

(From Community Living Magazine Vol 24, No 3)

Criticising commissioning is the social care version of an extreme sport – it is hazardous and potentially terminal, says Jo Clare. Here she shares some positive and negative views of tendering and, in particular, its fitness for the personalisation agenda.

'Downward pressure on prices has suppressed terms and conditions of staff, undermined quality, stripped out infrastructure and development capacity in many organisations. How fit are the survivors of block contracting to transform to personalised models of delivery?'

Criticising commissioning is the social care version of an extreme sport. It is hazardous and potentially terminal. So this is an adapted version of the sport – more akin to bungee jumping off your desk onto soft cushions.

However good the reason, sound the process or right the outcome of tendering, the experience of a service transferring to another provider is profoundly distressing. The people being supported lose friends and advocates; staff lose relationships with people they care about. Loss of relationships of ten and 20 years standing are bereavements, not business transactions; hence the joke "You don't have to be heartless to be a good commissioner but it helps".

I don't think commissioners are heartless – or rendered insensitive by over-exposure to procurement matrices. It is natural for decision-makers in human services to protect themselves from the consequence of hard decisions by grasping at straws and comforting myths. "It's only the management that's changing" and "The staff will stay the same" are two favourites.

Whilst TUPE* is meant to protect the rights of staff who are transferred, talk to staff and they will say they feel like chattel. Many jump ship before or soon after transfer. Some make their way back. Others adapt – but it takes a long time. If you cannot even choose your employer, where's your control and choice in the world and how does it make you feel? Probably not very optimistic about supporting people with learning difficulties to have control and choice, personal budgets or no personal budgets – powerless and powerless equals, well, powerless.

Squeezed margins

Strategic commissioning, by contrast, is very powerful. Over the last two years, Three Cs has submitted seven bids for frameworks, nine tenders for services. We have increased input, output and outcomes. We have spread our risk, and squeezed our margins. We are more efficient than we have ever been. We have won more services

than we have lost. We are serving more people and the people we support are achieving more of their outcomes.

Although it takes organisations and their teams to spearhead and deliver change, we have to credit commissioners for providing the external drivers that make change irresistible. The status quo has been well and truly challenged by commissioning and we are on the brink of a brave new world – aren't we?

It is true that block contracting can challenge the status quo. But it cannot deliver the brave new world of self-directed support. Even if thorough and well-designed it is still bulk buying by commissioner.

For those parts of the provider sector that are high on insititutionalisation, low on personalisation, thick on margins, thin on ethics, allergic to change, the blunt axe of block commissioning under EU procurement rules is probably a fine tool. For the delicate job of supporting a passionate, diverse and largely unformed market to sell good stuff directly to people who have never been customers before, block tendering is like using a machete to trim pressed flowers – you might occasionally choose a prize bloom and make the right cut but it is hit and miss and you'll be knee deep in casualties.

I talked to a commissioner at a conference recently who was bewildered by the gap between the promise at interview and the contract performance they got from a winning provider. "I guess we mistook the talk for the walk", he said, honestly. Their satisfactory outgoing provider had since merged with a bigger organisation who was not on their framework so there was no going back. I know another commissioner who has taken action for breach of contract within a short time of contract awards to new providers. The point here is not that new providers are baddies, but that tendering is powerful but not always sharp.

Smart commissioning

My colleagues tell me of commissioners who translate EU procurement rules as "just following orders". I don't get that. One of my favourite commissioners always seems to find a way around tendering if it risks the wrong result and pursues smart commissioning in partnership wherever possible. She is not on her own in coming up with work around solutions. Note how many support-with-housing providers in your area have been exempted from block re-tendering.

Partnership for change

Re-negotiating existing contracts is an alternative to tendering which can lay a better foundation for personalisation and drive prices down. Lewisham has recently given providers like Three Cs the opportunity to re-negotiate contracts for Outreach services to people with learning difficulties. Unlike tenders, which can be over-specified and

therefore militate against innovation, we were able to propose a re-modelling that achieves nearly 20 per cent savings without cutting 20 per cent of the support – and pave the way for transforming our service to sell under personal budgets. This is partnership for change.

Integrate had a block contract with Lancashire County Council (LCC) from resettlement days as well as spot contracts at what LCC felt were too high prices. LCC negotiated with Integrate, first to disaggregate the block to spot contracts and then, over three years, agreed a programme to reduce the price. According to Rose Trustam, former Chief Executive of Integrate, LCC have now told all their providers that service users will be put on self-directed support models of funding and that providers must be prepared to manage budgets individually. LCC have run preparation meetings for preferred providers on personal budgets and how to do support planning.

Southwark's positive response to Choice Support's proposal for the re-development of a £6 million pound block contract to personal budgets for 81 people with learning difficulties is set to become legendary good practice in this transitional period. On a much smaller scale, Three Cs' experience of the commissioning approach to mental health services in Southwark has also been positive to date. Re-negotiating rather than re-tendering contracts means that we have offered alternative models of delivery which are modernised, sustainable and, in the case of day activities, geared up for development towards personal budgets.

Although some providers think Southwark are moving too fast on personalisation, you have to credit them for their vision and effort. The Support and Care Market Forum they set up in 2010 is open to providers across all client groups and appears to be an honest attempt to promote dialogue, partnership and build capacity for personalisation. They expect providers to commit and buy-in – and it's your lookout if you don't. It is this kind of initiative which, for me, starts to level the playing field for providers of all shapes and sizes.

Winners and losers

For many, the level playing field and smart commissioning is arriving too late. There have been huge amounts of block contract tendering over the past two years. Organisations of all sizes have diverted their time and resources to compete for growth or survival. Yes – some cave men have been kicked into touch. But some of the losers are the prize blooms of the local market; many of these will not survive to do business under personal budgets.

And the winners? Downward pressure on prices has suppressed terms and conditions of staff, undermined quality, stripped out infrastructure and development capacity in many organisations. How fit are the survivors of block contracting to transform to

personalised models of delivery? And the squeeze on prices, and therefore margins, is showing no sign of abating, blowing smaller providers into the path of larger providers or out of the water completely.

*TUPE – Transfer of Undertakings (Protection of Employment) is the law that safeguards the rights of employees in the event that the business they work for changes hands.

Jo Clare is CEO of Three Cs and an advisor to Community Living.