

## **Institute of Public Care**

# **Supply management: opportunities for a new landscape in children's commissioning post crisis**

## **Discussion paper**

**June 2020**

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### Discussion paper

#### 1 Introduction

Following the financial crash of 2008, local authority leaders have been trying to protect their children's services budgets as demand and so-called 'overspends' have been rising.

The Coronavirus pandemic threatens further growth in demand on the system and with this comes a more acute pressure to re-examine the way in which children's services are organised. This paper considers how the historic commissioned interfaces with independent providers can be transformed to survive the aftermath of these unprecedented challenges.

#### 2 Background

In her April 2020 inaugural address, Jenny Coles, the new President of the Association of Directors of Children's Services, discusses the possibility of "huge spikes in demand across the children's social care spectrum" as a result of the Coronavirus outbreak.

If this forecast turns out to be true it will have a huge impact on a children's services sector already in financial crisis before the virus struck. By November 2019 local authorities in England reported overspending their children's services budgets for 2018/19 to the tune of £800m ([Local Government Chronicle \[LGC\], 2019](#)), with even higher spending anticipated for 2019/2020.

With adult social care overspending adding a parallel financial strain on local government pre Covid-19, the further costs to councils in responding to the pandemic are anticipated by the Local Government Association (LGA) to be as much as £6bn above the £3.2bn of emergency funding announced at the start of lockdown ([LGC, 2020](#)). Concerns about the continued solvency of councils under such pressures is already evident with reports of those worst affected reaching the point of needing to issue section 114 notices under the Local Government Finance Act 1988.

In normal circumstances it would be expected that central Government would help to ensure essential local government services remain viable, but with the Treasury having to take unprecedented steps to prevent economic collapse since March 2020 the situation post-Coronavirus will be anything but normal. There may be little or no capacity for additional funding for local authorities and further forms of austerity cannot be ruled out.

Wholesale reappraisal of how all local authority services are funded and provided looks inevitable, with children's social care and the way in which the services for the sector are commissioned and stewarded an essential ingredient needing redesign.

### 3 Situation analysis

Local authorities hold a complex combination of roles in relation to looked after children. The primary statutory responsibilities for children in care is a heavy but essential burden placed on local authorities deriving directly from primary legislation (e.g. The Children's Act 1989) and related statutory guidance. It results in councils taking on the role of service provision themselves, and at the same time being the commissioners of services from others, always with the inescapable duty to find the most appropriate placements for children taken into council care.

Over 72% of all looked after children are fostered, so the maintenance of local authority in-house fostering services has been a consistent priority for almost all local authorities. Private and voluntary sector fostering provision has also grown to meet rising demand, and although not yet a majority or dominant force in fostering as it is in the children's homes sector (where over 75% of all provision is independent) the combined result is that local authorities now provide only 55% of all placements for children in care in England.

Spending by local authorities on the 45% of placements that are commissioned from the independent sector now exceeds £2bn per annum.

Budget responsibility for this spending is devolved to individual local authority level. Over the last two decades a variety of commissioning and procurement approaches have emerged. Some of these have the appearance of re-aggregating purchasing power via sub-regional or regional collaborative procurement arrangements, although substantive pooling of financial resources is rare. Almost every Dynamic Purchasing Vehicle, regional framework, or tiered preferred provider system that operates in the sector is, in effect, a variation of a controlled spot market purchasing system. Providers registered to these systems are not guaranteed revenue from them and there is an increasing trend of providers opting out of these arrangements altogether, with little visible impact.

At times when demand was more limited, commissioners could control price levels to some extent. However, now that demand has increased above the ability or willingness of the supply side to grow to meet that demand (and procurement tools offering little or no incentive to providers to make the investments needed to grow capacity), then increasingly placements are purchased in an open spot market where price increases by independent providers are unconstrained by procurement systems. In residential care in particular around half of all placements are bought outside of commissioned frameworks. Notably only 2% of external residential placements are on a fixed or block contract basis.

As demand has outstripped supply provider organisations have been able to match more placements to their service offerings and thereby achieved operational efficiencies from higher occupancy and utilisation levels, alongside being able to increase prices. In our February 2020 study for the LGA [Profit making and risk in independent children's](#)

[social care placement providers](#) Revolution Consulting describes aspects of the provider-side that result from this current state of the sector:

- More dominant large-scale national providers driving further consolidation
- Involvement of private equity and stock market investors bringing models of increased levels of debt and financial gearing risk
- Higher profit levels than in previous historical studies
- Above average returns for investors and owners that are a clear indication of market imbalance in favour of supply side providers

A further symptom of restricted supply is the rapid growth in use of unregulated provision. Local authorities with a statutory duty to accommodate young people have increasingly been left without sufficient numbers and types of regulated sector choices and therefore have had little option than to default to supported accommodation and independent living provision which has to date been exempt from direct statutory regulation. The Department for Education is currently consulting on the need for further regulation in that area.

Coronavirus and lockdown have brought particular challenges for all parties involved in children's services, but the sector has shown resilience and some improvements in partnership working across boundaries.

*"I'm hopeful that the collaborative working we've seen in response to Covid-19 could provide a platform for us and our partners to challenge and support each other to embed children's outcomes at the heart of commissioning."*

Jenny Coles, ADCS President (June 2020)

The dichotomy of severely financially challenged local authority children's services budgets contrasting sharply with the apparently high profitability and returns of larger providers ([Revolution Consulting for the LGA, February 2020](#)) is a strategic dissonance, indicating that there is an opportunity to re-think the way in which the sector works together to meet the needs of children in care; an opportunity to redesign the commercial interfaces to produce a more balanced and sustainable state.

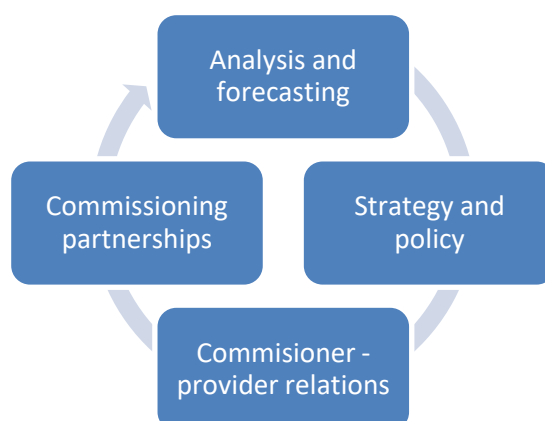
## 4 Re-designing commissioning

The potential threat to sustainability of councils will likely engage elected members and senior leadership of councils as a matter of high priority. This is the opportunity to move away from "doing more of the same" into a more effective re-analysis and re-design.

This will involve social work, education, health and commissioning colleagues but will also require new approaches to commercial, legal and risk arrangements and a new set of market monitoring and influencing skills.

There is insightful learning from some projects around the country that will be relevant to bring to bear on councils' redesign processes (see section below), but there is also recognition of the complexity of the task. Intelligent use of existing data about needs, demand, placements, spending patterns and partnerships will be essential. Transitioning from the current state of play to a re-designed state will also require

planning and communication across the whole sector to avoid potentially catastrophic failures around the existing supply base. This is a big agenda, covering all four of the following major areas:



The actions needed in each area are outlined in the table below:

Area	Actions
<b>Analysis and Forecasting</b>	Detailed analysis of recent spending, provider profiles, legal status and contracts, will be needed in order to understand the current status.
	Consideration of existing child assessment and outcome evidence tools and how they may need to be developed (and harmonised across the sector) as a strand of future strategy. Moves to systems that are harmonised across the sector will be necessary to utilise aggregated information in a meaningful way.
	Strategic mapping of supply should be used to gain direction for the revised strategic options.
	Forecasts of future demand with variance and sensitivity analysis will be needed to stress-test plans.
<b>Strategy and policy</b>	Current Commissioning Strategies, Market Position Statements, Sufficiency Statements and related policies and documents will all need to be challenged and re-framed. This applies at individual local authority, regional and national levels.
	Consideration of the increased or decreased role and status of in-house services will be an integral element of the redesign.
	Consideration of creative use of capital budgets to redesign partnerships is possible.
<b>Commissioner – provider relations</b>	Redesign of procurement, purchasing and placement finding processes and resources will be needed in support of new strategies.
	Re-engagement with the supply base through different commercial and operational models offers potential to share the benefits of

Area	Actions
	<p>high demand and utilisation in exchange for longer term partnerships.</p> <p>Access perspectives and expertise from all parties in the sector with the required knowledge and expertise to understand the complexities of risk from all around the sector.</p> <p>Co-ordination nationally in relation to engagement with national-level providers and sustainability issues and where risk management related to debt and solvency issues should lie.</p> <p>Willingness to take short- and medium-term steps to pilot and test new approaches.</p>
<b>Commissioning partnerships</b>	<p>Re-defining and clarifying the role of, and involvement with, sub-regional, regional and national commissioning will be essential.</p> <p>Engaging relationship-based approaches at individual authority and provider levels but also at a regional or national level.</p> <p>Co-ordination and monitoring across the sector to steward the resources available without increasing the risk of market failures.</p>

## 5 Examples to inform the re-design of commissioning

The following three examples of innovative projects employ methods that move away from the disadvantages of spot markets and that arise from each local authority taking a singular approach. They offer insights that all children's services commissioners might find relevant and useful as a starting point if thinking about their own situation:

### 5.1 Example 1: A different approach to commissioning partnerships through soft block contracting: the Cross Regional Residential Project

[Sir Martin Narey's 2016 report "Residential Care in England"](#) highlighted the **Cross Regional Residential Project**. Key aspects of this arrangement are:

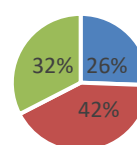
- Involvement of six local authorities aggregating demand to de-risk commitments through sharing. An offer of guaranteed income across a multiple-year contract to providers brought pricing to levels materially lower than that in spot markets.
- Investment and codifying of the relationship between commissioning authorities was a pre-cursor to relationship with provider.
- The project added new capacity local to the commissioning authorities and is estimated to have saved up to £1.4million per annum since beginning in 2010, on a capacity of just twenty placements.
- The contract was further de-risked by the potential to step down the block commitment mid-term if an unreasonable level of referrals were rejected for vacancies.

Narey comments:

*"...reduced spending by the six local authorities of about £1.4million: such are the savings available to commissioners when they are able to give providers assurance about bed occupancy. Running with a significant proportion of unfilled places can be challenging for the largest providers. It can be ruinous for smaller organisations, when staffing and almost all other costs remain static but income plummets. Almost every provider to whom I spoke told me that they could and would reduce their charges if they could be sure of having a consistently low level of vacancies."*

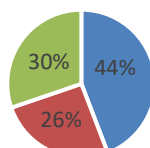
There are continuing indications since the Narey report that, despite the current extremely high spot market demand, there is still some appetite to reduce volatility and share risk, for example provider responses from the [Independent Children's Homes Association](#) "[State of the market survey, 2020](#):"

A minority of residential providers are only interested in spot placements



- Providers only interested in spot placements
- Providers with a neutral stance
- Providers not only interested in spot placements

A majority of residential providers are open to block contracts



- Providers not interested in block contracts
- Providers with a neutral stance
- Providers interested in block contracts

## 5.2 Example 2: Commissioners and providers working differently together to pilot new services

[Lancashire County Council and five private sector agencies](#) are piloting a project to offer specialist fostering placements to prepare children with complex needs for mainstream fostering. Key aspects of this project are:

- Focus on children with more complex needs for whom a suitable fostering placement was not available when needed and who were therefore placed unnecessarily into residential settings.
- Eight out of twelve successful re-placements are estimated to have saved £750,000



- Working with a small sub-set of providers selected by Lancashire is on the basis of “working together differently” rather than on complex social impact bond or outcomes-based contracts. Regular meetings with the providers involved and encouragement of mutual professional challenge is a strong feature of this pilot. A relationship-based approach driven by working together around children's individual needs and developing the commercial terms alongside the arrangements agreed is a more child-centred approach.
- There are indications that this may become the basis for a more formal block contract in future. Provider feedback is that proper planning and collaborative working between provider and authority and increased certainty helps to accelerate robust matching and successful transition and helps providers to predict demand.

### 5.3 Example 3: Another commissioning partnership - to reduce inefficiency

**The Commissioning Alliance** (CA) is the ex-West London Alliance and provides [a range of tools and services for local authority commissioning](#). CA is working with fifteen member authorities but makes access available for any authority to join. Key aspects of this work are:

- Recognition that the amount of procurement going out on behalf of individual or groups of local authorities to individual providers generates complexity and cost in the market that ultimately comes back to the local authority.
- A collaborative or even national approach that all authorities and all providers can use gets rid of duplication and inefficiency, even in spot markets.
- Use of e-tools facilitates placement finding but also collection of intelligence to inform policy makers and aid development of more strategic approaches to commissioning.
- Collaboration between members also allows development of more efficient shared resources when addressing emerging trends (e.g. how to deal with unregulated care accreditation).

## 6 Conclusions

Evidence from before the Coronavirus crisis indicated a need to re-examine how children's services markets are commissioned. The additional impact of Covid-19 will further stress councils. The task to re-examine how children's services provide services and engage with markets is now more urgent than ever. A fundamental redesign has the potential to share greater efficiencies across the sector.

The twin forecasts of further increases in demand allied to funding constraints should be seen as the catalyst for these changes. There is experience and evidence available as to how this challenge can be addressed.



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