Tool 7: A checklist of different procurement approaches

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 the home care service towards a more outcomes-based approach. This is an outline document will be developed further as the project moves forward.

Don't forget that procurement approaches and models are subject to the provisions of the Public Contracts Regulations 2015 (PCR) which have made fundamental changes to the way social care (and other 'light touch') services can be procured, so make sure you check these regulations when considering your approach. Not all of the procedures in this tool are required for light touch but maybe followed for good practice. Please see guidance by LEC for further information on PCR.

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 has 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 identify and describe the different approaches available when procuring outcomes based homecare.

3 Core Material

Outcomes-based social care focuses less on the tasks associated with supporting a person and more on helping them to achieve the things that are important to them – for individuals these may be defined very personally, but also may be based upon broad domains relevant to most people and tailored to the individual (LGIU 2016), for communities' outcomes will be based at a population level and may not be solely related to the services being delivered.

The Implications of outcomes-based approaches for the commissioning and procurement of reablement and home care services are that the achievement of outcomes for people becomes the focus of the activity and the measure of the success of the service.

The National Outcomes Framework identifies a number of key outcome measures and these can be used as part of both the procurement process and the contract managing process for reablement and home care. However, all aspects of the services being provided need to be similarly focused on outcomes for the approach to be effective.

There are a range of approaches to choose from when procuring reablement and home care services. Local authorities may continue to provide some or all of the service as in-house provision although this is increasingly rare. Note: where a local authority provides services in-house, the provision is outside the requirement to procure under the PCR.

One interesting and innovative version of '**Model 2'**, above, is one that has been pioneered by a collaborative of organisations across the Nordic countries and is called Value-Based procurement (VABPRO).

Value, here is described as '*health care outcomes per dollar'* and under this approach, where the identification of value overlaps with outcomes, a dialogue with users/patients on their needs and requirements is used to reach a thorough understanding of their perception of value.

The framed outcomes/values are then used in a process of developing provider incentives. The first step in this process is the identification of outcome/value metrics that can be used by the procurer. These metrics must be highly objective and linked

to provider performance in order to be relevant. Established and validated instruments and analytical models are preferable and require less time to put in place. The metrics have to be seen as appropriate and trustworthy by all stakeholders.

The next step is to link incentives to the metrics chosen. This is done with an anticipated value enhancing behaviour of the provider in mind. The incentive can be both positive (bonus) or negative (penalty). A risk/benefit assessment from the provider perspective is important.

Finally a reimbursement model is constructed that encompasses the value-promoting incentive to promote a higher quality service. Tangible value created with the service can only be ensured and made evident with proper monitoring and evaluation metrics and frequency. The key to this model is that it makes explicit the twin aims of delivering outcomes and achieving value for money.

In '*Contracting for integrated health and social care: a critical review of four models'* Researchers from Kent University identified four models of commissioning and providing. They were:

a) Accountable Care Organisations,
b) Alliance Contracting Model,
c) Lead Provider/Prime Contractor Model and
d) Outcomes-Based Commissioning and Contracting.

They identify with regard to Outcomes-based commissioning that:

'There is very little evidence of effectiveness and the concept is relatively new in the UK' but that 'There is a general consensus that commissioning services at the individual service user level on the basis of outcomes rather than tasks is a precondition for service change and achieving person-centred care for all service users.'

The important features of an Open Tendering process are to:

- Advertise the tender.
- Have an unbiased and coherent technical specification.
- Have objective evaluation methods.
- Be open to all qualified bidders.
- Be granted to the most economically advantageous tender.

Of course, commissioners can decide to deliver services themselves on an in-house basis, although most decided some time ago to externalise the provision of much of their services, mainly on the grounds of cost. Also open to commissioners is the possibility of working in partnership with another public-sector organisation or with an independent sector organisation as part of a wider partnership arrangement, subject

to the freedoms in and requirements in the PCR for 'light touch' and other public sector law which affects the way that local authorities are able to work in partnership.

Within competitive tendering there are a number of different approaches that can be used, and the choice from amongst these will be based upon the nature of the service being procured and the local market circumstances.

Options, subject to the PCR 'light touch arrangements, include:

- **Spot purchasing** – buying from the market on an ad hoc basis and on the basis of availability of service. Can be used for very specialist services or where the market conditions are adverse or volatile. However, generally difficult to align with public sector procurement regulations for a service like reablement and home care. Spot purchasing is now significantly constrained by the PCR.
- **Dynamic Purchasing Systems** - more organised and structured than spot purchasing - buying from the market when and as necessary but from an evaluated list of providers, usually on the basis of mini-tenders for each person services are procured for, evaluated on the basis of price and/or ability to meet service requirements.
- Using a **Framework Agreement** - that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement (normally a maximum of 4 years).
- **Block Contracts** – under which providers deliver a set amount of service at an agreed price and standard.
- '**Floor and Ceiling**' contracts - a more flexible variation on block contracts under which the provider guarantees to provide services up to a stated maximum level and the commissioner agrees to purchase at least a stated minimum level.
- **Service Level Agreements** are usually put in place where an organisation is providing the service itself but wishes to specify and monitor the service in an open and verifiable way.

In order to determine which to use, commissioners may undertake an **'Options Appraisal'** exercise. Under this process each of the procurement options is evaluated according to a set number of criteria – one of which should be how well it facilitates an outcomes-based approach.

The nature and outcome of the option appraisal will vary depending upon the range of criteria used, the local circumstances and the model of outcome-based commissioning that the local authority is looking to implement.

Even when the focus of the procurement exercise is on outcomes it is likely that there will need to be additional subsidiary requirements to ensure the quality of services and in order to minimise risk of provider or service breakdown and to enable the commissioner to have assurance that the service is being delivered in an effective way, likely to delivery on the outcomes required.

(It would be unwise to only rely upon outcomes data to monitor the service – not least because the commissioner will only become aware of the possibility of some sort of service failure after it has happened).

Each of the procurement options is considered in more detail below, in the context of the three different models of outcome based commissioning outline above.

Model 1: Outcome Based Care Planning: (Using outcomes as the basis for planning and reviewing a care package)

Subject to complying with the PCR, commissioners might consider:

Procurement approach	Comment
In-house service	The effectiveness of an in-house service in terms of working within an outcomes-based approach would be dependent upon the ability of the local authority itself to manage and develop the service. Whilst this adds some degree of control there is some evidence from the shift to 'Reablement' that many in-house services went through, that attempts to transform in-house reablement and home care services are not always entirely effective.
Non-Competitive Tendering approaches	Non-competitive approaches to tendering may be considered, perhaps as a pilot and where the provider is to be involved in developing the model of reablement and home care being implemented. Also, where services are being developed on an integrated basis with NHS partners (such as Intermediate Care services) it may be appropriate to simply locate the Re-aliment service with other aspects of the wider Intermediate Care service.
Spot purchasing	Moving to a new and innovative approach may be difficult in a spot-purchasing market, particularly if there are a number of providers and they are used to delivering a more traditionally-based service. Securing provider engagement with new way of working can be difficult in these circumstances, even though the focus of the contract is not on 'rewards for outcomes.'
Framework Agreement	The use of a Framework Agreement does allow for the commissioner to set requirements for providers in terms of a general understanding of and commitment to an outcomes-based approach and a reflection of this in policies and procedures and staff development. Call-off may be on the basis of meeting outcomes for an individual service user (See use of a DPS, below)

Procurement approach	Comment
Dynamic Purchasing System	Whilst there may not be a reward element with regard to outcomes the use of a dynamic purchasing system can allow cases to be allocated to providers on the basis of evidence that they understand are able to delivery on the outcomes required for that individual service user. However, desired outcomes do change over time and the provider may sometimes not deliver on identified outcomes as these change and develop over time, with no penalty or loss of reward accruing.
Block contract	A block contract can be let to a provider on the basis of evaluation criteria that include outcomes-based approaches as for Framework Agreements, above, and contract monitoring arrangements can also include information requirements about the achievement of outcomes for services users. However, block contracts are often very inflexible and because of the high volumes of funding and services often involved, quite difficult to revoke if the identified requirements are not being fully met. However, they do also offer the opportunity for effective partnership working with the provider over a period of time and for the improvement and development of the services available.
'Floor and ceiling' contract	'Floor and ceiling' contracts share many of the features of block contracts as above. However, there is more flexibility built into them, and greater opportunity to manage the follow of work to different providers dependent upon their performance. The volume of the 'floor' level of the contract may be important in terms of holding the provider to expectations of how they will work in an outcomes-based way.

Model 2: Reward for Achieving Outcomes and customer satisfaction: Again, Individual focused but concentrating on the financial aspects of meeting outcomes.

Subject to complying with the PCR, commissioners might consider:

Procurement approach	Comment
In-house services	A rewards-based outcomes approach would only work with an in-house service if it was operating at arms-length and working to a service-level agreement that stipulated rewards.

Procurement approach	Comment
	However, the local authority would, in effect be rewarding itself for achievement of outcomes. A local authority partnership with another organisation may be able to operate in this way.
Non-Competitive Tendering approaches	A non-competitive tendering approach allows for a great deal of discussion and negotiation with the chosen provider, and the option of contracting with them or not, depending upon how satisfactory those discussions are. If a non-Competitive approach was deemed acceptable this would give quite a high degree of security around the providers approach being suitable and for negotiating payment terms that really do reflect the outcomes identified for service users. However, cost may be an issue, particularly as discussions progress and the choice of provider becomes firmed up.
Spot purchasing	The extent to which providers are willing to change or vary their approach may to be rewarded on an outcomes basis may depend upon the volume and security of business they can expect. Depending upon the local market some providers may be keen to be rewarded for outcomes and see an opportunity to generate additional revenue and profit. However, they may not deem the required investment (in systems and staff development) worth the return. There is evidence that a shift towards and outcomes-based approach generally leads to a reduced number of providers in the market.
Framework Agreement	Demonstration of an understanding of outcomes and acceptance of a rewards-based outcomes approach could be stipulated as a condition of being on the Framework and then built into the contractual arrangements for work that is allocated. However, key to this will be the degree of evidence required of that understanding and the willingness of providers to accept and maintain an outcome-based approach. The number of providers who gain access to the Framework and the volume of service they are able to deliver may determine how many people can receive an outcomes-based service. However, this may also provide opportunity to fully move to a reward based outcomes based approach incrementally over a period of time.
Dynamic Purchasing System	Again, access to a DPS is likely to be on the basis of being placed on a Framework agreement, as above. It does also provide a further opportunity, if required, to negotiate reward payments around each individual package of care. However, this is a highly transactional approach and would require very

Procurement approach	Comment
	effective (electronic) systems and a high degree of system 'literacy' on the part of providers, commissioners and other local authority staff.
Block contract	Block contracts can be let on the basis of achieving individual outcomes for an identified number of people. However, because of the uncertainty around both the outcomes to be achieved and the likelihood of the provider achieving them (all) there would be a relatively high degree of risk for the provider. Accordingly, it is likely that contracts would have to substantial in size to give providers the security and flexibility they may need to deliver the outcomes. Even then, if providers find themselves largely not achieving agreed outcomes they may seek to terminate the contract or even forfeit on it in some way (e.g. through bankruptcy). However, there would be scope for starting with a hybrid-system introducing outcome-based rewards but only as a component of the overall payment (This approach does apply to all of these options)
'Floor and ceiling' contract	The use of 'Floor and ceiling' contracts opens up the possibly of a range of more complex arrangements around outcomes and rewards that could be entered into, again, under all these options. However, complex commissioning and procurement arrangements can be more fragile and lead to contractual disputes.

Model 3: Option 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

Subject to complying with the PCR, commissioners might consider:

Procurement approach	Comment
In-house services	Again, in-house services can remain fully internal or be operated at some degree of arms-length, perhaps as separate trading companies and/or in partnership with other agencies. Their capacity to transform their approach would be the key to the success of using in-house services in this way. However, there is a growth in the concept of an 'Accountable Care' organisation taking on responsibility for meeting all the needs of a population in a particular area, and such an approach could cover the delivery of reablement and home

Procurement approach	Comment
	care services and do so on a broad population outcome basis. As with all these options, the size of the area to be covered will be a vital determinant. Too large and the organization may collapse under its own weight or be unable to focus on the needs of individuals; too small and there will not be the scale and flexibility needed to achieve the identified outcomes. Also, again as with all the options under this heading there would be a need to ensure that in achieving the population–based outcomes the provider did not fail to delivery on outcomes for individuals. Also, it would be important to have a clear idea of how their proposed activity contributes to the identified outcomes being achieved.
Non-Competitive Tendering approaches	Similar to the notion of an' Accountable Care Organisation' above, but perhaps with a wider scope as to what kind or organisation might take on the responsibility. However, again there may be limitations set by procurement regulations.
Spot purchasing	Spot purchasing is antithetical to this approach if the model is used without being modified.
Framework Agreement	A Framework agreement is antithetical to this approach without any modification.
Dynamic Purchasing System	A DPS is antithetical to this approach if the model is used without being modified.
Block contract	This would in effect be a procurement within which there was a specification for a single provider to deliver a service (or range of services), but not to an agreed volume or to a fixed number of people. Instead, the contract would be awarded to the organisation that provides the most economically advantageous tender, evaluated in terms of their ability to meet the required population outcomes. However, the evaluation criteria may also include additional subsidiary requirements designed to ensure appropriate coverage and quality of services.
'Floor and ceiling' contract	This would provide an opportunity to put some limits around the amount of activity the provider was required or expected to delivery, and would provide some safeguards for them that they would not be swamped by some underestimate (by them or the commissioner) of the amount of work likely to be involved in delivering the population outcomes. Hence, there may be a need for some individual spots to be procured via a dynamic purchasing system or a framework.

4 Good Practice Examples

One example of good practice is Surrey and East Sussex Councils, who together produced a joint procurement strategy 2015-18. It is notable for its clarity and comprehensiveness and because it is a collaborative venture across two large councils. As well as seeking to link to wider corporate strategies, it outlines eight themes as follows:

Theme 1 - People, skills and development
Theme 2 - Strategic sourcing
Theme 3 - Category Management
Theme 4 - Programme Governance
Theme 5 - Contract & Supplier Management
Theme 6 - Social Value
Theme 7 - Technology & process development
Theme 8 - Innovative Commercial Support

The strategy does not go into deal about which models of procurement to use when.

5 Further Resources

You might find the following useful – although remember to note some pre-date PCR!

NHS
The commissioning Handbook for Librarians - Provider procurement models

Contracting for outcomes - A Value-Based Approach, Outcomes based Healthcare, 2014

Commissioning Skills Development - An introduction to Market Management & Procurement, Workshop Presentation NHS, undated.

Local Government and Home Care
Achieving outcomes based commissioning in home care, LGIU 2017

Market Shaping: Commissioning and procurement of care and support at home
Housing LIN resources page on commissioning, Housing Lin

Outcomes Matter: Effective Commissioning in Domiciliary Care LGIU, 2012

Influencing social care commissioning & procurement: Resource guide for NCF members NCF, 2016

Emerging practice in outcome- based commissioning for social care, Discussion paper Bolton, J IPC, 2015

Two discussion papers on domiciliary care commissioning and procurement, Bolton, J, Mellors, M IPC 2015

National Social Care Category Strategy for local government, LGA, 2015

Procurement

Directive on Public Procurement (2014/24)

e Procurement Directive 2014/24/EU
Mills & Reeve Procurement Portal

The "Light Touch Regime" in public procurement: background and the statutory regime, Mills & Reeve

A councillor's Guide to Procurement, LGA, Undated

6 Procurement Methods: Obtaining Quality Goods and Services, Sponaugle, B 2014

Procurement Management Templates (Webpage)

Procurement's New Operating Model Booz & Company 2009 (general interest)

Local Procurement: making the most of small businesses, Pinner, M, Jackson M, CLES 2012

Value based Procurement – Nordic Healthcare,

Scottish Government - Guidance on the Procurement of Care and Support Services 2016 (Best-Practice)

Surrey County Council/East Sussex Council Procurement Strategy 2015-2018

National Audit Office 2016 - Commercial and contract management: insights and emerging best practice

Stirling Council's Procurement and Commissioning Strategy 2016-2017

Contracting for integrated health and social care : a critical review of four models, Billings et al 2015