

1 Guide to Care Provider Business

For Providers

You may find this section helpful to use as the basis of a discussion with local authorities, either individually or within a provider forum.

For Local Authorities

You will find it helpful to see if you can answer the prompt questions in the tables in sections 1.1, 1.2 and 1.3 below. Use the case studies as inspiration for how you could improve practice. You may also wish to use these questions to structure conversations with providers.

Providers need to have confidence that local authorities understand their business. There is a genuine fear amongst some providers that some local authorities are focusing on lowering prices at the expense of providing safe, sustainable services. All too often, local authority and provider conversations do not transcend the nuts and bolts of pricing, safeguarding, inspection results, terms and conditions and 'sunk costs'³ such as investment in refurbishment. An improved understanding by local authorities of the operating environment of care and support providers may go some way to achieving this, freeing up provider energy to engage in more productive conversations.

There are three key areas local authorities need to check they understand:

- How much do care services cost?
- How do we encourage market sustainability?
- How do we ensure a trained, quality workforce?

Each area is explored below, together with some prompt questions and case studies. Local authorities should not necessarily be seeking to 'monitor', but should understand the necessary costs and importance of these areas in facilitating and paying for sustainable, quality care. How can local authorities gain the confidence to answer these questions without creating a bureaucracy? These questions could be part of quality assurance measures, contract monitoring, provider self-assessment, looking at a rolling sample each year, or even the facilitation of peer challenge.

³ A sunk cost is a cost that has already been incurred and cannot be recovered Collins English Dictionary.

1.1 How much do care services cost?

“In bidding processes, companies are making offers to supply adult social care at a rate that should be mathematically impossible if they are paying the minimum wage, making National Insurance contributions, putting in to a pension scheme and providing training. No local authority should make that deal: even just on the pragmatic basis that it will be their own residents who are on the receiving end of that low wage, their own housing benefit department making up the carer’s rent shortfall, their own health and children’s services that come under strain when poverty is rife. And these care workers are storing up poverty for their own retirement.”

Social Enterprise UK (2012) *The Shadow State*

Standard 5.3 *“Providers share information about costs, profit margins and the terms and conditions of staff and local authorities share information about cost assumptions and the rationale for contract decisions”*. University of Birmingham/ADASS (2014) [Commissioning for Better Outcomes – A Route Map](#)⁴

The importance of service provision that is affordable to the provider as well as the service user and local authority cannot be overestimated⁵. Local authorities need to agree with providers how to judge a fair price for care. Tools, including the United Kingdom Home Care Association (UKHCA) Minimum Price for Home Care tool and the Paying for Care Calculator (see the [Annotated Bibliography](#)), provide a basis for understanding business costs and assessing viability.

Local authorities must ensure that the contract terms and price they negotiate allows the delivery of an effective, feasible and appropriate service: supported by appropriate evidence. Where councils undertake costing exercises and choose to deviate from the assumptions described in the tools available, particularly where this decreases the prices paid, they should have a clear rationale, supported by engagement with their local providers and robust evidence from their local employment market.

⁴ <http://www.adass.org.uk/policy-documents-commissioning-for-better-outcomes/>

⁵ Department of Health (2014) *Care and Support Statutory Guidance*. Paragraph 4.31: *“When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support, and allow for the service provider ability to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow retention of staff commensurate with delivering services to the agreed quality, and encourage innovation and improvement. Local authorities should have regard to guidance on minimum fee levels necessary to provide this assurance, taking account of the local economic environment.”*

Wages make up the majority of providers' costs, but other core costs of the business will fluctuate beyond the control of the provider such as fuel costs, utilities and food. Over time, these have the potential to have significant impact on overheads too. Local authorities are invited to answer the questions in the table below and reflect on how well you understand your providers' costs.

Can local authorities answer these questions?	Yes	No	Don't know
Have we explored with SME providers how to judge a fair price for care?			
How do we know that all providers we contract with pay staff at least the minimum wage?			
Do we have a process in place to uplift fees if there are changes to the minimum or living wage?			
Do our fees and conditions encourage innovation and continuous improvement?			



Myth: Private providers are only interested in making a profit for personal gain. Any additional cash will go on that rather than improved services or conditions for staff.

Reality: The majority of providers, regardless of sector, will use profit to reinvest in the business. Private providers will need to use some of their profits to pay back their financial backers, charities will invest surplus to meet their charitable aims. Banks and other lenders take a risk when lending and need a minimum level of return if they are to take that risk. Any type of organisation (private or voluntary) may have to declare significant profit in order to stay cash neutral. A provider that does not invest in its business or fails to reward its staff adequately is unlikely to survive. Quality will fall through the lack of investment and staff will leave because of uncompetitive wage rates. Not generating a return on investment, or taking all the profit for personal gain, are both unsustainable business strategies.

1.2 How do we encourage market sustainability?

Standard 10.5 “Commissioners have clear plans in place to prevent and manage provider failure, as appropriate”.

University of Birmingham/ADASS (2014). [Commissioning for Better Outcomes – A Route Map](#)⁶

Under the Care Act local authorities have a temporary duty to meet the needs of service users when a provider is unable to continue to carry on the activity in question because of business failure. The local authority has to make sure people’s needs are met if there is a business failure in its area which results in services ceasing, recognising that many business failures present no threat to continuity of care, with the business sold on, and do not interrupt people’s care. The statutory guidance states that local authorities have a duty to understand the vulnerabilities in the market and ensure a ‘sufficiency of supply’.

Cordis Bright have developed guidance⁷ and a toolkit to support local authorities to assess the overall sustainability of their care markets and identify where there is a need to monitor individual providers’ financial sustainability, including how to do this while minimising burdens on both providers and the local authority. Central to this approach is a good understanding of the totality of local provision, including small providers, both those that local authorities contract with directly and those that they don’t. By building up information about providers and forging good relationships with smaller providers in your area, local authorities will be in a better place to use the methodology set out by Cordis Bright.

LGiU are producing guidance to support local authorities to develop contingency plans to ensure they would be able to ensure there is continuity of care in the event that a provider’s business fails. A draft of this guidance is expected in summer 2015.

A business can fail for a range of reasons. For example, local authority actions, such as placement embargoes following a change in inspection result, might inadvertently bring about provider failure. Whilst closure will be appropriate in some circumstances, unplanned closure can create a shortfall in provision causing prices to rise and an increase in placements further afield. Local authorities should have a process for working with providers to enable improvement when there are problems, and be mindful of any unintended consequences of their actions.

⁶ <http://www.adass.org.uk/policy-documents-commissioning-for-better-outcome>

⁷ The guidance is available here: <http://www.cordisbright.co.uk/care-act-guidance>

The way that the Care Quality Commission (CQC) regulates services in adult social care changed in October 2014, including awarding ratings on a four-point scale. CQC is developing a portal which will allow the two-way sharing of information between local authorities and CQC. Local authorities own information about providers as well as CQC data will be an important source of intelligence about the sustainability of the local market. Local authorities are invited to answer the questions in the table below and reflect on how well you can identify and foster sustainable providers.

Can local authorities answer these questions?	Yes	No	Don't know
Do we have a clear idea of the characteristics of a well-run care business?			
Do providers we contract with have robust business plans that are updated regularly and informed by our market position statement?			
Have we identified sub-markets (e.g. in particular areas, or provision for particular care needs) where the market could not withstand the failure of the largest provider(s)?			
Do we have an overview of what is collected from providers by the CQC, Clinical Commissioning Groups (CCGs), and the local authority? In the interests of efficiency, are we seeking to minimise duplication of effort by providers in completing this information for funders and inspectors?			

Case Study

Central Bedfordshire providers were concerned that the council's performance monitoring approach might duplicate CQC assessments, adding to the providers' pressures. Working through their main provider forum, the Council was able to establish how their expectations could enable them to evidence how they meet CQC's required standards, rather than duplicating work. This included supporting providers in identifying areas for improvement. One example is work just concluding on the shared development of policies and procedures for medication management.

1.3 How do we ensure a trained, quality workforce?

“A local authority must have regard to...the importance of fostering a workforce whose members are able to ensure the delivery of high quality services (because, for example, they have relevant skills and appropriate working conditions).”

Care Act 2014, 5.2.f

Standard 12.2 *“Service contracts clearly specify the critical importance of a sufficient, skilled and motivated workforce and commissioners are confident and can evidence that fees and contracts allow providers to deliver staff terms and conditions that meet statutory obligations and reflect good practice including payment of at least the National Minimum Wage.”*

University of Birmingham/ADASS (2014). [Commissioning for Better Outcomes – A Route Map](#)⁸

As well as staff making up the majority of providers' costs, their training and retention is a key factor in ensuring a high-quality, personalised care and support market. The impact on a smaller provider if one or two staff need to go for training is proportionately far greater than for a larger provider. Therefore, flexibility of approach will be particularly important for smaller providers. In addition, staff paid at minimum wage are considered more likely to switch employers for marginal improvements in working conditions, or to leave for less stressful minimum wage jobs. Employing at minimum wage in the local care and support market can be a false economy when recruitment, retention, training and the added value of experience are taken into account. Local authorities are invited to answer the questions in the table below and reflect on how well you support a trained, quality local workforce.

⁸ <http://www.adass.org.uk/policy-documents-commissioning-for-better-outcomes/>

1.3 How do we ensure a trained, quality workforce?

Can local authorities answer these questions?	Yes	No	Don't know
Do we have strategic oversight of the training provision available locally for care and support staff?			
Do we work with our providers to ensure there is suitable education and training provision across the care economy?			
Is there a budget for effective training and development of staff; both for the cost of training and the cost of staff time?			
Do local care and support wages encourage high staff retention, helping to ensure that services can be delivered to the agreed quality?			

Case Study

Suffolk Brokerage⁹ are funded by Suffolk County Council, Skills for Care and other partners to ensure strategic oversight and delivery of Health and Social Care training across Suffolk. They:

- Seek and secure funding for all health and social care sector staff
- Ensure funding is offered equitably to all adult social care employers in the county to assist in the purchase of a variety of Health and Social Care training
- Offer a choice of quality assured and monitored training provision
- Provide information, advice and guidance, including enabling and supporting employers to meet relevant legislation

⁹ <http://suffolkbrokerage.co.uk>