monitoring and overseeing delivery, which has always been, and will remain, the key responsibility of members. The other vital role for councillors in a more strategic commissioning landscape is scrutiny. As discussed in part one, scrutiny is a crucial part of the commissioning process, and while it may be perceived by some as less glamorous than the executive decision making function, it is by no means any less important.

Backbencher members too have a crucial role to play in ensuring the involvement of communities and service users in order to identify, understand and respond to need. Whatever the structure adopted, all elected members should be active in gathering local intelligence to inform the commissioning process at all stages.<sup>71</sup> The Big Society agenda has rightly placed a good deal of emphasis on the role of the voluntary and community groups in facilitating better public services. However, the democratic relationship between a councillor and resident remains one of the most fundamental routes for local people to engage with their public services and should be embraced as a conduit to enhance and facilitate greater community involvement in local provision, in particular by ensuring the proper representation of all interests.

It is likely that members will need to be supported to understand and enact their active role in the emerging commissioning councils and their responsibility to 'represent the community to the council, rather than the council to the community',<sup>72</sup> which may necessitate more input and support from officers.<sup>73</sup>

<sup>69</sup> *Ibid.*, p.30.

<sup>70</sup> Unison, APSE & IGIU (2011) *Think Twice*, p.4.

<sup>71</sup> The future role of 'community councillors' is debated in CPSP (2011) *The Brilliant Local Authority of the Future* (London: KPMG).

<sup>72</sup> *Ibid.*, p. 8.

<sup>73</sup> *Ibid.*

### Key Lessons

- Given the increasing moves towards early intervention and strategic commissioning, all sectors will be required to better understand and redefine risk to ensure better outcomes for residents.
- Systemic failure in the provision of a particular service is a risk for all sectors, and councils should make provisions to ensure the continuity of provision should such a failure occur, particularly for the most vital services.
- Councils should ensure that the role and responsibilities of all members in the commissioning process is clearly articulated and actively supported by officers. Councils need to focus on supporting members to take on new role in community and as part of commissioning council.
- Councils should recognise the importance of effective scrutiny to the commissioning process, and actively support members to take up scrutiny roles.

# Conclusion

Councils are increasingly taking on the role of commissioner of services. This report has offered a broad-ranging and in-depth analysis of how these commissioning decisions can, and should, be informed by a strong strategic vision. A strategic commissioning approach does not prescribe how a service might be delivered, or by whom, but rather redefines how one might go about determining what that service should look like in the first place, and what it should aim to achieve in a given community. Consequently, strategic commissioning, when understood and applied consistently has the potential to help deliver improved outcomes and better value for money for local residents.

By introducing a wide selection of case studies, drawing on experience in the public, private and voluntary sector, the report has demonstrated the multiple and diverse benefits which can be achieved by innovative commissioning processes and structures. However, the discussion has also revealed the complexities and challenges associated with implementing this essentially 'common sense' approach. These include the ongoing frustrations of siloed budgets and responsibilities, the barriers to innovative procurement, and the need for councils to embrace a new form of democratic role. Based on this analysis, each section of the report has drawn out key considerations and lessons learnt, and set out the following specific policy recommendations:

## **Address siloed nature of public services:**

- Central Government should offer continued support and resources for pooling budgets
- Central Government should enable better data sharing across the public sector
- Central Government should look to give councils greater financial flexibility to better reflect the long-term nature of investments in early intervention initiatives.
- Central Government should ensure that Health and Wellbeing boards have 'teeth' and are embraced as an opportunity for partnership commissioning

## **Focus on outcomes not processes:**

- Central Government should promote national availability of benchmarking data on provider performance to enable commissioners to make informed decisions
- Councils should be open minded about methods for achieving savings before moving to tender eg new providers, local authority trading companies (LATCs), support for Voluntary and Community Sector (VCS) or shared services.

### **Support a thriving market for all sectors:**

- Central Government should support councils in trying to evidence social return by building up national database of evidence on added value and social return, which can be easily shared between authorities, and programs borrowed.
- Councils should adopt various mechanisms to improve service design and procurement – including exploring innovative methods for supporting market and building capacity for VCS and SMEs before reaching procurement stages.
- Councils should look to utilise Social Return on Investment, payment by results and other innovative funding models that have the potential to revolutionise the way that services are delivered.

### **Redefine risk:**

- Councils should work with partners to redefine risk, internally and externally, to ensure that money is spent on services which deliver the long term outcomes.
- Councils should amend SME risk categorisations so that small stable and profitable businesses that are high risk due to their size in relation to the contract value can still be awarded suitable contracts

### **Create smarter, more flexible contracts:**

- Councils should capitalise more on opportunities to value test and re-negotiate their contracts.

### **Redefine the roles and responsibilities of councillors and officers:**

- Councils should support elected members to take on a greater role as community advocates as part of commissioning council and actively encourage members to take up scrutiny roles.
- Councils should embrace the culture change towards becoming strategic commissioners through officer and member training. Training should not be restricted to particular roles but should be sufficient to allow all parties to engage with other aspects of the commissioning cycle.

### **Make commissioning distinct from procurement and outsourcing:**

- Councils should create stronger linkages between commissioning and procurement processes, with more consideration of how efficiency targets in procurement impact on overall vision. i.e. move from transactional to transformational savings
- Councils should collectively promote a clear vision of what commissioning means, including how this is distinct from outsourcing

### **Work towards a new, more localist, understanding of value:**

- Councils should continue to develop their own measures of local 'value', working together with other councils to compare and benchmark performance

### **Involve communities in the commissioning process:**

- Councils should give greater focus to how communities and providers can be involved in the commissioning process and priority setting.
- Councils should encourage and enable residents to share information and

intelligence on their experiences of services, using the feedback of others to inform choices.

Finally, as with any study, it has not been possible to cover every relevant aspect of this complex issue in detail, especially in light of the rapidly changing public service environment which we are currently experiencing. There are many interesting related issues which warrant further discussion in the coming months and years including decommissioning, the role of parish councils and similar institutions in local accountability, the future shape of local government finance and the new health and wellbeing boards. This report has aimed to kick-start the conversation around strategic commissioning, but is by no means the last word on the subject, and will hopefully inform the ongoing debate across all sectors.

# Appendix

## Survey results

*Q1. How do you currently deliver services?*

Answer Options	Response Percent	Response Count
Mainly in-house	35.0%	36
Mainly outsourced	6.8%	7
Fairly even mix	58.3%	60
Other (please specify)	0.0%	0
	<b>Answered question</b>	103
	<b>Skipped question</b>	2

*Q2. Is your council going to take on a greater role as a strategic commissioning organisation in the short-to-medium term?*

Answer Options	Response Percent	Response Count
Yes	81.6%	84
No	18.4%	19
	<b>Answered question</b>	103
	<b>Skipped question</b>	2

*Q3. As it takes on a greater commissioning role, what new skills and expertise will be required in the council (if any)? (You may tick more than one)*

Answer Options	Response Percent	Response Count
None, we have the right skills mix already	12.8%	10
More commissioning experts	69.2%	54
More procurement experts	50.0%	39
More experience of service delivery	3.8%	3
Other (please specify)	21.8%	17
	<b>Answered question</b>	78
	<b>Skipped question</b>	27

*Q4. What do you think are the key barriers to strategic commissioning?*

<b>Answer Options</b>	<b>Neutral/ Not a barrier at all</b>	<b>A slight barrier</b>	<b>A major barrier</b>	<b>I don't know</b>
Internal council structure	33	51	9	0
National policy and structure	27	52	13	0
Regional policy and structure	63	22	2	6
General difficulties of partnership working	7	55	31	0
Difficulties sharing data	9	53	32	0
Difficulties pooling budgets	3	30	61	0
Culture	8	29	57	0
Lack of provider involvement/ engagement	16	61	9	6
Lack of community involvement	23	47	18	4

*Q5. Based on current trends, what future role do you think the following providers will take in delivering contracts/services?*

<b>Answer Options</b>	<b>No contracts/ services</b>	<b>Fewer contracts/ services</b>	<b>No change</b>	<b>More contracts/ services</b>	<b>Many more contracts/ services</b>
Large private sector companies	0	6	22	55	8
Small/medium-sized private sector companies	0	7	14	67	3
Public sector (in-house delivery)	1	80	6	5	0
Other public sector (shared services or external)	1	5	9	68	7
Voluntary and Community Organisations	0	7	8	65	11

*Q6. Which of the following sectors do you think are best placed to find innovative solutions/approaches to public service delivery? (You may tick more than one)*

<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Large private sector	11.1%	10
Small/medium private sector	15.6%	14
Voluntary and community sector	27.8%	25
Public sector	32.2%	29
I don't know	13.3%	12
Comments		23
	<b>Answered question</b>	90
	<b>Skipped question</b>	15

*Q7. Do you think that the role of elected members is going to change as many councils become strategic commissioning*

Answer Options	Response Percent	Response Count
Yes	88.0%	81
No	12.0%	11
Comments		17
	<b>Answered question</b>	92
	<b>Skipped question</b>	13

*Q8. Does your council use (or plan to use) any of the following approaches to commissioning and procurement*

Answer Options	No, we have never used this and have no plans to do so in the near future	Yes, we have used/use this approach	There are plans to use this approach	Response Count
Outcomes-focused contracts	3	68	18	89
Payment by results	16	39	33	88
Community or pooled budgets	12	33	39	84
Social impact bonds	49	0	25	74
Social return on investment' models	35	10	30	75
Flexible contracts	13	48	20	81
Comments				7
		<b>Answered question</b>		90
		<b>Skipped question</b>		15

*Q9. Does your council take account of added social/environmental value in its commissioning and procurement*

Answer Options	Response Percent	Response Count
No, we don't	5.6%	5
Yes, but we do so informally or sporadically	60.7%	54
Yes, we have formal mechanisms to take account of added social/environmental value in our contracts and tenders	33.7%	30
Comments		6
	<b>Answered question</b>	89
	<b>Skipped question</b>	16

*Q10. When procuring services externally, to what extent do you consult and involve providers in developing tenders?*

Answer Options	Response Percent	Response Count
We always have provider input	11.0%	10
We regularly have provider input	44.0%	40
We occasionally have provider input	40.7%	37
We never have provider input	3.3%	3
I don't know	1.1%	1
	<b>Answered question</b>	91
	<b>Skipped question</b>	14

*Q11. Do you think that the availability of clearer national benchmarking data on provider performance would help with the commissioning and procurement process?*

Answer Options	Response Percent	Response Count
Yes	74.7%	68
No	12.1%	11
I don't know	13.2%	12
	<b>Answered question</b>	91
	<b>Skipped question</b>	14

*Q12. Who do you think should lead the strategic commissioning of local services across the public sector?*

Answer Options	Response Percent	Response Count
LEPs or regional structure	1.1%	1
Local councils (all tiers)	91.0%	81
Other public sector	0.0%	0
New locally accountable body	6.7%	6
I don't know	1.1%	1
Comments		12
	<b>Answered question</b>	89
	<b>Skipped question</b>	16

*Q13. If social care and health budgets become more closely aligned, who should take responsibility for overseeing the commissioning of these services?*

Answer Options	Response Percent	Response Count
Local councils (all tiers)	60.4%	55
GP commissioning consortia	4.4%	4
Regional NHS structure (like PCTs)	5.5%	5
I don't know	4.4%	4
Other (please specify)	25.3%	23
	<b>Answered question</b>	91
	<b>Skipped question</b>	14

Q14. In a place-based approach, in what areas should councils be empowered to take commissioning decisions? (You may tick more than one)

Answer Options	Response Percent	Response Count
Local economy	93.3%	84
Education and employment	86.7%	78
Health	82.2%	74
Social care	90.0%	81
Policing	48.9%	44
Environment	94.4%	85
None	2.2%	2
Other (please specify)	10.0%	9
	<b>Answered question</b>	90
	<b>Skipped question</b>	15

# Bibliography

Allen, G., *Early Intervention: The Next Steps*, <http://www.dwp.gov.uk/docs/early-intervention-next-steps.pdf>

Atkinson, D (2010) 'Community in Action' in T. Shakespeare, ed., *Small State, Big Society: Essays on Reforming the State to Create a Stronger Economy and Bigger Society* (London: Localis)

Audit Commission (2007) *Hearts & Minds: Commissioning From the Voluntary Sector*, [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

Bartlett, J. (2009) *Getting More For Less: Efficiency in the Public Sector* (London: Demos)

Bawden, A. (2010) 'Local Councils Are Facing a New Frontier', *The Guardian*, [www.guardian.co.uk/society](http://www.guardian.co.uk/society) [19/04/11]

Bovaird, T (2006), 'Developing New Relationships with the 'Market' in the Procurement of Public Services' *Public Administration*, Vol.84, No. 1, pp.81-102.

Boyle, D., Slay, J. & Stephens, L. (2010) *Public Services Inside Out: Putting Co-production Into Practice* (London: NEF & NESTA)

Brindle, D. (2011) 'How Does Sunderland Provide Social Care to All Those Who Need It?' *The Guardian*, [www.guardian.co.uk](http://www.guardian.co.uk) [15/06/11]

Cabinet Office (2010) *Modernising Commissioning: Increasing the Role of Charities, Social Enterprises, Mutuals and Cooperatives in Public Service Delivery*, accessed at [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk) [19/04/11]

Cabinet Office (2011) 'The Mutual Futures of Public Services in Swindon', <http://www.cabinetoffice.gov.uk/news/mutual-futures-public-services-swindon>

Cave, R. (2011) 'HM Treasury 'in dark' over 'excessive' PFI Profits', *BBC Online*, <http://www.bbc.co.uk/news/> [17/06/11]

Commissioning Support Programme (2011) *Outcomes and Efficiency: Accelerating the Delivery of Better Outcomes and Efficiency Through Commissioning*, accessed at <http://www.commissioningsupport.org.uk> [17/06/11]

Community Budgets (2011) 'Deputy Prime Minister Makes CB's Announcement', [www.localleadership.gov.uk](http://www.localleadership.gov.uk)

CPSP (2011) *HM Treasury and Cabinet Office Call for Evidence on Public Service Reform – Submission from the Centre for Public Service Partnerships*, accessed at <https://member.lgiu.org.uk/cpsp/Pages/reports.aspx> [17/06/11]

CPSP (2011) *The Brilliant Local Authority of the Future* (London: KPMG)

Cumming, L.M. & Dick, A., Filkem, G. & Sturgess, G.L. (2009) *Better Outcomes* (London: 2020 Public Services Trust)

DCLG (2006) *Strong and Prosperous Communities: The Local Government White Paper*, accessed at <http://www.communities.gov.uk/documents/localgovernment> [20/04/11]

DCLG (2008) *Creating Strong, Safe and Prosperous Communities: Statutory Guidance*, accessed at <http://www.communities.gov.uk/publications/localgovernment/strongsafeprosperous> [20/04/11]

DCLG (2011) *Best Value: New Draft Statutory Guidance*. Consultation, accessed at [www.communities.gov.uk](http://www.communities.gov.uk) [14/04/11]

Department for Education (2011) 'Using Schools Funding in Community Budgets for Families with Multiple Problems', *Finance Officer News*, <http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/financeofficernews> [14/04/11]

Department of Health (2007) *Joint Strategic Needs Assessment*, accessed at <http://www.dh.gov.uk/en> [01/08/11]

DWP (January 2011) *DWP Worklessness Co-design Interim Report*, <http://www.dwp.gov.uk/docs/dwp-worklessness-codesign-ir.pdf>

Employee Ownership Association (2011) 'MPs Report on Employee Ownership', <http://www.employeeownership.co.uk/news/eoa-news/mps-report-on-employee-ownership/>

Essex County Council (2010) *Procurement Strategy: 2011/12-2013/14*.

Fearn, H. (2011) 'Nick Clegg: Councils Will Retain Business Rates and Borrow Against Income', *The Guardian*, <http://www.guardian.co.uk/local-government-network/2011/jun/29/nick-clegg-councils-retain-business-rates>

Fotaki, M (2010) 'Towards Developing New Partnerships in Public Services: Users as Consumers, Citizens and/or Co-Producers in Health and Social Care in England and Sweden', in *Public Administration*, pp.1-22.

Hayman, A. & Illman, J. (2011) 'DCLG: "Greater Localism" Needed on Community Budget Pilots', *LGC*, <http://www.lgcplus.com>

HM Government (2011) *Open Public Services White Paper*, accessed at [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk) [19/08/11]

HM Treasury (2010) *Spending Review 2010*, accessed at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk) [05/07/11]

HM Treasury and Cabinet Office (2007) *The Future Role of the Third Sector in Social and Economic Regeneration – Final Report*

HM Treasury & Cabinet Office (2010) *Call for Evidence on Public Service Reform*, accessed at <http://www.hm-treasury.gov.uk> [15/06/11]

HM Treasury & DCLG (2010) *Total Place: A Whole Area Approach to Public Services*, [http://www.hm-treasury.gov.uk/psr\\_total\\_place.htm](http://www.hm-treasury.gov.uk/psr_total_place.htm), p.14.

Hope, C (2011) '£2bn Profit for Companies Selling Debt on Public Projects', *The Telegraph*, <http://www.telegraph.co.uk> [15/06/11]

I&DEA (2011) 'National Programme for Third Sector Commissioning', <http://www.idea.gov.uk>

Jameson, H (2011) *Ensuring High Quality Public Services: recognising the role of the workforce in the future of outsourcing* (London: IPA)

LGC (2009) *Strategic Commissioning – The Whole Picture*, accessed at [www.lgcplus.com](http://www.lgcplus.com) [06/04/11]

Local Government Association & CBI (2009) *Commissioning Strategically for Better Public Services Across Local Government* (London: CBI)

Local Government Improvement & Development (2011), 'Joint Strategic Needs Assessment (JSNA)', <http://www.idea.gov.uk>

Local Government Improvement & Development (2008) 'What is Best Value?', <http://www.idea.gov.uk>

Lyons, M (2005) *Lyons Inquiry into Local Government: Consultation Paper and Interim Report*, accessed at <https://www.lyonsinquiry.org.uk/> [06/04/11]

Lyons, M (2007) *Lyons Inquiry into Local Government. Place-shaping: A Shared Ambition for the Future of Local Government*, accessed at <http://www.lyonsinquiry.org.uk/> [06/04/11]

Murray, J. Gordon. (2009) 'Towards a Common Understanding of the Differences Between Purchasing, Procurement and Commissioning in the UK Public Sector', in *Journal of Purchasing & Supply Management*, 15, pp.198-202.

Murray, J. Gordon. (July 2011) 'Third Sector Commissioning and English Local Government Procurement', in *Public Money & Management*, pp.279-286.

National Audit Office (2011) *Assessing Value for Money (VFM)?*, accessed at <http://www.nao.org.uk> [22/06/11]

National Audit Office (2011) *Lessons From PFI and Other Projects*, accessed at <http://www.nao.org.uk> [22/06/11]

National Audit Office (2011) 'What Decommissioning is Not', [www.nao.org.uk](http://www.nao.org.uk) [19/08/11]

NAVCA & Reshenia Consulting (2010) *A Bridge Between Two Worlds: A Study of Support and Development Organisations and Intelligent Commissioning* (Sheffield: NAVCA)

NAVCA & Citizens Advice Bureau (2011) *The Modernisation of EU Procurement Policy. Towards a More Efficient European Procurement Policy: A Co-ordinated*

*Response from NAVCA and Citizens Advice*, [www.navca.org.uk/downloads/generate/927](http://www.navca.org.uk/downloads/generate/927)

NHS Future Reform (2011) *Summary Report on Proposed Changes to the NHS*, accessed at <http://healthandcare.dh.gov.uk> [20/06/11]

Parker, D. (1990) 'The 1998 Local Government Act and Compulsory Competitive Tendering', *Urban Studies*, 27 (5), pp.653-668.

Patterson, A. & Pinch, P.L. (2000) 'Public Sector Restructuring and Regional Development: The Impact of Compulsory Competitive Tendering in the UK', *Regional Studies*, 34(3), pp.265-275.

2020 Public Services Hub & LSIS (2011) *The Further Education and Skills Sector in 2020: A Social Productivity Approach*, accessed at [www.thersa.org](http://www.thersa.org) [30/05/11]

Sparrow, A. (2011) 'George Osborne Backs 61 PFI Projects Despite Earlier Doubts Over Costing', *The Guardian*, <http://www.guardian.co.uk> [20/04/11]

SROI (2011) *Commissioning for Maximum Value*, [www.sroinetwork.org](http://www.sroinetwork.org)

Talbot, C (2011) 'Waiting in Vain for the White Paper', *Public Finance*, <http://opinion.publicfinance.co.uk/2011/06/waiting-in-vain-for-the-white-paper/>

Tizard, J. (2010) 'Community Budgets: A Compromise Too Far', *Public Finance*, [www.opinion.publicfinance.co.uk](http://www.opinion.publicfinance.co.uk)

Tizard, J. (2011) 'Two Tier Code Scrapped for Local Government', *The Guardian*, <http://www.guardian.co.uk> [14/04/11]

Unison, APSE & LGIU (2011) *Think Twice: The Role of Elected Members in Commissioning* (London: Unison, APSE & LGIU)

Whitfield, D (2011) 'Commissioning – Better in-house provision is needed', *LGC Online*, [www.lgcplus.com](http://www.lgcplus.com)



"Strategic commissioning is important for opening up public services and providing choice to service users. As the Government seeks to encourage choice, accountability, and fairness in public services, it is an important time to consider the role of local government in helping to achieve these aims. This timely report provides a useful analysis of strategic commissioning, and offers practical lessons for how councils can improve the lives of local residents."

**Rt Hon Oliver Letwin MP, Minister for Government Policy**

For me, strategic commissioning is about building social capital and empowering people from all walks of life to take more responsibility for what happens in their neighbourhoods and communities. Neighbourhood councils, cooperative trading companies, mutuals and social enterprises will all prove key components of successful strategic commissioning. This report makes a vital contribution to enabling strategic commissioning to be a success.

**Lord Shipley, Liberal Democrat Peer**

"As local councils increasingly take on the role of strategic service commissioners, it is vital that they are equipped to encourage the development of diverse local markets, supporting a range of providers including those from the voluntary and community sector. Localis has produced an important and timely report which takes a fresh and constructive approach to issues around local commissioning."

**Sir Stephen Bubb, Chief Executive of ACEVO**

"With a Government committed to decentralising power to local government and beyond, we have a once in a generation opportunity to drastically change local services for the better. As this excellent report makes clear, taking a more strategic commissioning approach can help us deliver more efficient services, better outcomes for residents as well as to support local enterprise. It offers food for thought for councils across the country, and I urge council leaders from all parties to consider its recommendations"

**Sir Merrick Cockell, Local Government Group Chairman**



[www.localis.org.uk](http://www.localis.org.uk)