Tool 20: Framework for Reviewing Commissioning Systems

This document is part of the Home Care Outcomes-based Commissioning Toolkit developed by the National Commissioning Board for Wales to assist home care commissioners and providers to move home care and re-ablement service towards a more outcomes-based approach. This is an outline document **(which is yet to be completed)** that will be developed further as the project moves forward.

1 Core Material: Overarching principles of this toolkit

The provision of social services in Wales is governed by the Social Services and Well-Being (Wales) Act 2014. The Act is accompanied by a Code of Practice and guidance on the exercise of social services functions and partnership arrangements. The Code of practice stipulates that:

"In order to seek to promote the well-being of people who need care and support and carers who need support, local authorities need to understand what matters to people and the personal outcomes they wish to achieve".

The provision of health services in Wales is the remit of NHS Wales under the direction of the Welsh Government. Local Health Boards have responsibility for all commissioning and provision of health services in their area. The Welsh Government have produced an Outcomes Framework for the NHS in Wales that it describes on its website as follows:
"*The NHS outcomes framework includes only outcomes and outcome indicators that have been determined to measure health related well-being. A delivery framework is in place to support the delivery of health and well-being by health boards and health trusts. "*
Generally, the toolkit identifies that there are three models of outcome-based commissioning:

- **Model 1: Outcome Based Care Planning:** (Using outcomes as the basis for planning and reviewing a care package)
- **Model 2: Reward for Achieving Outcomes and customer satisfaction:** Again, Individual focused but concentrating on the financial aspects of meeting outcomes.
- **Model 3: Population based accountability for Outcomes:** Responsibility for the provider(s) for meeting the outcomes of a group of people across a defined geographic area

2 Purpose of this tool

The purpose of this tool is to provide a framework that commissioners can use to review and evaluate their approach to commissioning home care on the basis of Outcomes.
'The term 'commissioners' includes those in both local authorities and the NHS, but it does not extend to those buying their own home care services either as self-funders or through the use of a Direct Payment.

In their report *'Above and Beyond' - National review of domiciliary care in Wales*' CSSIW identified a number of issues. Two of particular relevance were:

- Overzealous application of procurement and finance rules. This can result in a tendency to drive down prices in the short term, punitive contract terms and a need to account for every penny spent.
- Overly complex decision-making processes and high transactional costs. 'Can I have some help at home?'

They went on to say:

> *'Commissioners make the whole business and cost of arranging domiciliary care more complicated and opaque by using a very wide range of contracts, fee arrangements, payment systems and monitoring systems. This is unhelpful and cannot continue.'*

3 Core Materials

This Framework has been developed to assist commissioners of home care and reablement services in Wales to review and evaluate their own internal systems and processes for the commissioning of those services (although it also may be useful in a wider commissioning context). It provides an overview from which more detailed approaches can be developed. It is important to remember that using an outcomes-based approach to commissioning does not mean that other aspects of the process can be jettisoned. Outcomes are essentially the measure of success, but other components of the process, and other measures continue to be needed to ensure compliance with legislation, cost, efficiency and quality assurance.

At present this Framework focuses upon the 'Do' component of the Commissioning cycle and covers two sets of activities:

- Procurement.
- Contract management.

It looks at these areas and identifies the domains in each that need to be covered by any review of the systems and arrangements that are in place.

However, it is worth noting that CSSIW reviewed commissioning in Wales in 2014. Their recommendations were as follows:

1. Develop current vision into firm plans for service transformation.
2. Engage the public effectively in the debate about service transformation for adult social care.
3. Effectively integrate health and social care provision, and develop joint, coherent, and financially robust plans for the commissioning of services for people with dementia and their carers.
4. Include prevention and early intervention services within their joint overall commissioning strategy for adult social care.
5. Develop outcomes based commissioning strategies, with contract monitoring and review, focusing on the quality of care and outcomes achieved for service users.
6. Ensure that joint commissioning plans have appropriate governance arrangements and frameworks that professionals can operate within, ncluding effective control and mitigation of risks to service users.
7. Implement effective strategies that provide a wide variety of services that support carers.
8. Evaluate the effectiveness and financial viability of new and alternative models of care for people with dementia.
9.

4 Procurement

Procurement is an activity that take place across a wide range of organisations and circumstances. The principles remain the same in all cases, but practice has to be adapted to the particular set of circumstances.

There are two main sub-areas covered around procurement:

- Choosing Providers
- Micro-commissioning/Allocation of work and brokerage

'Choosing providers' may be done in a variety of ways including: going out to tender, establishing a Framework, setting up an Approved List.

Micro-commissioning/allocation of work can include straightforward passing of work to selected providers, spot purchasing arrangements, the use of Dynamic Purchasing Systems or brokerage arrangements.

When reviewing the systems and the arrangements in place there are a range of domains that can be used. In this regard, this framework aims to be comprehensive, not exhaustive. Having an Outcomes–focus is the paramount concern here, as it is throughout this toolkit. Domains identified for a review of the procurement process are:

Domain	Description	Comments
Outcomes focus	Relates to service users and/or carers (or the local population) and the achievement of their desired outcomes.	Did the procurement exercise and any ongoing arrangements clearly include and focus upon population or service user and carer outcomes?
Governance	The arrangements for overseeing the procurement and ensuring that all necessary requirements are being properly met	Are there arrangements in place to oversee the procurement activity and did they operated properly when this procurement was carried out
Compliance	The extent to which the procurement carried out within the prescribed statutes and regulations.	Procurement is governed by EU and national procurement regulations and the standing orders of the commissioning authority. These will need to be complied with, as will other statutory duties (e.g. those for Equality and Diversity).
Robustness	The extent to which the process for the procurement can survive though any challenges or problems that arise during the course of it.	Are the procurement arrangements going to continue and last through to the end of the period covered by the procurement arrangements?
Sustainability	The extent to which the services secured through the procurement are going to last through the whole period of procurement and contribute to continuing sustainability once that period is over?	Services need to be sustainable at least through to the next identified date when any Frameworks agreements or contracts are due to last until.
Cost	1)The extent to which the procurement activity itself been delivered within budget, and	The evaluation of costs needs to be comprehensive – securing cheaper-costing services is only worth it if there are not additional internal costs required to manage

Domain	Description	Comments
	2)are the services being secured being provided at a reasonable cost and one that is within identified budgets?	the contract that cost more than the savings made.
Effectiveness/Benefits	Whilst Outcomes should be the main focus a procurement exercise will also be designed to achieve other objectives	Did the procurement achieve what was intended and do ongoing arrangements continue to do that?
Ethics	Procurement should be ethical and carried out according to established ethical standards.	Was the procurement itself carried out in an ethical way and has it led to the procurement of services that meet required ethical standards?
Timeliness	Procurements need to be carried out in accordance with an agreed timetable – delay or failure to set a timetable can lead to a lack of compliance, additional cost and unfairness.	Was the procurement completed to the original timetable. If it did not what problems were caused by this and how were they addressed.
Risk	There will be things that can go wrong with each procurement – 'Risk' is the estimation of the likelihood and impact of things going wrong and what should be done to avoids ameliorate such an eventuality	Were the risks to the procurement and those arising from it identified and addressed in an effective and timely manner?
Co-production	Co-production is statutory agencies work with stakeholders (particularly service users and carers or the general public) in order to design, commission and deliver services.	Were service users and carers, along with providers and other stakeholders involved in the procurement exercise and any ongoing arrangements.

Whilst these are perhaps more generally stated domains, they can and should be tailored to meet the particular procurement in question. For example, the Domain *'Effectiveness/Benefits'* could be refined to include questions such as:

- Are home care services now safer and more effective.
- Are their fewer complaints?
- Are there fewer missed visits/delayed starts.
- Has the workforce market improved?
- Are there more/fewer providers in the market, as intended
- Is there better coverage in rural areas?

The approach to the reviewing of being 'Outcomes focused' will need to take account of which of the three models of outcome-focused commissioning is being followed.

If '**Model 1'** is being used particular attention needs to be paid to the appropriateness of the performance standards being used, especially as they are some form of proxy for service user outcomes.

If '**Model 2'** is being used particular attention will need to be paid to the mechanisms identified for measuring the achievement of outcomes and rewarding providers for achieving them. Perverse incentives (for commissioner's providers or service users and carers) can often appear in such mechanisms.

If **'Model 3'** is being used, the 'line of sight' between the outcomes being measured and the activity carried out needs to be as short and clear as possible. Very general population outcome cannot be used to measure the effectiveness of a single service.

Whilst a separate exercise will be needed to review work allocation/micro-commissioning the above domains still apply and can be used as they are, with procurement exercises that have happened at a point in time.

5 Contract Management

Contract management covers all the dealings between the commissioner and the provider once the contract has been signed and is in place.

The National Audit office has published a Good Practice Framework for Contract Management (NAO 2016) that comprises of four blocks broken down into 11 areas as follows:

- Planning and Governance.
- People.
- Administration.
- Managing relationships.
- Managing performance.
- Payment and incentives.

- Risk.
- Contract development.
- Supplier development.
- Supplier relationship development.
- Market management.

Another model can be found within the Chartered Institute of Purchasing and Supply certification process, that requires certificated organisations to undergo an assessment to see if*'…. The fundamentals are in place to operate and effective procurement and supply function' (CIPs, Corporate Certification internet page), 2013.*

It includes the following:

- Contract management process has been developed, communicated and embedded.
- Work approval processes have been developed (the call-off of specific activities within services and works contracts).
- Records are kept in a safe, secure environment whether electronic or paper.
- Contract performance and relationship management measures are in place.
- Procurement and supplier performance management measures are in place.
- Contract progress is monitored.
- Formal separation of duties is in place which enables clear matching of requirement, commitment and payment.
- Payments are made in accordance with the contract terms and/or with agreement with the supplier.
- Risk is identified, managed and mitigated.
- Change control is managed.

Taken together these two frameworks provide the basis for developing the model for reviewing the contract management arrangements (to be) used with the outcomes-based commissioning of home care.

Both frameworks refer to performance management. In both re-ablement and home care (as in many other services) this can and should be expanded to be clear about what should be included. In this case, it needs to include the achievement of outcomes for people who use services and carers and or populations and to attach sufficient weight to them. Moreover, the other elements of performance need to be selected on the basis of the activity being measured contributing to achieving outcomes rather than being used, as in the past, as a measure in its own right.

The domains to be used when reviewing the systems for contract management are:

Domains	Description	Comment
Administration and arrangements	Ensuring that contract management takes places and is carried out efficiently and effectively	The necessary basis for contract management.
Risk Management	Ensuring plans ae in place to avoid things going wrong or to ameliorate them if they do	The key risks are those that may impact upon outcomes.
Outcomes	Relate to service users and/or carers (or the local population) and the achievement of their desired outcomes.	Should be the focus of any contract management exercise. Are the agreed outcomes being delivered effectively? Is this verified by service users/carers?
Activity	The amount of service being produced and the number of people accessing it.	Needs to be seen in conjunction with the identified outcomes being achieved, and can be used to aggregate the up.
Performance	Measures of how well the provider is doing around specific identified areas and activities (For example, how long it takes to do something)	Performance is a provider-related measure. As with other aspects of this Framework it can give an indication of the likelihood of achieving the desired outcomes. If providers are performing poorly and outcomes are still being achieved, it may be that the outcome is not attributable to the activity of the provider and needs to be re-considered.
Quality	The measure of how well the provider is carrying out their tasks	Like performance quality does not guarantee achievement of outcomes, but it is essential to it.
Quality Assurance	The systems and processes a provider has in place to ensure quality	The achievement of a good quality service (and desired outcomes)
Timescales /milestones	The lengths of time identified for things to have happened by	All aspects of contract management should be linked to timescales or milestones in some way. Delivery of activity, performance, developments and outcomes should all be time-related.

6 Further Resources

CSSIW National Review of Commissioning for Social Services in Wales 2014
http://cssiw.org.uk/docs/cssiw/report/140416overviewen.pdf