

**A new approach to  
commissioning & procurement  
for social care & support services  
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# A new approach to commissioning and procurement for social care and support services in Scotland

CCPS Briefing

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## Summary

The benefits of a more collaborative approach to the commissioning and procurement of social care support are well understood. This briefing makes the case for Best Value to provide a strategic framework for commissioning services in ways that continue to provide clear accountability, while delivering a more sustainable approach to the commissioning of social care support. It is designed for senior financial professionals in commissioning bodies and providers, and councillors and board members with responsibility for scrutiny and oversight of commissioning social care services.

## Financial and policy context for social care services in Scotland

There is no doubt that the financial and policy context for social care services is as challenging as it has ever been. Public finances continue to be under enormous pressure, and public services and communities across Scotland face severe challenges in meeting demand. Recovery from the Covid-19 pandemic remains firmly on the agenda, even as restrictions ease. Difficult choices will have to be made as we navigate our way out of the Covid-19 crisis.

And, of course, the policy environment remains highly uncertain. In particular, the Scottish Government's commitment to the creation of National Care Service will be one of the most significant public service reforms since devolution, with a decision likely to come very soon. Whatever the shape of the new National Care Service, it is clear that there are significant changes to come for local authorities and third sector providers of social care.

All of that said, the policy context in Scotland should be, at least on paper, supportive of new ways of commissioning and procuring social care. The benefits of collaborative commissioning are widely understood and clearly articulated. For example, [The Independent Review of Adult Social Care \(the Feeley report\)](#) was very clear about the need for change in commissioning and procurement practices, dedicating a whole chapter to the topic. In turn, the Government's consultation on the creation of the National Care Service emphasised the commitment to adopting an 'ethical commissioning' approach in future, moving away from competition and towards collaboration.

At a more technical level, the commitment to more collaborative approaches to commissioning can be found in the Scottish Government's own [procurement best practice guidance](#) for care and support services. And more collaborative approaches to commissioning and procurement are widely accepted as being closely aligned with a range of other policy priorities, not least fair work, community wealth building, self-directed support and community empowerment.

And yet, there remains a gap in implementation and a strong sense that, too often, the rhetoric around collaboration and partnership working doesn't match the reality of commissioning practise and relationships on the ground.

## A new approach to commissioning and procurement – why do we need it? (The why?)

There is ample evidence for why investing in a strong and sustainable social care support sectors makes sense in human and economic terms. The Feeley Review sets out a compelling case for creating a new narrative for social care support, stating:

*Strong and effective social care support is foundational to the flourishing of everyone in Scotland. It is a good investment in our economy and in our citizens.*

More specifically, [Chapter nine](#) of the report makes the case for ethical commissioning, moving away from competition, and towards collaboration. The [CCPS Big Ideas](#) programme sets out a range of challenging propositions to make the system work more effectively for everyone involved. [And the national care standards](#) set out clearly what people have a right to expect in terms of their care. Approaches to commissioning and procurement need to support the achievement of these standards more consistently.

Feeley builds on strong evidence of the economic contribution made by social care. For example the recent report commissioned by [Enable](#), estimates that social care contributes around £5.1 billion of Gross Value Added to the Scottish economy, supporting 300,000 jobs. This reflects the findings of [earlier work by the SSSC](#) from 2018, which estimated the economic contribution of adult social care added up to around £3.4 billion per year.

There are other voices which support the case for more radical and rapid change. Over many years, Audit Scotland has reported on the challenges of creating a more sustainable social care sector, and their reports can be found [here](#). And Paul Gray, former Chief Executive of the NHS in Scotland and Director General for Health and Social Care, wrote [this piece for the Reform Scotland](#) think tank, describing the health and social care system in Scotland as being 'overwhelmed' and laying out some opportunities for urgent change.

[A recent report from the Care Inspectorate and SSSC](#) lays bare the recruitment challenges faced by the social care and support sectors in Scotland, highlighting that sustainable, well-paid jobs are central to our ability to achieve the vision set out by Feeley.

So, it appears that the case for more sustainable social care services is strong, widely accepted and recognised to be of benefit to everyone, not just service providers. This is not about social care support providers simply 'asking for money' (although as the most [recent](#)

[report from the Homecare Association](#) points out, there is a serious issue with services being procured at below the full cost of service provision). It is about finding ways of commissioning and procuring social care support services that works for commissioners, service providers, staff, families and communities.

But despite this, meaningful change at scale remains elusive and there is an opportunity – a pressing need – to deliver change in advance of any structural reform that comes with the creation of a new National Care Service. The urgent work of reform needs to start now, and it can start with commissioning and procurement.

## A new approach to commissioning and procurement – what might it look like? (The what?)

As we look towards a new, more collaborative approach to commissioning and procurement, we need to think about what that might look like. There are a number of commitments that we can make collectively to provide a starting point for transforming our approaches to commissioning and procurement. These might include a commitment to:

- focus on what matters to people, families and communities – as well as commissioners and service providers
- recognise that systems change means systems change for everyone - statutory organisations, third sector, people who use services, regulators
- create a regime of accountability and incentives that encourages everyone involved – commissioners, procurement professionals, service providers, services users, inspectors, regulators – to behave in ways that support, rather than hinder, collaborative, outcomes focused ways of working
- move towards commissioning services and measuring performance based on outcomes, not hours and minutes
- move towards collaboration, and away from competition
- embrace a way of working that more effectively shares power and decision making with those that deliver and use services.

In pursuit of these commitments, it is worth considering whether Best Value can provide an effective framework for the commissioning and procurement of social care support.

Best Value as a concept has been around since the late 1990s, introduced by the new UK Labour Government as a replacement – and to some extent an antidote – to the Compulsory Competitive Tendering (CCT) regime. In Scotland, the Best Value taskforce was established in 2002, leading to the Best Value duty in local authorities being enshrined in the Local Government in Scotland Act 2003, supported by statutory guidance published in 2004.

In recognition of the significant changes in the policy and operating environment since 2004, [refreshed statutory guidance](#) was published in March 2020. While this statutory guidance applies to local authorities, it is worth noting that other public bodies (through their Accountable Officers) also have to demonstrate their commitment to best value as set out in [this guidance](#).

The duty of Best Value requires local authorities:

*to make arrangements to secure continuous improvement in performance (while maintaining an appropriate balance between quality and cost); and, in making those arrangements and securing that balance, to have regard to economy, efficiency, effectiveness, the equal opportunities requirement and to contribute to the achievement of sustainable development*

The whole point of Best Value is that it does not require local authorities to proceed on the basis of the lowest cost option. It expects decision makers to take into account a much wider set of characteristics, balancing quality and cost, and to have regard to fairness, equality and sustainable development. These are critical in the context of commissioning and procuring social care support services.

The 2020 statutory guidance set out seven Best Value themes that local authorities should have regard to in all of their operations, including commissioning and procurement. 'Sustainability' and 'fairness and equality' are cross cutting themes and should be taken into account when considering the other five themes. The seven themes are:

1. Vision and leadership
2. Governance and accountability
3. Effective use of resources
4. Partnerships and collaborative working
5. Working with communities
6. Sustainability
7. Fairness and equality

One of the changes made to the original 2004 guidance was to remove the characteristic relating to '*Competitiveness, trading and the discharge of local authority functions*'. Under this heading, local authorities had a duty to demonstrate they were, '*aware of the need to conduct its business in a way that demonstrates appropriate competitive practice*'.

Recognising this as a throw-back to the old CCT regime, the revised 2020 guidance no longer includes this requirement, meaning that local authorities are able to demonstrate Best Value in ways that do not require an element of competition.

The 'How-to' guide that accompanies this briefing provides more guidance on how the BV themes might apply in the context of commissioning and procurement.

## A new approach – how might we do it (The how)

We already know of examples where more collaborative and partnership-based ways of working is making a difference. One example is the [Glasgow Alliance to End Homelessness](#), which brings together a wide range of partners on a mission to end homelessness in the city by 2030. With a combined budget of £20m, the Alliance represents a new approach to bringing together key agencies, along with people with

experience of being homeless, to design and deliver services without the need for competitive tendering.

There is no doubt that working in this way requires everyone – commissioners and providers alike – to work in new and different ways. NESTA have some good pointers as to how we can work in ways that support innovation, including some insights from their [nurturing seeds of change work](#) and some thinking about how local authorities can go about [reframing their approaches to risk management](#), adopting a new mindset to enable innovation.

The work of the [Independent Care Review](#) is also useful here. Published in February 2020, [The Money](#) and [Follow the Money](#) reports set out the human and economic case for investing differently in the so-called ‘care system’ for children and young people. We are spending around £1 billion per year on a care system that fails too many children and young people and a further £875m picking up the pieces of that system, as the cost is borne by care experienced people throughout their lives.

We need to find ways of using that money differently, to improve outcomes and value for money, by asking three key questions:

1. How are we currently spending our resources on children and families in and around ‘the care system’?
2. How would we choose to spend that money differently?
3. How do we need to invest to get from where we are now to where we need to be in future?

Asking those three questions with our partners as part of the commissioning process would be a good place to start as we re-imagine how we commission and procure social care support services.

In all of this, we will need to establish new arrangements for governance and accountability. Of course, we need to ensure that our governance frameworks and processes ensure accountability for the use of scarce public money. But governance also needs to encourage innovation, build trust and enable partnership working. It should be about more than simply sound stewardship and accounting for every last penny spent. Collaborative governance can encourage good engagement, build shared motivation and create capacity for joint action<sup>1</sup>.

## What do we need to do now? Making it a reality.

There comes a point in any debate where the risks of sticking with the status quo begin to outweigh the risks associated with doing something different. Given the well documented pressures on social care support service, and the urgent calls for change from Feeley and others, it feels like we are at that tipping point in relation to commissioning and

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<sup>1</sup> *J Public Adm Res Theory*, Volume 22, Issue 1, January 2012, Pages 1–29, <https://doi.org/10.1093/jopart/mur011>

procurement. So, while the context for social care support services remains highly uncertain, we need to start working in different ways now.

A first step might be to continue to engage with a wide range of stakeholders in the discussions about how we can move towards the kind of commissioning and procurement envisaged by Feeley and others. This should include auditors (the Auditor General for Scotland, the Accounts Commission and Audit Scotland) and inspectors and regulators (The Care Inspectorate, SSSC, HIS), to discuss ways in which moving away from competition and towards collaboration can still deliver best value and meet the national care standards.

Engaging with the auditors, inspectors and regulators is an important part of creating a positive authorising environment as we build this new approach to commissioning and procurement.

It is also important to consider the existing procurement landscape, and the role of the Scottish Government, local authorities and Scotland Excel in particular. As framework contracts come up for refresh, there must be an opportunity to think differently about how these are done, moving away from competition and avoiding the unintended consequences of a system that too often still allows price to dominate the process.

And finally, the £500m Whole Family Wellbeing Fund also presents an opportunity to try something different. Can we co-design the operation of the fund in a way that avoids the need for competition? We need to find ways of investing in whole family wellbeing that brings together the experience of statutory agencies and service providers, with the wisdom of families in communities who are best placed to describe what they need. Avoiding competing bids for the resources means that all of our collective energies can be focused on designing and delivering whole family support measures that can genuinely move investment towards prevention and early intervention. If we can prove it can work here, then it can work anywhere.

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