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Certificate of Credit in Commissioning & Purchasing for Public Care

Module 4 - Session 7:

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Welcome back……

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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

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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
- Monitoring and review
- *Procurement & Contract Management - √*
- *Person centred approach to commissioning - √*
- *Commissioning – a change activity - √*
- Commissioning skills

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Procurement & Contract Management

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The legal procurement framework

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EU principles

- EU principles still apply:
  - Equality of treatment
  - Non discrimination
  - Transparency
  - Proportionality

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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)

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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.**

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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)

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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**

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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.

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Public Services (Social Value) Act 2012

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

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"*.**

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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.

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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).**

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Exercise

- You are about to tender for a service for your target population :
  - What are the key criteria that you would use to judge the technical 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?

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More information

- The Art of the Possible in Public Procurement
- 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

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Contract Management

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Why should commissioners know about contract management?

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A contract is….

A legal agreement between a purchaser and provider which establishes the mutual expectations of both parties.

A grant is in essence a ‘gift’ although it may be accompanied by certain conditions.

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Contract management is…

- Ensuring the right people are in place to carry out the contract management activities
- Setting up administration systems
- Managing performance to ensure that the service is provided in line with the contract, including improving supplier performance and capability
- Ensuring payments are made to the supplier in line with the contract and that appropriate incentive mechanisms are in place
- Understanding and managing contractual and supplier risk
- Handling of changes to the contract

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Getting good results from your contracts

- Good results depend on:
  - Good contract administration
  - Good provider relationship management
  - Strong contracts and specification
  - Contract management is an integral part of the procurement cycle

Top 10 Attributes & Top 10 Pitfalls:

Any examples of what you're doing to get the most/best out of contracts?

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More information

- The Art of the Possible in Public Procurement
- 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

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Person-centred commissioning and co-production

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When can we involve people in commissioning?

Identify and assess what people want and need

Decide priorities and develop plans

Feedback on services, involvement in governance

Design services and contracting processes

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The person at the centre?

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Reasons for being person-centred?

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What is co-production?

"Co-production is not just a word, it is not just a concept, it is a meeting of minds coming together to find shared solutions.

"In practice , co-production involves people who use services being consulted, included and working together from the start to the end of any project that affects them.

"When co-production works best, people who use services and carers are valued by organisations as equal partners, can share power and have influence over decisions made."

TLAP National Co-production Advisory Group

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What is co-production?

		Who Designs		
		Professionals design services	**People & professionals together**	**People design services**
Who delivers	**Professionals deliver services**	Traditional service model	Co-designed services	
	Professionals & people together	Co-delivered services	**Co-produced services**	
	People deliver services	People trained to deliver services		Self-organised community provision

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Source: New Economics Foundation

Co-production: a change in the commissioning approach

- Change in the relationship with individuals, communities and groups
- Individuals, communities, groups, people who use services to be considered experts in their own circumstances
- Commissioners to support them in making decisions and having control over their lives
- Commissioners not FIXERS of problems but FACILITATORS who work with people to find solutions!

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Key tasks for commissioners to deliver a person-centred approach…

- Commission more effective early intervention and prevention services
- Financial flexibility
- New ways of supporting and engaging providers and other stakeholders
- Empowering and supporting citizens to shape the market for themselves
- Ensuring that accessible information is readily available
- Support front-line staff to be champions of a person centred approach
- Anything else?

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Involving citizens in commissioning

- Commissioners' task is to manage an effective balance of activities. The form of engagement should follow its function
- Design the activities to meet your aims
- Draw in people with the right skills to help you deliver - consider external facilitation
- Involving others means sharing power

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How do I decide?

- What is the objective?
- Who are the stakeholders?
- What stage of the process?
- What resources?

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Types of activity - should I engage, consult, or what?

Communication
- Providing information

Consultation
- Ideas, suggestions, feedback

Engagement
- Securing agreement

Co-production
- Working together

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Exercise: Engaging people in commissioning

Think about target populations and consider:

- **What examples of activities or methods of involvement have you already used or considered?**
- **At what points in the commissioning cycle?**
- **What approach(es) might you introduce or improve to ensure the person's voice and experiences are included in your commissioning activity?**

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More information

- NHS England (2017) Patient and public participation in commissioning: statutory guidance for CCGs
- RCPCH (2017) Involving children and young people in specialised Commissioning
- LGA (2017) New Conversations: guide to engagement
- Scottish Health Council (2014) Participation Toolkit
- New Economics Foundation (2014) Commissioning for outcomes and co-production
- Nesta (2012) People Powered Health Coproduction Catalogue
- Cabinet Office (2016) Consultation principles
- HM Government (2008) Code of Practice on Consultation
- IPC (2019) Literature Review: Involvement of children and young people in commissioning https://ipc.brookes.ac.uk/publications/pdf/Literature_Review_TUSLA_Involving_CYP_in_Commissioning.pdf

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Driving improvement and innovation in care

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Commissioning – a change activity

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A balance of activities

Evidence-based analysis	Consensus building
Market analysis, including cost and quality	Ensure decision makers are involved at the crucial stages
Demand forecasting of needs	Involve stakeholders early
National guidance, research and local priorities	Plan the process well

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Why change services?

- redesign service
  - Quality
  - Demand
  - Law
  - Money
  - Political
  - Provider

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Options for change

- Decommission
- Remodel service
- Renegotiate or end contract
- Maintain contract
- Develop new service

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Needs versus quality

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Decommissioning

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What is de-commissioning?

- **"De-commissioning is the process of planning and managing the elimination or reduction in services, or investment in services in line with commissioning objectives."**

  Local Government Association

- **"Decommissioning is stopping provision of a service or a significant part of a service in order to bring about an improvement to existing service provision."**

  National Audit Office

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Cuts driven vs 'intelligent' decommissioning; commissioners...

Comply with a decision that may have already been taken by others and produces a tactical solution that seeks savings by ending a service	Considers all options to meet the needs of stakeholders, innovating, & testing options as appropriate to deliver a sustainable solution
Carries out review alone and not jointly with other stakeholders	Builds a shared vision about outcomes for the community
Focuses on the level of resources used and activity generated to understand potential savings	Focuses on outcomes to understand the impact of different options on residents and the wider market
Informs providers and customers of what has and will happen	Engages stakeholders in designing services and stopping others
Meets the immediate priorities but risks reputational damage and poor value for money longer term	Drives strategic development in an open and transparent way
Carries out the decommissioning process in a much shorter time	A longer time period, allowing for any unexpected delays or complications

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Libraries case study

- What were the key factors that made this a successful example of change?
- Are there any lessons to be learned from this case study for your organisation/service?

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Creative decommissioning - NESTA

Principles of decommissioning

- Transparency and fairness of process, including clear governance arrangements
- Welfare of patients/service users and staff
- Ensure overall value for money
- Ensure stakeholder engagement
- Manage risk to ensure a smooth transition
- Sound communication

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The decommissioning cycle

- Patients/service user and citizens
  - Analyse
  - Plan
  - Do
  - Review

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Decommissioning around the cycle: some examples

- Analyse: Identify any statutory requirements
- Plan: A clear communication and engagement plan
- Do: Consult with the service provider and service users
- Review: Are there any lessons we can learn for the future?

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Transition plan

Area	Comments
Service standards	Agreed service standards to be met as the service goes through transition, to protect patients/service users
Timescale	Clarity about the timescale you be working to, and what flexibility there is within this
Information sharing	Agreements about sharing and if necessary transferring information. Early discussion needed to minimise disruption for patients/service users
Review of process	Regular meetings should be scheduled with the service provider during the decommissioning process
Staffing	Arrangements for staff involvement and/or redeployment as required, including the need for TUPE
Media and communications	How media and communications to all stakeholders are to be managed
Contractual arrangements	Any contractual issues to be resolved

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Dates in your diaries/calendars

- **Module 4: Session 8: 23rd April, 9.30 – 1.00**

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‘Homework’ – for next time

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‘Homework’

If you can……..find a few minutes to reflect on:

- **Your strengths as a commissioner plus your ongoing areas for development**

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Your reflections on today

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