



Certificate of Credit in Commissioning & Purchasing for Public Care

Module 3: Session 1

Welcome back.....



‘Tuning in’

In chat:

- ☐ **Share any example of good commissioning practice you’ve been able to apply since we last met, or since the programme started**

Working online – hints/tips



Everyone enters on mute. Mostly stay on mute so we are not all talking at once



Use the chat to ask questions and make comments. This will be a dynamic learning experience



Turn on your video camera, please!
Unless you have a shaky connection! In that case, switch off your video



You will be going into breakout rooms, be prepared to be in rooms with 6 - 8 people



Raise your hand or click the hands up symbol if you want to speak in discussions

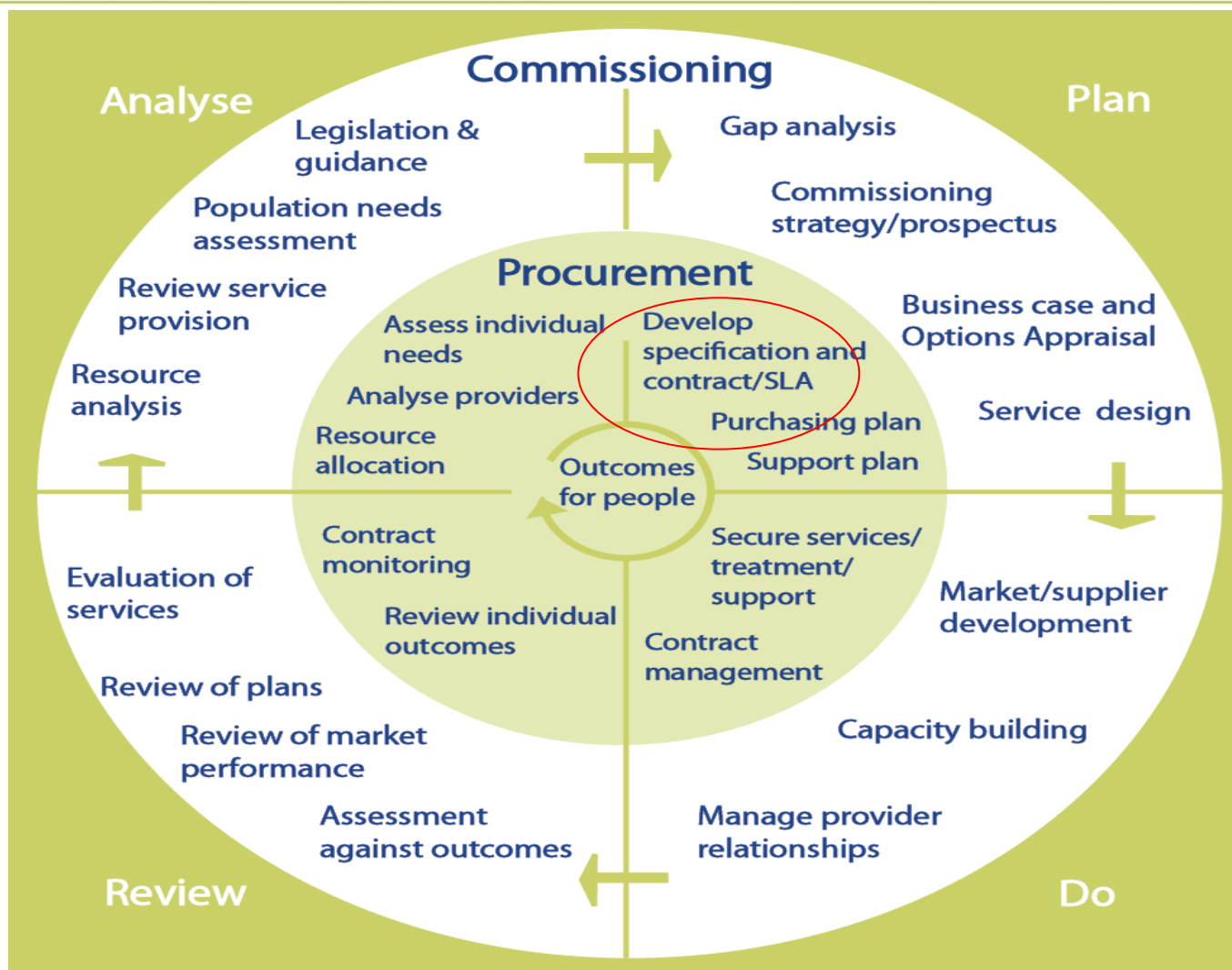


Be on time for breaks

Sessions 1 – 8 will cover

- The national and local agenda
- What is commissioning and how well are we doing it?
- Needs and resource analysis
- Planning and options appraisal
- Accreditation – overview
- Market shaping
- Commissioning for outcomes
- *Service Specifications* - ✓
- *Procurement* - ✓
- Monitoring and review
- Contract management
- Person centred approach to commissioning
- Delivering change
- Commissioning skills

Service Specifications – what does good look like?



A specification is....

A document describing a buyer's needs, which enables providers to propose an appropriate, costed solution to meet those needs.

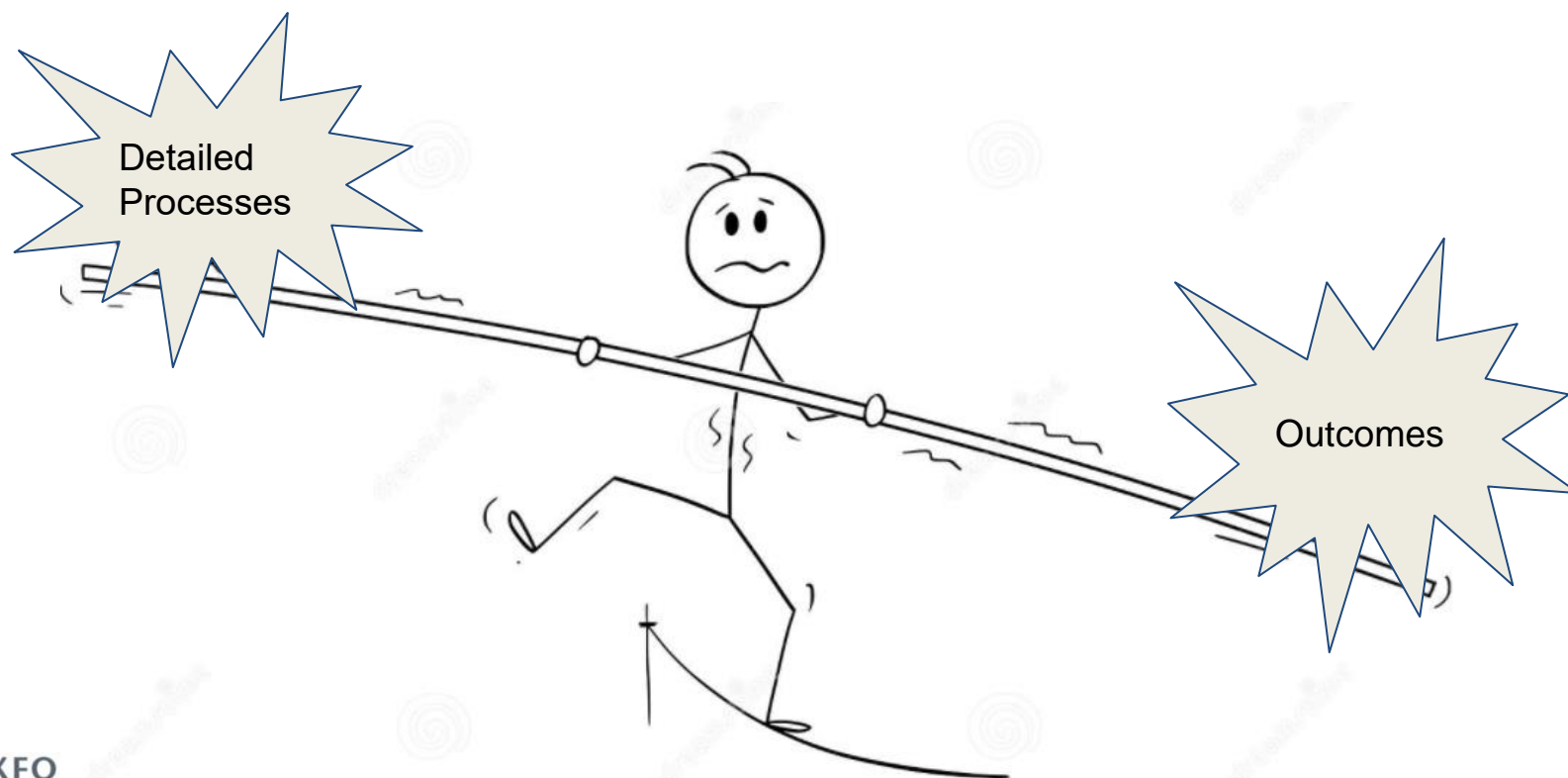
A Service Level Agreement (or SLA defines what services a service provider will provide and the required level or standard for those services.



Key functions of a specification

- To describe the nature and scope of the service to be bought.
- To define the people for whom that service should be provided.
- To set the outcomes that are required.
- To set the value base within which the service should be provided.
- To describe the monitoring arrangements to determine whether or not all the requirements are being met.

Tightrope; outcomes vs detailed processes?



Spectrum of specifications



Develop a model specification

- In three groups and drawing on your experience within the group, agree a single outline model service specification by way of key headings.

Developing a model service specification

- Breakout Room 1:

Matthew H/Gessica/Shirley/ Adolphus/Shivani/Sarah

- Breakout Room 2:

Julie/Eve/Caroline/Sonam/Vasantha/Gary

- Breakout Room 3:

Merlin/Carol/Julia O/Matthew W/Julia L/Joe

Developing a specification

- Who should be involved in the team and who should take the lead in writing the specification?
- How are values to be agreed and defined?
- What outcomes be defined and written down?
- How else is quality to be specified?
- How are the outputs to be specified?
- How much detail will be written about the processes?
- Where does the service fit in the care and support pathway?
- How will we ensure that changes can be made over time to reflect national and local policy priorities?
- How are inputs to be specified e.g. numbers and qualifications of staff?
- How will it be measured and monitored?

Good practice takeaways....

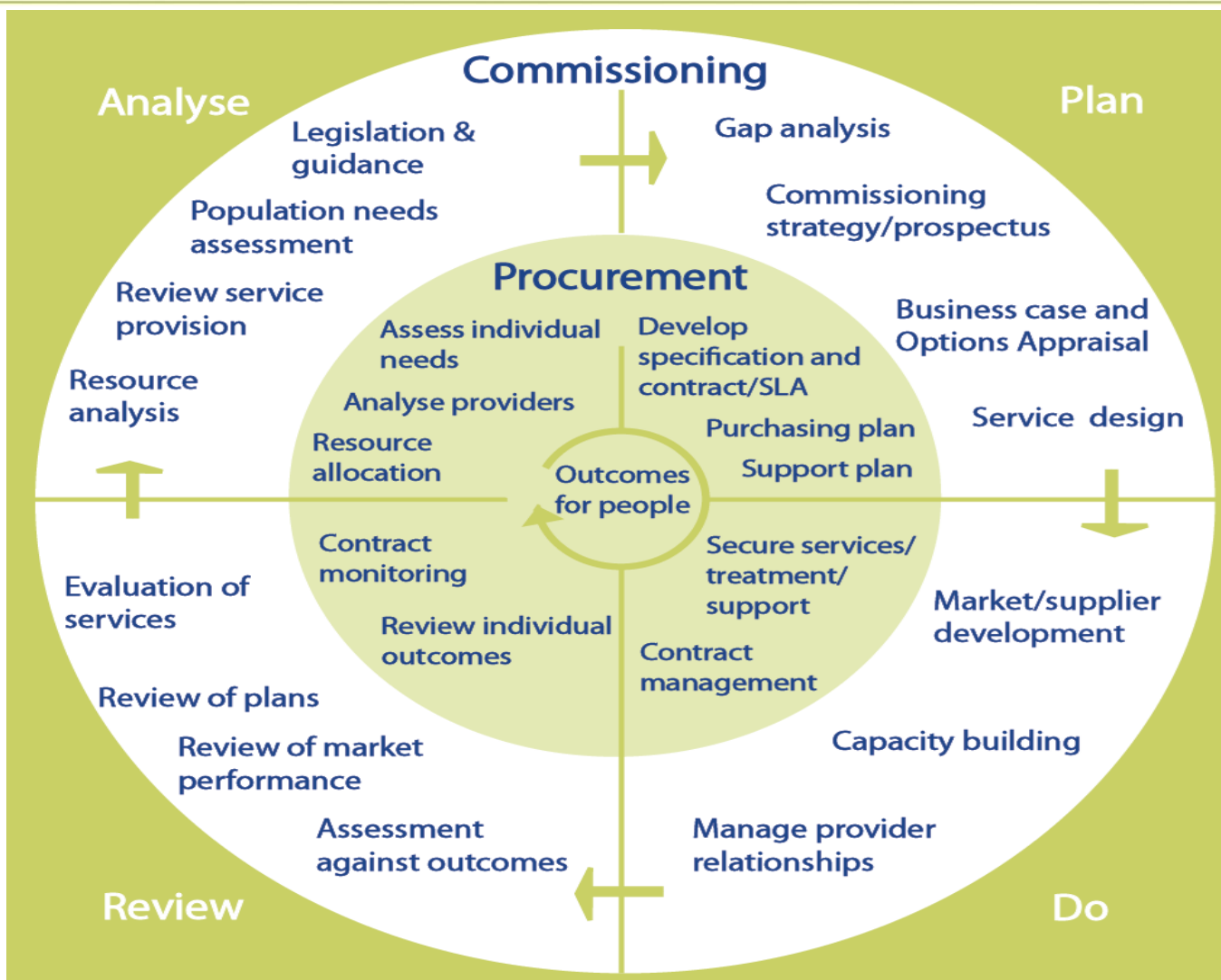


Commissioning
Colleague

- Take a shared approach to risk and equity of benefits.
- Outline the channels of communication.
- Set clear targets and say how the success of the service will be measured.
- Specify the monitoring arrangements, which are proportionate.
- Build in flexibility and ability to change.
- Have sensible, do-able timescales.
- Use plain language.



Procurement Pre and post Brexit



Procurement and contracting are...

Procurement is the process of acquiring goods, works or services from (usually) external providers/suppliers and managing these through to the end of contract.

Contracting is the process of negotiating and agreeing the terms of a contract for services, and on-going management of the contract including payment and monitoring.



The legal procurement framework



Since then

The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 signed into law on 19 November 2020. Ensures that the UK procurement regulations align with the transitional provisions on public procurement as set out in the ratified withdrawal agreement



Some key points

- The procurement thresholds remain the same as they were before the end of the transition period given that these thresholds are set out under the WTO's Agreement on Government Procurement.
- Below-threshold procurements no longer need to comply with "general EU Treaty principles" irrespective of whether these contracts would be of cross-border interest to suppliers in an EU member state. The only exception relates to Northern Ireland.



Procurement – what next?

‘After a decade and more of austerity, the basic efficiencies available through tendered competition have already been secured. That particular well is empty.

If essential public services are to be maintained or improved, we’re going to have to look at doing things another way’

(‘The Art of the Possible in Public Procurement’ - Frank Villeneuve-Smith & Julian Blake)

Relationship between commissioning and procurement

- **Most of the opportunities to ensure innovation and change are only available at the commissioning stage – the stage where you make strategic choices around what you are trying to achieve and the outcomes you’re trying to secure.**
- **It is vital that the commissioning process has begun a long time before any advertisement and that commissioning has directly informed the procurement process itself.**

Getting the balance right.....

‘Commissioners tell us that procurement has, through excessive caution and lack of imagination, too often become the tail wagging the commissioning dog – in an unholy alliance with equally cautious legal advice.

Process has taken over purpose. We believe that the primary focus on purpose needs to be restored to commissioning’

(‘The Art of the Possible in Public Procurement’ - Frank Villeneuve-Smith & Julian Blake)

What can help?

The Public Contracts Regulations 2015 can help with this restoration. They enable commissioners to shape a procurement process that can actually deliver on strategy – reconnecting the procurement task with commissioning e.g.:

- **Explicitly allow for market consultation with suppliers, service users and other stakeholders prior to tender – not just on the specification but on the process as well**
- **Provide a much wider choice of process so procurement can deliver on strategy i.e. the development of entirely bespoke processes (subject to principles) so that Commissioners can be confident of procuring something which really meets communities' needs**

What commissioners need to do.....

(10 attributes/pitfalls – ‘handouts’)

- Focus first on the purpose and then implement a process to deliver that purpose, documenting your reasoning at each stage
- Articulate clearly what you are trying to achieve, establishing the objectives of the commissioning exercise
- Select a process to deliver specifically on that objective
- Check that there is consistency between the specification, the tender requirements, the evaluation criteria and the contract
- Check that your whole process complies in spirit and in fact with the Principles – have I ensured transparency? Have I ensured equal treatment? and so on
- Ensure any social value elements are objectively relevant to the subject matter of the contract.



Five procurement procedures

Contracting authority is not obliged to follow one of the 5 procurement processes for the LTR

1. **Open tendering:** all those interested may respond to the advertisement by submitting a tender for the contract.

1. **Restricted tendering:** a selection is made of those who respond to the advertisement and only they are invited to submit a tender for the contract.

‘Choice’ of procurement procedures

Allow a degree
of negotiation
with suppliers

3. Competitive dialogue: a selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender.

3. Competitive procedure with negotiation: a selection is made of those who respond to the advertisement and only they are invited to submit an initial tender for the contract. The contracting authority may then open negotiations with the tenderers to seek improved offers.

3. Innovation Partnership: selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing ‘product’ on the market. The contracting authority is allowed to award partnerships to more than one supplier.

Public Services (Social Value) Act 2012

“The contracting authority must consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and; how, in conducting the process of procurement, it might act with a view to securing that improvement”.

The Act applies to contracts over the procurement threshold – but the Revised Best Value Statutory Guidance 2015 *“recommends that authorities consider social value for other contracts ... where it is relevant to the subject matter of the contract and deemed to be beneficial to do so”*.

Social and environmental aspects

The new Regulations contain improved rules on social and environmental aspects, making it clear that:

- **Social aspects can now also be taken into account in certain circumstances (in addition to environmental aspects which have previously been allowed);**
- **Contracting authorities can require certification/labels or other equivalent evidence of social/environmental characteristics;**

The full life-cycle costing can be taken into account when awarding contracts.

Award stage

- Evaluate tenders on an equal footing, based on criteria and relative weighting that was stated in advance.
- The award of contracts is based on the most economically advantageous tender (MEAT), looking at the best price-quality ratio
- Can use full life cycle costing
- Prioritise key local concerns and be innovative about information requested from providers and/or the evidence used.
- Feedback is given to unsuccessful tenderers.
- Take advice if post tender negotiation needed.

Abnormally low tenders

“Contracting authorities shall require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, supplies or services.”

Public Contract Regulations 2015 (69:1)

- **The tender may only be rejected where the evidence supplied does not satisfactorily account for the low level of price or costs proposed.**
- **The tender shall be rejected if it is established that the tender is abnormally low because it does not comply with applicable obligations (eg minimum wage).**

Exercise

- You are about to tender for a service for your target population :
 - What are the key criteria (3 - 4) you would use to judge the competence of potential providers?
 - How would you rank the criteria in order of importance?
 - How would you make that judgement i.e. what information would you ask for or what would you want to see?



Target population groups

- **Breakout Room 1: SEND**

Eve, Julie, Vasantha, Shivani, Matt H, Matt W, Julia O, Gary

- **Breakout Room 2: Early Years**

Carol, Caroline, Shirley, Joe, Gessica, Sonam

- **Breakout Room 3: LAC/Leaving Care**

Adolphus, Julia L, Merlin, Sarah

More information

- **Government Outcomes Lab** <https://golab.bsg.ox.ac.uk/>
- **Crown Commercial Service: Guidance on the light touch regime**
- **Crown Commercial Service: Reform of the EU procurement rules – public sector**
- **Cabinet Office: Public procurement policy notes**
- **Social Value Hub** <http://www.socialvaluehub.org.uk/>
- **LGA: Encouraging innovation in local government procurement**
- **Procurement Guide for Commissioners of NHS-funded Services**
- **The National Procurement Strategy for Local Government in England**
- **Cabinet Office: Transforming Public Procurement: CP 353: December 20**





Taught Sessions: dates in your diaries/calendars

- **Module 3: 5th October, 9.30 – 1.00**
- **Module 4: 18th & 20th October, 9.30 – 1.00**

‘Homework’

If you can.....find a few minutes to think about your monitoring/review arrangements in Surrey:

- **What templates and/or guidance do you follow to ensure a consistent approach is taken to how you monitor/review for good quality outcomes within existing contracts?**

Your reflections on today





Contact us

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