

CJVSF Member Views on Strategic Commissioning

Introduction

This paper builds on the earlier CJVSF paper, *[A Strategic Approach to Commissioning in Community Justice](#)*¹, which sets out CJVSF's view of the strategic commissioning cycle and sets out some of the key principles for successful collaboration in community justice commissioning. This paper develops that thinking further now that local community justice arrangements are in effect and that work is underway to develop thinking on strategic commissioning nationally. It sets out the key principles that CJVSF feel should underpin a successful strategic commissioning framework and some of the practical steps that are required to realise them.

This paper utilises CJVSF members' experiences as providers of community justice services and as participants with considerable experience in local and national commissioning and procurement processes to identify and highlight the key principles and good practice in effective strategic commissioning.

When developing their response to the proposed framework for strategic commissioning, CJVSF members stressed the importance of the recommendations made by the [Commission on the Future Delivery of Public Services](#). CJVSF members also emphasised the importance of ensuring that a framework for commissioning in community justice was consistent with the aspirations and principles for community justice included in the Scottish Government's [National Strategy for Community Justice](#).

Key Principles for a Strategic commissioning

CJVSF members identified the following principles as being of fundamental importance in developing a consistent and effective approach to strategic commissioning in community justice.

¹ CJVSF (2017) *A Strategic Approach to Commissioning in Community Justice*. Available at: <http://www.ccpscotland.org/cjvsf/wp-content/uploads/sites/4/2017/01/CJVSF-Briefing-A-Strategic-Approach-to-Commissioning-in-Community-Justice-1.pdf>

CJVSF members want to see a Strategic Commissioning Framework that:

- 1. Encourages systemic and holistic approaches**
- 2. Promotes embedding of person-centred approaches, with a focus on outcomes**
- 3. Promotes best value and quality**
- 4. Supports provider participation and collaborative working**
- 5. Clarifies roles**
- 6. Promotes embedding of continuous learning**
- 7. Promotes diversity in the market**
- 8. Promotes the use of appropriate timescales**

1. The Framework should encourage systemic and holistic approaches

For the strategic commissioning cycle, the national framework needs to:

- Encourage commissioning practices to follow the principles that were set out in the national community justice strategy (e.g. around collaboration, service user involvement and the role of the third sector) as well as tie in to other relevant national strategies
- Demonstrate a clear whole systems pathway that is used to inform commissioning discussions
- Clarify how the Community Justice Planning processes interface with commissioning processes at a local, regional and national level - This should be specifically determined by the framework
- Encourage accountability of decision making and transparency in processes, including reporting against outcomes.

At the implementation stage, this can be achieved by ensuring that:

- Local and national commissioning strategies/documents refer back to relevant national strategies to show how they comply with the principles set out in them
- Partners undertake mapping of local and national services and systems
- There is a clear link between commissioned services and Community Justice Outcome and Improvement Plans (CJOIPs) – At present, it is not often clear from the CJOIPs how commissioning is being done locally nor what is being commissioned and how this fits with local priorities.
- Clear and transparent lines of accountability are established.

2. Strategic commissioning should promote embedding of person-centred approaches, with a focus on outcomes

To do this the national framework needs to:

- Establish the needs of people using services as the starting point for commissioning services
- Promote an outcomes-based approach
- Encourage consideration of disadvantaged/minority/specific groups whose needs may not be met by generic provision e.g. ethnicity, women, care experienced, LGBT, disability, rural communities
- Champion a holistic approach to addressing an individual's needs
- Support a values-based approach to service delivery
- Include examples of effective routes and methods for service user engagement.

At the implementation stage, this can be achieved by ensuring that:

- There are clear routes and support for involving service users in the full commissioning cycle – “nothing about us without us”
- There is flexibility of services to be truly person centred rather than overly prescriptive
- Those commissioning at all levels publish evidence of meaningful engagement with service users.

3. Promotes best value and quality

To do this the national framework needs to:

- Encourage partners to focus on outcomes rather than outputs
- Foster a consideration of value that places emphasis on impact and broader considerations of quality
- Promote processes for procuring services that are proportionate and realistic.

At the implementation stage, this can be achieved by ensuring that:

- Clearer criteria for quality are introduced and encouraged
- Partners provide clarity over the source of budgets that will be expected to contribute to procuring the outcomes
- Consideration is given to the cost, both in terms of staff time and other resources, that commissioning processes can create for providers.

In relation to procurement, this would mean:

- No tenders or contracts are designed and motivated primarily by cost reduction
- Track record is evaluated fairly and subject to scrutiny
- Consideration is given to the cost, both in terms of staff time and other resources, that procurement processes can create for providers.

4. Strategic commissioning should support provider participation and collaborative working

To do this the national framework needs to:

- Advocate for clear engagement routes and support for third sector providers to be involved in the full commissioning cycle
- Challenge the ubiquity of competitive tendering and support a move away from a transactional approach towards a focus on building positive, collaborative relationships with service providers. The Framework should include examples of alternatives to competitive tendering.
- Set out the risks associated with different approaches to commissioning and procurement, and clarify who is expected to take on that risk (both commercial risk and the risk involved in engaging in the process).

At the implementation stage, this can be achieved by ensuring that:

- Risk assessment processes are attached to the commissioning process
- Feedback on commissioning processes is routinely gathered so that lessons can be learned and improvements made over time
- Training for commissioners on co-production and collaboration is available and the third sector has an input into developing training on commissioning
- Organisations are incentivised to contribute to the commissioning process (payment to offset costs)
- Risk averse approaches from both commissioners and service providers are challenged.

In relation to procurement, this would mean:

- Opportunities are announced early through Public Contracts Scotland (PCS) to allow participation
- Commissioners and providers make use of the Supplier Developer Programme where appropriate
- Training for procurement teams on co-production and collaboration is available and the third sector has an input into developing training
- Clarity is provided about the legal rules relating to procurement legislation.
- Challenging re-tendering where there is no necessity e.g. risk of change of (high quality) provider that would disadvantage service users.

5. Strategic commissioning should clarify roles

To do this the national framework needs to ensure:

- There is clarity about the responsibilities of different partners in community justice commissioning and procurement processes at local, regional and national levels. The Framework should also distinguish between statutory and non-statutory responsibilities.
- There is clarity on when TUPE processes apply.

At the implementation stage, this can be achieved by ensuring that:

- All partners have a good understanding of both their own and other partners' roles and responsibilities
- There is clarity around funding streams and the resources that will be contributed by different partners
- Clarity is given to when partnership is necessary over single provider approaches
- A standard, structured TUPE template and associated processes are developed (which follow best practice) to support TUPE arrangements where these apply.

6. Strategic commissioning should promote embedding of continuous learning

To do this the national framework needs to:

- Promote the review of both statutory and non-statutory interventions and services to ensure their effectiveness. This evidence should be used to inform future work as part of the commissioning cycle.
- Encourage evaluation of the commissioning process to ensure systems learning is used effectively.

At the implementation stage, this can be achieved by ensuring that:

- Lessons are learned from the processes (including from unsuccessful bids) and used to inform change
- Learning from discretionary/trust funders and other sectors (e.g. Health and Social Care) is fully utilised.

7. Strategic commissioning should promote diversity in the market

To do this the national framework needs to:

- Advocate a mixed market approach to community justice service provision, to ensure the sector is able to take a person centred approach focusing on the needs of the individual
- Encourage commissioners to develop plans for market facilitation/development

- Provide clear direction on when and how local authorities should assess the case for in-house vs outsourced services based on service need
- Emphasise the fundamental importance of proportionality in procurement processes.

At the implementation stage, this can be achieved by ensuring that:

- Commissioners map the market and develop a clear plan for market facilitation/development.
- Commissioners and partners are engaging with all relevant providers rather than just those they have contracts with.
- Procurement processes are continually reviewed and improved.

8. Promote the use of appropriate timescales

To do this the national framework needs to:

- Highlight the importance of longer/more realistic commissioning timeframes particularly where consortium formation is anticipated
- Challenge the current presumption in favour of short, time-limited contracts where there is no specific reasoning behind them being time-limited
- Encourage flexibility in service design and delivery throughout the commissioning and procurement cycles, to allow services to develop effectively over time
- Encourage commissioners to commission work that tests emerging evidence bases and helps to answer relevant research questions.

At the implementation stage, this can be achieved by ensuring that:

- Funding decisions for renewals are issued at least 3 months before the end of the original award. When short timescales are necessary, wherever possible, sharing information and specifications in advance to allow bid development
- Commissioning is advanced wherever possible, even when money is not currently guaranteed, to ensure early engagement with service providers and sufficient time to be devoted to service design
- Commissioners move away from an unsustainable reliance on “pilot” projects by setting out clear criteria for their success and plans for further funding if shown to be successful.

In relation to procurement, this would mean:

- There are appropriate lead in times for new services
- There is an understanding of the pressures on providers and encouraging commissioners to be sensitive to the time of year
- “Wind down” time and funds, including contingency money, are built into contracts.