# FINDING COMMON PURPOSE

## Developing strategic commissioning relationships to support people with learning disabilities

This paper is based on a workshop convened under the auspices of ADASS' Learning Disability Policy Network and the Care Provider Alliance. It was designed to focus on the barriers to more productive strategic commissioning relationships, how to overcome those barriers and who might take action to improve the situation.

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November 2013

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adult social services

The Care Provider ALLIANCE

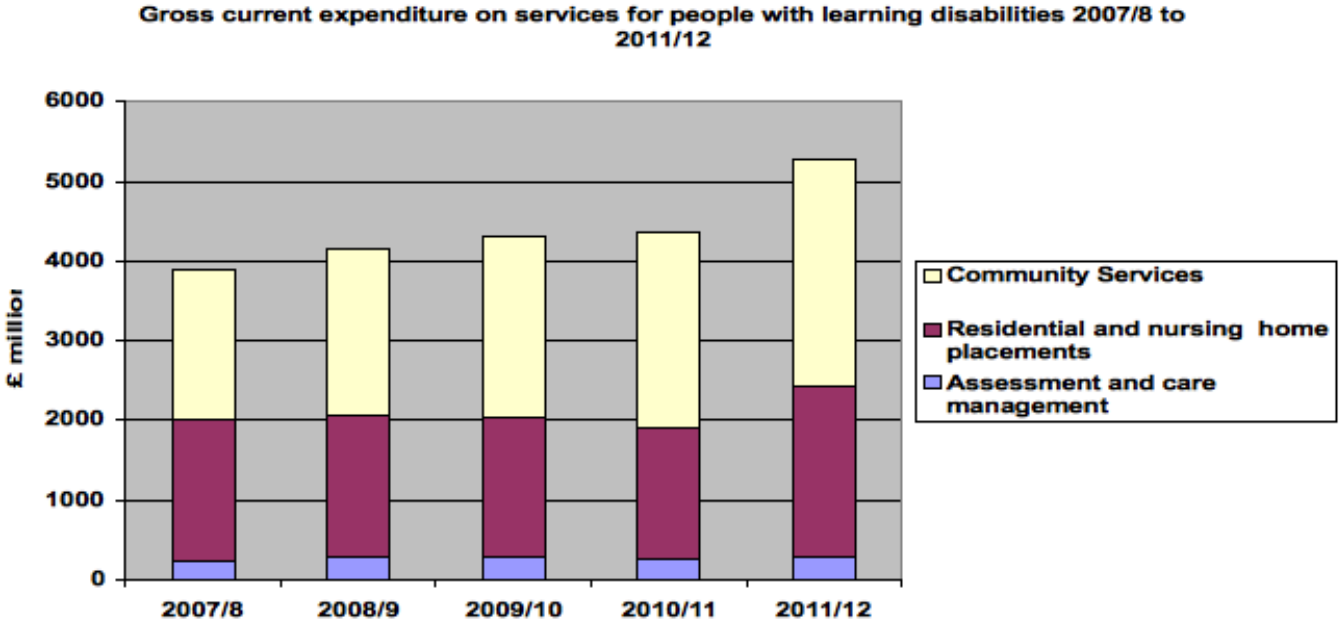
# INTRODUCTION

1 This paper is based on a workshop convened in October 2013 under the auspices of ADASS' Learning Disability Policy Network[1] and the Care Provider Alliance[2]. It was designed to focus on the barriers to more productive strategic commissioning relationships, how to overcome those barriers and who might take action to improve the situation.

2 The workshop was attended by a senior group of local authority commissioners and provider chief executives. As the issues differ so much between services for older people (with growing numbers of self-funders and a highly competitive market in some places) and those for people with learning disabilities (generally reliant on state-funded care and support over long periods), the workshop focussed on the latter, with an emphasis on finding practical ways forward.

3 The context for the debate was set by a recent report[3] showing that, despite councils facing budget reductions of some 28% overall since 2010, with another 10% to come in 2015/16, up to 2011/12 services for younger adults with learning disabilities had been largely protected by councils (Figure One). The highly variable impact of spending cuts on councils makes generalisations almost meaningless but nevertheless it is the case that services for people with learning disabilities have not yet been - or are only now - faced by the sort of pressures already encountered by older people's services.

*Figure One*




1 ADASS – Association of Directors of Adult Social Services: http://www.adass.org.uk/

2 Care Provider Alliance: http://www.careproviders.org.uk/ Members of The English Community Care Association (ECCA); Association for Real Change (ARC); and the Voluntary Organisations Disability Group (VODG), represented the CPA at the workshop

3 "A Problem Shared" – making best use of resources in adult social care. London. March 2013 http://www.thinklocalactpersonal.org.uk/Latest/Resource/?cid=9444

4 This does not mean there is cause for complacency. Rather, it suggests there may still be time to devise and adopt an approach to commissioning which safeguards the best of current approaches and avoids the short-term, adversarial relationships which can harm valuable services – and the people who depend on them. This paper suggests ways of doing so, aware of the urgent need to put some of these ideas into practice.

5 Participants were also aware of a history of Government attempts, since at least 2001, to codify and encourage good commissioning practices. The most recent, the 2012 Care and Support White Paper, sought to promote good local commissioning relationships, using the concept of the Market Position Statement as a key building block:

> "A Market Position Statement sets out a local authority's ambitions for working with care providers to encourage the development of a diverse range of care options… This work will build on the dialogue that has started between the Association of Directors of Adult Social Services and care providers around fee levels and commissioning practices (such as the restrictive use of 'time and task' contracting). It will also take account of the wider national reforms to public procurement that urge those purchasing care and support to seek value for money over the long-term, consider the sustainability of supply chains, build capability and support small and medium providers."

6 In addition, the National Market Development Forum of the "Think Local, Act Personal" Partnership has published a protocol on developing better local market relations. "Stronger Partnerships for Better Outcomes" is a set of principles and good behaviours which are intended to enhance effective ways of working between people and family carers, service providers and local authority commissioners.

## WHAT WOULD SUCCESS LOOK LIKE?

7 So there is no shortage of national publications and guidance exhorting local commissioners and providers to develop stronger and more mature commissioning. An individual story summed up what could be achieved:

## A win-win - Joe's story – MacIntyre and Oxfordshire County Council

Joe (not his real name) has Autistic Spectrum Condition and Severe Learning Disability. At one stage he was being restrained up to 15 times a day by up to 4 staff. He only ate crisps – some 15 packets daily. He was a significant risk to himself and his family.

Joe's package cost £248,000 a year with 3:1 support in the community and 2:1 at home.

A person-centred assessment of all his needs resulted in:

- A multi-disciplinary and skilled support team, carefully matched to Joe's needs.
- Joe now lives in his own house with two friends, visiting family regularly.
- He eats healthily and has an active life, with no self-injurious behaviour.

8 Systematising the ingredients which makes Joe's story so encouraging would be a key success factor. Others include:

- Using the opportunities offered by personalisation to make compatible the delivery of both savings and better outcomes;
- Recognising from the earliest stages that providers and commissioners were engaged in a joint endeavour and needed time to understand each other and to plan new services. Building strong relationships of trust was key here;
- Supporting carers and building family resilience to reduce or delay the need for formal services;
- Producing consistent approaches to commissioning which still allowed scope for personalised and creative solutions;
- Working together to unlock providers' passion to deliver good outcomes for people

9 Given these success factors, debate turned to the barriers which currently frustrated their achievement and how to make progress.

# THE BARRIERS TO PROGRESS AND SOME IDEAS FOR OVERCOMING THEM

## a. Procurement

10 The classic and seemingly all-pervasive source of friction between commissioners and providers. Interestingly, neither party was happy with current procurement arrangements. Providers complained about bureaucracy and cost (a recent exercise had cost £15K each to get onto a framework agreement – some £450K of "dead" money if 30 providers sought to do so, with 10-15 succeeding and fewer still winning tenders). Commissioners defended the use of framework agreements as a means of rationalising the plethora of potential providers but worried that their loss of dedicated procurement capacity had led to a shift to "corporatised procurement" with a loss of specialist social care expertise. There was also concern that the annualised accounting systems in local government worked against long-term investment and market development strategies (although others thought this was sometimes used as an excuse and could be worked round).

11 Ideas for improving procurement practice included:

- Using tendering exercises, contracts and payments to incentivise providers to come up with innovative service models. Tenders could focus more on outcomes required rather than the minutiae of inputs and input costs;
- Reducing the cost of securing places on framework agreements;
- Fee brokers and consultants seeking fee reductions could damage relationships through a narrow approach to costs/fees. Could they be better (or less) used?

## b. Leadership and capacity

12 Providers felt that Directors of Adult Services should give effective, top-level, leadership to the procurement process and find ways of fostering better market relationships. Such leaders could also engage with health partners, especially the new Clinical

Commissioning Groups, who had a critical role to play in funding and commissioning services for many people with learning disabilities, as was clear from the Winterbourne View implementation process. Some providers were not interested in strategic debates and would seek to offer services whether or not the council had signalled a need, eg in its Market Position Statement. Such players were not a good reason to abandon the search for more mature conversations between providers and commissioners.

13 For their part, commissioners worried about their own lack of commissioning capacity and specialised knowledge. This was unlikely to be affordable in the short and medium-term, so new ways of tapping into the knowledge of providers without compromising the legal tendering process were required, for example by holding discussions with providers (and people using services) even before the PQQ[1] stage. Other ideas for building greater leadership and capacity in the system included:

- enhancing the role of citizens as commissioners in their own right (using Personal Budgets);
- supporting providers as to how to engage effectively with citizens

## c. Mutual understanding

14 The turbulence imposed by recent budget reductions on councils' staffing, management structures and capacity had resulted, in providers' eyes, in a significant loss of corporate memory and knowledge and had increased inconsistency in commissioning and contracting. This was part of the reason for central procurement directorates' increase in power and influence. It was slow and difficult to rebuild trust between providers and commissioners in such circumstances and this reduced the possibilities of mature adult-to-adult conversations about commissioning intentions. On the other hand, providers did not always recognise the financial pressures faced by councils and the critical role played by elected councillors who were bound to listen carefully to the concerns of family carers and so often tended to be risk-averse.

15 Lack of mutual understanding was sometimes even more marked between providers and NHS commissioners, notably Clinical Commissioning Groups. It will be important to seek to overcome this lack of common understanding, not least because many people with learning disabilities have complex health and care needs, an issue at the heart of the integration agenda. The demographic pressures created by growing numbers of people with learning disabilities who were now living into their 50s, 60s and beyond was likely to make integrated health and care commissioning of growing importance and unlikely to be addressed by current service models.

16 *Some suggestions for building stronger mutual trust and understanding were:*

- more use of secondments between commissioners and providers, possibly for short periods to avoid jeopardising people's "real" job;
- establishing action learning networks to discuss issues and seek solutions, in a non-threatening context;
- finding ways in which commissioners and providers could attend training sessions together;

4 Pre-Qualification Questionnaires are designed to control tendering costs by indicating potential providers in advance of formal bidding for contracts. They involve an assessment of the suitability of the organisation's service, technical, financial and other capabilities and enable commissioners to shortlist interested parties which meet the required minimum qualification criteria.

- using Learning Disability Partnership Boards to facilitate dialogue between users and family carers, commissioners, providers and regulators.

## d. Sharing risks

17 This was an important and contentious area. Providers felt that one common response by commissioners to financial pressures was arbitrarily to seek reductions in contract values and/or to require contract terms which placed much more of the risk of delivering quality care (or at least care which was compliant with the regulatory framework) onto providers. As a result some providers accepted low-priced contracts or reductions in contract values in order to maintain short-term cash flow and keep services going but at the cost of creating potentially unsustainable services in the longer-term.

18 It was generally accepted that providers were primarily responsible for the quality of care and support services: it therefore followed that a sizeable proportion of risk would inevitably lie with them. However, if commissioners were defensive about risks and so sought to load them disproportionately onto providers, this threatened not only service quality but also the ongoing relationship between commissioner and provider, which was likely to lead to unproductive arguments and possibly even costly legal actions and attempts to bring judicial review cases.

19 *Suggestions for more proportionate and fairer sharing of risks included:*

- the use of more effective dialogue (under the Chatham House rule of non-attribution to encourage frankness) to focus on the outcomes sought rather than process;
- developing local Market Position Statements which describe the roles of providers and commissioners in explicit terms which involve a fair sharing of risk;
- commissioners and providers could sign up to the nationally-agreed protocol for using the Care Funding Calculator.[5]
- Councils and the Care Quality Commission could adopt proposals for reducing duplication of inspections, etc, which are due to be set out by the Department of Health and CQC, working with ADASS, in response to a recent review of enforcement in the adult social care sector[6].

## e. The politics of change

20 The key influence of elected local politicians tended to be consistently underplayed by providers but was vital for council commissioners. Those facing election often displayed what one participant called "cultural timidity", which in turn frequently reflected understandable family anxieties about change and new patterns of care. It was therefore an important bilateral role for commissioners and providers together to build trust in politicians, families, people receiving support and others.

5 This protocol, agreed at national level by ADASS, the Local Government Association, National Care Forum, VODG and others, sets out a framework designed to govern the behaviours of providers and commissioners when negotiating care fees.

6 Findings from the Focus on Enforcement Review of the Adult Care Sector

## Ways of delivering such "confidence building measures" included:

- events showcasing good practice;
- organising visits to services for local politicians;
- developing robust Market Position Statements which take account of a wide range of views and clearly set out the council's forward commissioning intentions.

## f. Evidence and good practice

21 Several participants bemoaned the lack of robust, rigorous, research findings as to what worked (and what didn't). On the other hand, there was a growing body of evidence about the effectiveness and cost-effectiveness of personalisation and Personal Budgets, not least as they were key to effecting a real power shift to individuals. Difficult issues needing to be addressed here included the political will to embark on "real" personalisation, avoiding wrapping a complex bureaucracy around it and stimulating a vibrant provider sector so that individuals had real choices as to how to spend their budget.

22 *Ideas for moving forward included:*

- researching "what works" in good commissioning practice;
- considering the development of a "Strategic Market Position Statement" which could draw together at a national level the latest facts and figures about the number, type and demographic trends affecting people with learning disabilities, the current and possible future mix of care and support services, the likely funding context, etc. It could include examples of current good practice with accompanying financial and outcome information. Such a strategic MPS would then need to be supplemented by more detailed, local, Statements.
- learning the lessons coming out of the Winterbourne View (WV) implementation programme and seeking to apply them to learning disability services more widely. This could build on the "Driving Up Quality" Code and the TLAP "Making It Real" markers of progress with personalisation.[7] A set of core guidance, in part learning from the lessons of WV implementation, could assist both health and social care commissioners.

7 Driving Up Quality in Learning Disability Services" is a code for both providers and commissioners and commits them to a set of principles designed to avoid another Winterbourne View and to improve the quality of care and support for people with learning disabilities. "Making It Real" sets out what people using services and carers expect to see and experience if services are truly personalised. They are a set of "progress markers" - written by people and families - to help organisations check progress towards transforming adult social care.

# SOME SPECIFIC ACTIONS TO MAKE PROGRESS

23 The workshop was designed both to foster a collaborative conversation and to come up with some practical ways in which the participants and others could make real progress with this agenda. Key ideas which emerged – and the organisations which had the authority and remit to take them forward - were:

| *Responsible body or group* | *Issue to consider* |
|---|---|
| **ADASS** – in collaboration with the **CPA** | Whether a Strategic Market Position Statement would set a useful context for local commissioning discussions and how it might look. |
| **ADASS, CPA**, with the **Winterbourne View Implementation Programme** | To develop a set of core good practice guidance for health and care commissioners, partly derived from WV implementation. |
| **ADASS** with the **Winterbourne View Implementation Programme** – in collaboration with the **CPA** | To develop a joint proposal for facilitated discussions around redesigning services for endorsement (and possible funding) by the Winterbourne View Programme Board. This work could serve as an exemplar for new commissioning arrangements more widely. |
| **CPA** and **ADASS** | To send this report to interested parties, including the ADASS LD Policy Network; NHS England; DH; Think Local Act Personal (TLAP) and Care Provider Alliance members. To contribute to and influence the statutory commissioning guidance to be produced by TLAP for DH. |
| **CPA** and **ADASS** | To facilitate systematic and structured dialogue with the National Skills Academy (NSA), to consider whether all Regions could establish market shaping networks for LD services and to learn from any which exist. To consider establishing local Action Learning Sets. |
| **CPA** and **ADASS** | To discuss with the NSA and Skills for Care whether their programmes could do more in assisting those managing and working in LD services to handle new roles in redesigned services. |
| **CPA** and **ADASS** | To invite the Social Care Institute for Excellence (SCIE) to consider bringing together and reissuing its existing examples of good practice in LD services and/or building a new, accessible, library of such examples. |
| **CPA** and **ADASS** | To propose to TLAP using its Co-Production Advisory Group, to capture and promote ways of securing the user voice in commissioning and service redesign discussions, as well as helping users to engage effectively with providers. |
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The Association of Directors of Adult Social Services (ADASS) represents directors and senior managers of adult social services departments in English local authorities. Directors (DASSs) have statutory responsibilities for the social care of older people, adults with disabilities and adults with mental health needs.

In many authorities ADASS members will also share a number of responsibilities for the provision and/or commissioning of housing, leisure, libraries, culture, and community safety on behalf of their councils. More than a third of DASSs are also the statutory director of children's services for their authority.

**www.adass.org.uk**

The Care Provider ALLIANCE

The Care Provider Alliance (CPA) brings together all the main representative bodies for independent adult social care providers. CPA members include:

- Association for Real Change
- Associated Retirement Community Operators
- Ceretas
- English Community Care Association
- Mental Health Providers Forum
- National Care Association
- National Care Forum
- Registered Nursing Home Association
- Shared Lives Plus
- United Kingdom Homecare Association
- Voluntary Organisations Disability Group

**www.careproviders.org.uk**

The workshop described in this paper was independently facilitated by David Walden CBE, Independent Public Policy Consultant.

For further information about any aspect of this paper contact: info@vodg.org.uk