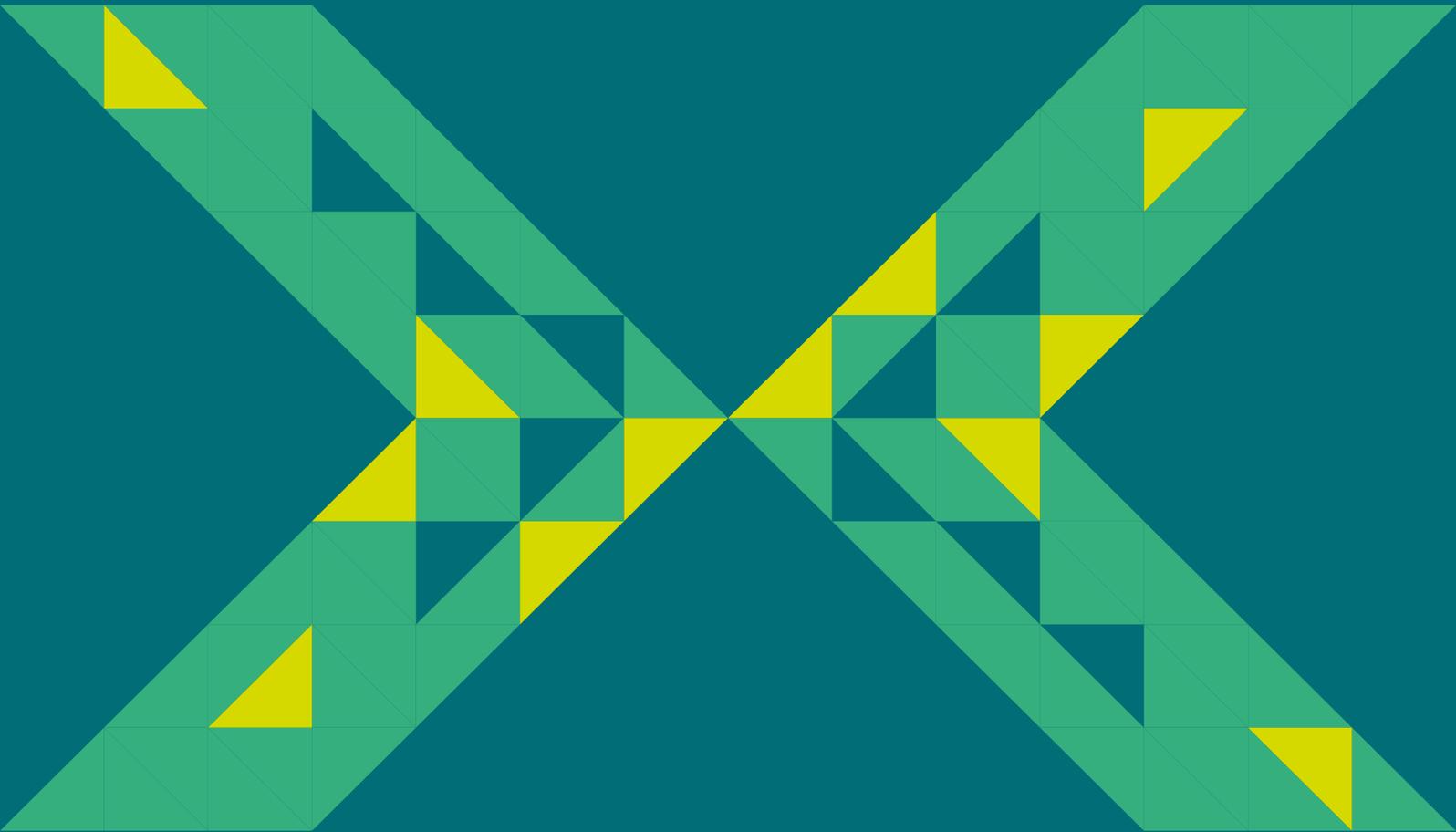




**LOCAL  
PARTNERSHIPS**



**COMMISSIONING IN  
LOCAL GOVERNMENT**

A research project for Local Partnerships

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## Introduction

In October 2014 Local Partnerships engaged Public Intelligence to undertake research into the state of local government commissioning. The aim of the research was to better understand commissioning practice, especially the differences between commissioning and procurement, to identify the challenges that local authorities experience in different parts of the commissioning cycle and to highlight best practice and areas of learning for the sector.

### 1. Understanding commissioning

The use of the term commissioning in local government has become more and more prevalent over the last decade, yet its meaning can seem obscure. Much commissioning involves a contracting process but to what extent does commissioning represent a different approach to simple procurement or purchasing?

The Institute of Commissioning Practitioners provides a simple starting point, introducing the idea that commissioning is agnostic between providers:

“Commissioning means securing the services that most appropriately address the needs and wishes of the individual service user, making use of market intelligence and research, and planning accordingly.”

The Institute for Government further distinguishes between services and commodities:

“Commissioning is a process that starts with understanding the needs of the end users of services. It is not procurement, the purchasing of goods by Government, as it is about delivering a service not buying a commodity.”<sup>1</sup>

The word “commissioning” appears to be quite a complex concept as used in local government, but its broader linguistic roots are quite clear. The Oxford English dictionary records a number of distinct uses dating from medieval times including

- 1) To furnish with a commission or legal warrant; to empower by a commission;
- 2) To give authority to act; to empower, authorize; to entrust with an office or duty;
- 3) To give a commission or order to (a person) for a particular piece of work; and
- 4) To give a commission or order; to order.

Yet in local government the term commissioning is used not only to mean the authorisation, empowering or ordering of a piece of work but also contains an implication of change. Local government professionals working and leading commissioning processes almost always aspire to service reform, re-design or re-configuration when they use the term commissioning. Indeed commissioning has become part of the core repertoire of modern strategic management.

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<sup>1</sup> *The State of Commissioning: Preparing Whitehall for outcomes-based commissioning*, Institute for Government, London: 2010

Thus the Local Government Association describes commissioning as:

“Involving four key activities that begin with a review of needs through to choosing a delivery model that combine to achieve efficiency and maximise value:

1. Understanding needs and desired outcomes – that requires up to date information about risk factors, needs, trends to gain a solid understanding what people need and want and where the priority areas are
2. Optimising resources – including money, community and user resource, assets. This could mean redesigning internal or external workforce to deliver a service or return for the end user; optimising public buildings in an area to collectively create best value for the community; or building community resilience or skills
3. Targeting – resources at those citizens in need, services that are a priority and at the right stage to have maximum effect on outcomes
4. Choosing the right mechanism – to best achieve the desired outcomes. The choice of mechanisms range from more traditional approaches including procurement, service level agreements, performance management to a focus on pooling budgets, market management, partnership building, enhancing choice, harnessing voluntary and community resources and capacity, influencing partner spend and users decisions and behaviours.”<sup>2</sup>

## 2. Commissioning as a strategy for challenge and change

“For me commissioning is a whole system approach, understanding what the issue is, what we're trying to do, being very strong on the analytical phase, planning and thinking about how we could address the issue, then thinking about the best mechanism to get a solution in place. Sometimes that'll be a procurement response, sometimes it'll be a community response, then spending time thinking about the impact of what we're doing.” - county chief executive

Commissioning is rooted in challenge and change and involves a process which involves re-evaluating need, re-thinking what the service ought to be, looking at new ways of working and being open to how and in what way the service is delivered. Commissioning has become part of the core repertoire of modern strategic management.

One head of commissioning described how central commissioning was to the strategic resourcing of the authority:

“You it can get lost in definitions about what's commissioning, what's procurement, what's contracting? Actually what we're really talking about is making the best use of the resources that we've got to improve outcomes for our residents, that's really all it's about.”

The interviewee went on to emphasise that commissioning practice depended on the market sector in which it was taking place but that “that commissioners should be able to drive forward the change that's needed in the services and be really clear

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<sup>2</sup> *Commissioning for better public services*, LGA, London: 2012

about the outcomes that we're trying to achieve, and provide the right mix of challenge and support to the provider to do that.”

However, while commissioning often involves the use of an external supplier, commissioning essentially involves a mindset open to change. A county chief executive put it this way:

“It is difficult because [commissioning] is kind of used very much as a catch all term. I mean for me it's less about whether you end up doing a procurement or whether you end up doing a partnership and it's more about the analysis of the problem and the issue and the group of services and a really good hard look at whether and how you could deliver it differently to get the outcome that you want.”

For most people commissioning therefore can be understood as change strategy developed in the face of fundamental business requirements, based on the premise that the status quo is no longer sufficient. Commissioning can involve challenge and change in a range of different categories:

- Understanding of need - arguably too many public services are based on historic understandings of need. Arguably there is no longer a need for libraries which lend cheap paperbacks when in an age of digital downloads and easily available secondhand books made available by e-commerce
- Service design - most commissioning is premised on the idea of service change. Either the service no longer meets the assessed need, or it doesn't sufficiently involve the community, or it is based on passive users
- Requirements of users - user driven change lies at the heart of commissioning e.g. people wanting to live independently at home leads to major re-commissioning of older people's care
- Resources available - the need to do more with less, drives many commissioning reviews. This can lead authorities to de-commission or to commission services that generate more income or that cost less e.g. through more self-service
- Political strategy - a new political leadership wants to do things differently and quite possibly has a different stance on use of internal/external providers
- Provider - commissioning exercises often take place because there is dissatisfaction with existing provision
- Threshold - some commissioning outcomes can involve eligibility thresholds to move - e.g. more people are eligible for a grit delivery, fewer roads get gritted by the authority.

However, an important additional dimension, which is spoken about less in local government, is market engagement.

### 3. Market analysis and engagement

A key argument, found in several government reports, and echoed by one of our interviewees, was that commissioning on its own is insufficient; it is only one half of the picture. Commissioning is focused on important, value-based objectives about outcomes that commissioners would like to see. However, this can mean that

commissioning is driven by (short term and fashionable) policy trends without any reference to the capacity of suppliers to deliver.

Fundamentally, commissioners are reliant on providers with the capacity and capabilities to deliver their objectives. It follows, therefore, that without effective supply, commissioners' objectives will remain unrealised. Yet, there is no strategic sector-wide strategy for influencing and shaping supply side markets in local government, and it is an area in which local authorities need to invest further.

In 2003 Sir Christopher Kelly conducted a review for HM Treasury into how to increase competition and long-term improvement in the government marketplace.<sup>3</sup>

Kelly proposed that demand side commissioners ought to do more to shape supplier markets and he argued they could do so by:

- taking suppliers' planning horizons into account
- communicating with suppliers about its future requirements;
- avoiding unnecessary sporadic demand
- removing barriers to doing business with the public sector and designing its requirements to facilitate competition.

Clearly the consequences of not working to shape the supply side, especially in new service areas, will mean that providers are unable to plan and respond to commissioners effectively. Other impacts include:

- the supply market not being able to cope with public sector demands
- adverse effect on price, quality and innovation
- a failure to attract enough high quality of bidders for contracts
- over-dependency on particular suppliers and associated problems with incumbency advantage through a lack of contestability
- contracts which aggregate demand with little attention to the implications for continuing competition.

In other words, without better understanding the nature of possible suppliers, commissioning overstates its impact to deliver change.

In our research a number of interviewees did speak about the importance of supply side factors particularly the importance of building dialogue. A county chief executive emphasised the importance of soft market testing, competitive dialogue, and "engaging lots of people to look at developing different models and just being open really to your ideas being shaped."

One head of commissioning spoke about the importance of market making and support development of suppliers in the voluntary sector.

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<sup>3</sup> *Increasing Capacity and Improving Long Term Capacity Planning in the Government Marketplace*, Sir Christopher Kelly for HM Treasury, December 2003

“We've got services that commission through the voluntary sector and we've had to develop the market in order to deliver. We can't do that by having contracts in place and using them. We've got to do some real support and development work that helps the market develop into what we need it to be providing.”

Another gave this example:

“We commissioned out our children's centres about three years ago, they were in-house and when we went for a savings round we downsized the in-house service, reduced spending and then commissioned it out. [In the end] we commissioned out essentially quite a different service from the one that we were providing in-house. So we set the outcomes and we set some kind of criteria that we wanted providers to work to [...] but we didn't say how we thought they should meet those outcomes and really tested that innovation as part of the tender process. But in the run up to doing that we had spent probably almost a year doing some work with the local voluntary sector, and actually other national health providers that were interested in helping us to design those specifications. So we didn't just produce something that was out of the blue.”

Another head of commissioning from a London borough emphasised the importance of having an open relationship with providers:

“Commissioners have to build really open, honest relationships with providers, they have to be really upfront to talk about what's working and what isn't working, not only in terms of what's changing about our needs, what we need differently but about what they're providing.”

So clearly there is a focus on providers, but this is typically on commissioners' existing suppliers. And some believe that it is up to the market to change its offering to local government. As one chief executive felt the market was falling short: “I think the market - and it's a real beef of mine - the market still finds it difficult to respond to outcomes based activity.” Supplier development is definitely a two-way street but local government perhaps underestimates the challenges faced by suppliers anticipating and investing in new approaches.

Overall this review heard much less about future focused market engagement, nor about how market analysis, due diligence, understanding supply side business models were important risks to manage - and about it being local government's responsibility to develop supply on an ongoing basis.

## 4. Commissioning in partnership with health

For many interviewees it was important to distinguish local government commissioning from commissioning in the health sector.

One head of commissioning told us, “In lots of places people have thought about commissioning and have simply picked up the health model of commissioning and said so that's what we need to do and if we apply that to every service it's going to be okay. But fundamentally I don't believe that to be the case. Commissioning is a

much more sophisticated beast and I think that the commissioning approaches that you have are far more varied than perhaps we assumed at the start.”

However, some interviewees were deeply critical of commissioning practice in the NHS. A chief executive told us: “Some of the commissioning work they do is founded on deeply inefficient parochial relationships with NHS providers. Their understanding of the cost to deliver activities, I think is weak to be honest.”

Another chief executive added that the evidence base for local authority commissioning was a lot less black and white:

“There's a danger sometimes with commissioners who come from a health background. We've got quite a lot with people who've come in from public health and they are used to whole population commissioning, and it kind of can be evidence-based but evidence-based in a way that's, you know, if I put this intervention in can I be absolutely sure that this health outcome's going to happen here? Because it's based on the buying of drugs, or the big treatment programmes or whatever and that isn't quite right in a local authority setting because you need a lot more sophistication and different shades of grey.”

For a London chief executive commissioning in local government should drop any pretensions to become a pseudo-science:

“I don't believe commissioning is some sort of abstract science, it remains about politics, it remains about judgment, and it's just with a different set of questions and a richer evidence base. I hate [when the NHS-type approach gets copied in local government], if you get enough data put it in a bucket, shake it and hold it up to the light, you'll be able to see the answer. What you can often see instead is just a bunch of conflicting priorities and a bit of a mess.”

Good commissioning therefore should not seek absolute answers from its review process, it should generate rich data, but it also needs to apply value-based judgments.

## 5. Role of elected members in commissioning

The role of members in commissioning appears to be varied from the research and partly depends on what experience they - or the authority - has previously had. In some cases members operate at a high level, using commissioning reviews as a way of interrogating current practice. In others, members support for commissioning can diminish when the implications of the change becomes real. It is also clear that members' priorities impact directly on commissioning options.

One chief executive told us how members used commissioning to test for improvement.

“Members just want us to prove again that there aren't other ways of doing it in a different way.”

A head of commissioning described how member's support for commissioning seemed to diminish when the implications of the change became real.

"Where it gets difficult is when the reality of it dawns. When we talk about it generally, it's fine. When we get to the realities of getting best value for money then some of the services that we're giving grants to, for example, really aren't performing well, and then when we start talking about ending funding for those that's when it gets difficult."

Another chief executive explained how members could directly rule certain commissioning options:

"If your Members are saying, I am not giving up control of that, because it's incredibly important to me politically or locally, then, that limits the options that you've got."

## 6. Community engagement

Community engagement is an area that almost all respondents said was crucial, and which some admitted had been neglected at times in their authority.

One head of commissioning described the importance of being creative in how the community engagement is designed:

"Sometimes we involve users in the actual procurement process, be it in evaluation or in some aspects of the procurement. But we know if we keep asking older adults about services, they're often very pleased about them and we have to be a bit more creative, and this is probably particularly so in adults, in terms of service design, so that we're not just re-commissioning the same thing over and over again."

Another head of commissioning, looking across local government as a whole put it this way:

"The way in which we engage with the public we never do that in a way where you're ever likely to get anything different out of the conversation, or if you do get something different it's quite minor."

Another head of commissioning agreed, but argued that it could change:

"Essentially by the time we engage with communities we know what the question is we're trying to answer and we know how we want to do it. Then we kind of engage with communities with questions around those issues rather than at the very start of the process, saying, what do you want?"

They therefore argued that the community should be put in control of the commissioning process:

"I come from a housing background, if you look at neighbourhood management models, neighbourhood panels and boards, where they kind of manage that

environment as a collective that could be a model for community-led commissioning.”

## 7. Capacity and skills

The lack of commissioning capacity and skills across the sector is well documented and was confirmed again by this research. Crucially, commissioning is about critical, strategic thinking capacities. It is not about technical procurement. However, as Grace and others have argued, “The critical capacities to develop are a mindset and a willingness to use the full repertoire of improvement methods, supported by flexibility, imagination, creativity, and pragmatism, and informed by a culture which is open and conducive to change. The skills and capacity needed are unlikely to be easily taught through formal methods and conventional techniques.”<sup>4</sup>

One chief executive put it starkly: “the market for commissioners is weak.” Another chief executive said “its skills that the public service hasn't really had, and councils haven't had.”

## 8. Risks and challenges

Through the review interviewees raised a number of future risks that arise from commissioning:

- Low level of market understanding and engagement
- Poor relationships with providers and underdeveloped supply side
- Political and policy change
- Losing political support during the process
- Public campaigns against service change and commissioning outcomes
- Commissioning leads to reception of outsourced “organisational silos”
- Low level procurement spend remains outside the commissioning process
- Too easy for commissioners to re-hit the buy button rather than going through strategic commissioning
- Commissioning cycle is never ending, never any permanency
- Different commissioning cultures between local government and health
- Little collaborative commissioning between authorities
- Authorities retain too little capacity to re-commission and negotiate effectively in the future.

**Mike Bennett**

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<sup>4</sup> *Making and Managing Markets: Contestability, Competition and Improvement in Local Government*, Clive Grace and Steve Martin with Keith Fletcher and Ian Bottrill, Audit Commission, London: 2008



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