TRANSFORMING THE MARKET FOR SOCIAL CARE

A model for market facilitation

2

One in a series of seven papers on market facilitation

institute of public care

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A model for market facilitation 2

PREAMBLE

Government activity since the publication of the 2006 White Paper *Our health, our care, our say* has increasingly focused on the demand side of the social care transformation equation. It has done this by encouraging better estimates of demand through the new local joint strategic needs assessments (JSNAs) and through promoting a shift in who acts as the purchaser of care via direct payments and personal budgets.

However, recognising that accurate estimates of demand are important and giving people greater control over the services they receive can be both empowering and ethically sound, it also needs to be recognised that if social care is to be transformed then the supply side of care also has to change. Some believe this will occur through users flexing their new purchasing muscles, others argue that this has not been true in the past and in a market where increasingly demand is chasing static or diminishing supply, combined with diminished government funding, then this is unlikely to be true in the future.

Consequently, the importance of local authorities influencing supply is increasingly recognised. The government circular *Transforming Adult Social Care* lays down a requirement that authorities develop a clear approach towards the social care market.

"Councils will also be expected to have started, either locally or in their regions, to develop a market development and stimulation strategy, either individually or on a wider regional basis with others, with actions identified to deliver the necessary changes."

This set of papers lays out an approach designed to underpin the market development and stimulation strategy sought by the transformation circular, and in the context that the future role of the local authority towards the market should be one of 'facilitation'. The seven papers outline the following.

- The background to market facilitation.
- A model of market facilitation.
- The views of local authority commissioners and providers towards the market and current policy issues.
- An exploration of whether the focus of the relationship between commissioners and providers within the market should be on outcomes or outputs.
- An improved approach to contracting where the local authority still acts as a purchaser.
- A set of principles by which individuals may contract for services.
- An annotated bibliography detailing some of the key documents relevant to the development of the social care market.

Each of the papers is designed to be free-standing but contribute overall to a new approach to facilitating the social care market.

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The views expressed in the papers are entirely attributable to the Institute of Public Care. They are not necessarily the views of the Care Services Improvement Partnership or the Department of Health or those of the local authorities that participated in the activities that have led to their publication.

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***"Facilitate:** To make easy, to lessen the labour of, to remove obstacles, to release, to set free."*

Oxford English Dictionary

1. INTRODUCTION

In recent years much has been made of the need for commissioners of health and social care services to influence and steer the market. While the 2005 Green Paper *Independence Well Being and Choice*[1] talks of 'market management', the more recent circular *Transforming Social Care*[2] subtly rephrases the role of the local authority towards the market as being one of 'shaping and building'. As the preamble to this paper describes, local authorities are now required to develop a market stimulation and development strategy[3].

This shift in emphasis from control and management to development, stimulation or facilitation has been driven by two key factors. First, that of the government's encouragement towards the personalisation of public services.

"Traditionally councils have purchased services on behalf of their communities, tendering out contracts for providers to bid to deliver services or spot purchasing services already available in the local market. The transformation of social care demands that councils ensure the supply of the types of services and support that people need and want to buy, without the same degree of comfort from contractual arrangements."[4]

This approach underlines a shift in purchasing power away from the block contract of the local authority to the individual either controlling or having a greater say in the purchase process. In these circumstances the power to command or 'manage' the market by the local authority is only likely to diminish.

Secondly, there is a recognition that the market has, and is, continuing to change. With the growth in wealth of older people in particular, through increased housing equity and work-based pensions, a greater number are likely to purchase care from their own funds. Suppliers are consequently not as dependent on local authority contracts and not as amenable to being 'managed', if indeed they ever were.

However, simply writing another commissioning strategy is unlikely to be enough to produce the kinds of change in relationships between service users, providers and commissioners that the government seeks and the social care market needs. This paper outlines a structured approach to the market, described by the term 'facilitation', together with a set of activities that authorities need to perform if the provider side of social care is to be transformed. In developing the model the desire is to produce a framework that has meaning for senior mangers charged with tasks and duties towards the market. Such positions are becoming increasingly common as the following advertisement illustrates.

Fig 1. Commissioning manager advertisement

"Joint Commissioning Manager Older People required to map service provision, identify needs and gaps in the service area, assess resource implications, specify and monitor the quality & cost-effectiveness of service provision and ensure effective joint commissioning; to stimulate the market for the provision of services for older people".

January 2008 Community Care

1 | Independence, well being and choice, Department of Health 2005, Cmnd 6499
2 | Transforming Social Care (LAC) (DH) 2008: 1 Department of Health 2008
3 | Transforming Social Care (LAC) (DH) 2009: 1, para 16 Department of Health 2009
4 | Commissioning for Personalisation: A Framework for Local Authority Commissioners Department of Health 2008

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So where does market facilitation sit and what actually is it? Clearly it is something less than the role originally suggested by the phrase 'market management' even if such a term is not contradictory, ie is it still a market if it can be managed by someone or somebody? However, it also suggests something more than just market development. The advertisement above offers pointers towards some of the ingredients that may be required.

- The need to 'map service provision' requires identifying the volume and type of provision available, ie, quantitative and how good that provision is at meetings needs, ie qualitative.
- A 'gap analysis' requires not only identifying what is missing but also being able to define what range of provision is needed. Some of this may come from the identification of needs through the joint strategic needs assessment (JSNA), but it also calls for a knowledge of what is possible – the building of a description of the range and nature of good practice.
- The third ingredient centres on the ability to identify 'cost effectiveness' and the measurement of 'quality'. We not only need to know what a good service looks like but whether it also represents good value.
- Finally, the task of 'stimulating the market' suggests a proactive approach to the market, a relationship with providers that goes well beyond anodyne tendering processes.

Within the role of transforming services there will also be an expectation that various sub-agendas can be delivered, such as reducing the demand for residential care, stimulating greater community support that allows people to remain in their own homes, and developing the capacity to target services in order to prevent poorer care and health outcomes.

Bringing these differing agendas together with the factors identified in the *Commissioning framework for health and well-being*, World Class Commissioning and Department for Communities and Local Government approaches suggests the following definition of market facilitation.

Based on a good understanding of need and demand, market facilitation is the process by which commissioners ensure there is sufficient appropriate provision available at the right price to meet needs and deliver effective outcomes both now and in the future.

Within the above definition a number of phrases are likely to be crucial in the interpretation of the market facilitation role.

- **Evidence based understanding of need and demand:** Market facilitation does not stand as an activity in its own right. If that was the case it would simply be seeking to influence the market without purpose. The need to influence the market must be based on a sound understanding of need and demand.
- **Sufficient appropriate provision:** This suggests two requirements. Firstly, to make sure there is sufficient volume of service for everyone who has assessed needs regardless of who is purchasing (not just people who are funded all or in part by the local authority) and secondly that commissioners have a good perspective on what works and what people want.
- **Right price:** There are likely to be a number of interpretations of what constitutes the right price. Right from the perspective of the purchaser, whether that is the individual or the commissioning body, but also right from the perspective of the provider. For example, if a contract price is pitched too low then the long-term effect may be to limit supply and/or drive some providers out of business. 'Right' has to mean not just lowest but profitable, sustainable and capable of delivering the quality and outcomes required.
- **Deliver effective outcomes:** This implies starting to move the focus of purchasing away from outputs, in terms of beds, days and hours, and onto purchasing by the outcomes that are desired from the intervention.
- **Now and in the future:** The need to use an understanding of current demand to act as a baseline for future provision.

In order to deliver the definition of market facilitation a local authority is likely to have to undertake a range of differing activities. For example, it will need to start from an overall picture of the market and the demand it needs to meet. The various disparate views of the market will then need to be developed into a strategic approach to

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involvement. Finally, it will be necessary to use that knowledge to influence and sometimes intervene in the direction the market takes. Overall, these activities can be refined into a three stage model; market intelligence, market structuring and market intervention.

- Market intelligence – The development of a common and shared perspective of supply and demand (including any gaps in provision), leading to an evidenced, published, market position statement for a given market.
- Market structuring – This covers the activities of commissioners designed to give any market shape and structure, where commissioner and provider behaviour is visible and the outcomes they are trying to achieve agreed, or at least accepted.
- Market intervention – The interventions commissioners make in order to deliver the kind of market believed to be necessary for any given community.

In an ideal world these activities would be sequential. Commissioners first of all learn all they need to know about the market and the factors that can influence it. This then gets built into a structured approach which covers everything from regulation to long-term planning with providers, concluding with the local authority intervening when necessary in order to achieve the market shape that it feels is required by its assessment of need. In reality, the three functions will inevitably run in tandem, possibly even independently of each other.

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Understanding demand
The Office of Government Commerce (OGC) guide to procurement identifies some of the understanding commissioners need in order to get a grasp of the markets within which they operate.

"The starting point for an approach to the marketplace is a good understanding of the relevant market. The public sector organisation should ensure that it has an understanding of factors such as:
- *the structure of the relevant market: number and size of suppliers*
- *key players in the marketplace*
- *the current market offerings of products and services*
- *the drivers for the market: what business opportunities are regarded as most desirable*
- *the scope for innovation and for expanding the market*
- *current capacity and capability in the marketplace, and the demands currently being placed on the relevant supply markets*
- *the barriers to entry in the market."*[5]

For social care the starting point has to be a good understanding of demand. This should logically flow from the development of the JSNA and its analysis of need and supply. Department of Health JSNA guidance[6] does not discuss in any detail how commissioners might be helped to move from an understanding of demographic and general health trends to the specifics of what might actually need to be commissioned in order to meet that need. The *Commissioning framework for health and well-being* suggests that providers could be helpful in this process and is clear that providers should be involved in both contributing to the JSNA as well as being recipients of its conclusions.

"Commissioners are more likely to secure cost-effective high quality provision if they…. involve current and potential providers (including the voluntary and community sector) appropriately in needs assessment (at both population and individual level) and in how to address need. Joint strategic needs assessments should be made available to the provider community, and the PCT prospectus and local area agreement used to clearly signal commissioners' strategic intentions and priorities."[7]

Guidence on *Key Activities in Commissioning Social Care*[8] offers more detailed analysis of what may be required. In terms of need, it suggests establishing a population baseline and a provisional view of the impact this might have on current service provision. It further proposes that this could be supplemented by population surveys, obtaining a better understanding of how demand is currently met and identifying key factors that might drive up demand for acute or high intensity services.

Therefore, understanding need has to go beyond the overview of demand and into forecasts and predictions of how overall changes in a population may influence future demand for services. The picture obtained should be presented to, discussed with, and reviewed by, the market if sufficient supply of services is to be put in place. If providers are to develop new or alternate approaches to provision they will need a view of how commissioners think populations might translate into future demand for services and how that demand could differ in size, shape and complexity from current service use.

The key element here is not just what data can be assembled but what it is the market needs to know, and what elements of risk are contained in such estimates. A good analysis of future demand should have a value. It may be worth discussing sharing the costs of such an exercise between commissioners and providers. Certainly if the desire is to influence current and future market direction there is little point in producing a view of demand without discussing with providers what it is they might want to know and what such an analysis can deliver for them.

5 | Introduction to Procurement, Chapter 6 Market creation OGC http://www.ogc.gov.uk/introduction_to_procurement_market_creation.asp
6 | Guidance on Joint Strategic Needs Assessment Department of Health 2007
7 | Commissioning framework for health and well-being Department of Health 2007
8 | Key Activities in Commissioning Social Care: Lessons from the Care Services Improvement Partnership Commissioning Exemplar Project Care Services Improvement Partnership 2007

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Fig 2. Understanding the market beyond the JSNA

1. What are the broad population trends and which sectors of that population will grow the fastest, eg over 85s, older people with a learning disability.
2. Are there geographical distinctions in the way populations are distributed, eg particular areas with greater older people populations?
3. What is the relationship between whole populations and those who currently receive a social care service (discriminated between self-funders and those receiving state assisted care)? Is it possible to distinguish between populations that are known, those that the social care function should know and those that are likely to remain unknown?
4. Are there changes in demand that providers are experiencing and are these quantifiable, eg changes in the frailty and age of people being admitted to care homes?
5. Are there market sectors that present particular problems in meeting need, eg dementia, strokes, people with profound and multiple disabilities?
6. How might past trends over time match the future trajectory of demand?
7. What surveys of the general public and of service users have been conducted? Can these be brought together with material from inspection reports and national research into clear indications about future trends and desires?
8. What sensitivity is there to price and what relationship do people establish between price and service quality? Are there sectors of the market where people would be prepared to pay more for enhanced provision?

Being able to answer many of the above questions calls for a rather different and much more detailed approach than it is anticipated many JSNAs are likely to deliver. In particular, the characteristics of the approach suggested above are:

- all-inclusive, ie not just about social care users and not just for social care commissioners
- proactive in seeking out populations that the social care function might need to know if they are to deliver a preventative agenda and populations that have particular problems that might be amenable to change
- sensitive to the market information that providers might need to know and/or might hold.

Understanding supply

In terms of the market intelligence required to understand supply there are three questions to be answered: where is the market now, where would we like the market to be and what will it take to deliver the change?

Where is the market now?

Some aspects of this activity are simple but nonetheless still time-consuming. At a basic level there should be an assessment across the local authority or PCT area of what services are provided, in what volume, by whom, where and at what cost.

Overlaid onto this basic map of supply needs to be added a more detailed market breakdown. Which services are financially vulnerable, which have grown and which diminished? Which services are mainly used by self-funders, which are funded through local authority service users, why and in what proportion? Which services are over-subscribed and which have vacancies?

Finally, there needs to be an assessment of quality. This may be drawn from inspections, from complaints and service user forums. It may be helped by benchmarking against national views of quality, eg from Audit Commission reports, and then testing the service against

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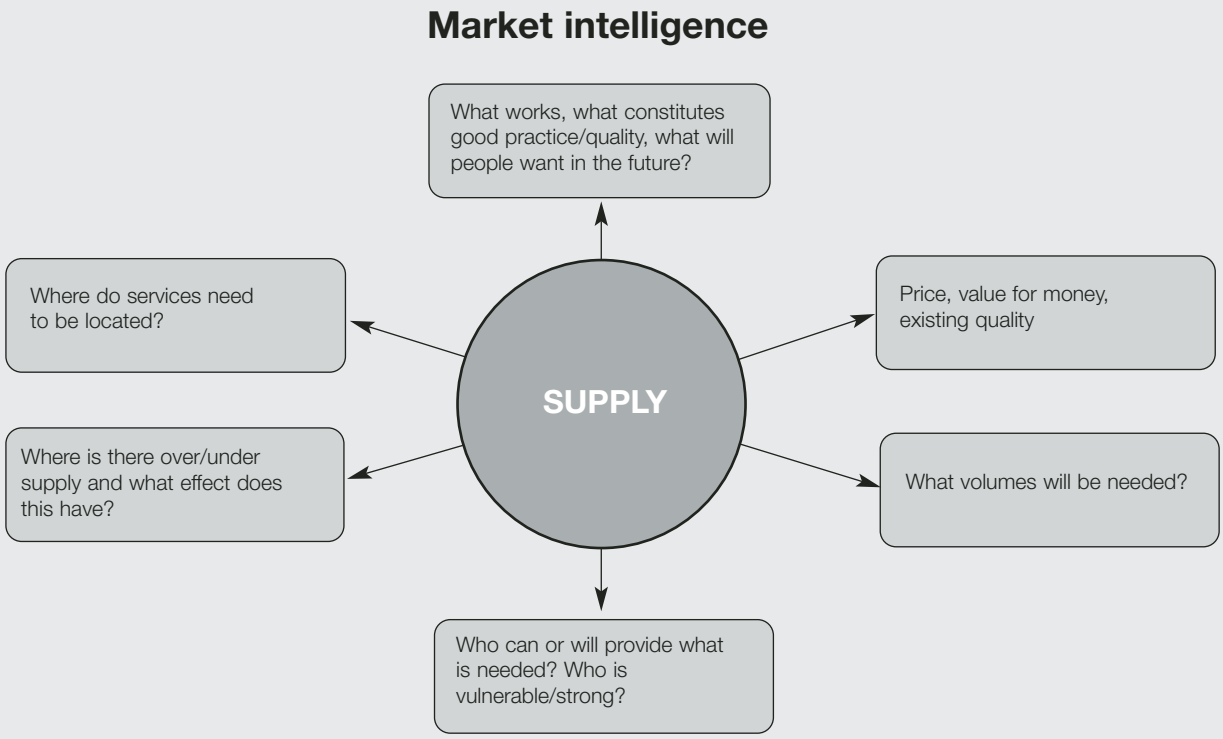
those standards. The aim from a commissioner's perspective is to get a strong picture of the overall state of provision for the geographical area served. Fig 3 below suggests an outline of how some of these issues might be initially considered by a group of commissioners.

examples from neighbouring authorities, managerial whim or government-funded initiative, eg the Partnerships for Older People Project (POPP).

Developing such a picture is clearly not down to a shortage of examples, given that the national service

Fig 3. Brainstorming the current market configuration



Where would we like the market to be?
The second test is to explore where we would like the market to be. Few local authorities seem to have a researched picture of what constitutes good practice across a whole service area. Therefore, it follows that it is hard to map what the range of provision might look like in the future or what it might cost. Most services appear to have developed in a piecemeal way, either driven by legislative compulsion, government guidance, frameworks, the Department of Health, Care Services Efficiency Delivery programme, the Audit Commission, Social Care Institute for Excellence and a host of research bodies all provide examples of evidence-based practice. What they tend to lack is a scaled-up working model of how the examples might fit together into a costed, whole service.

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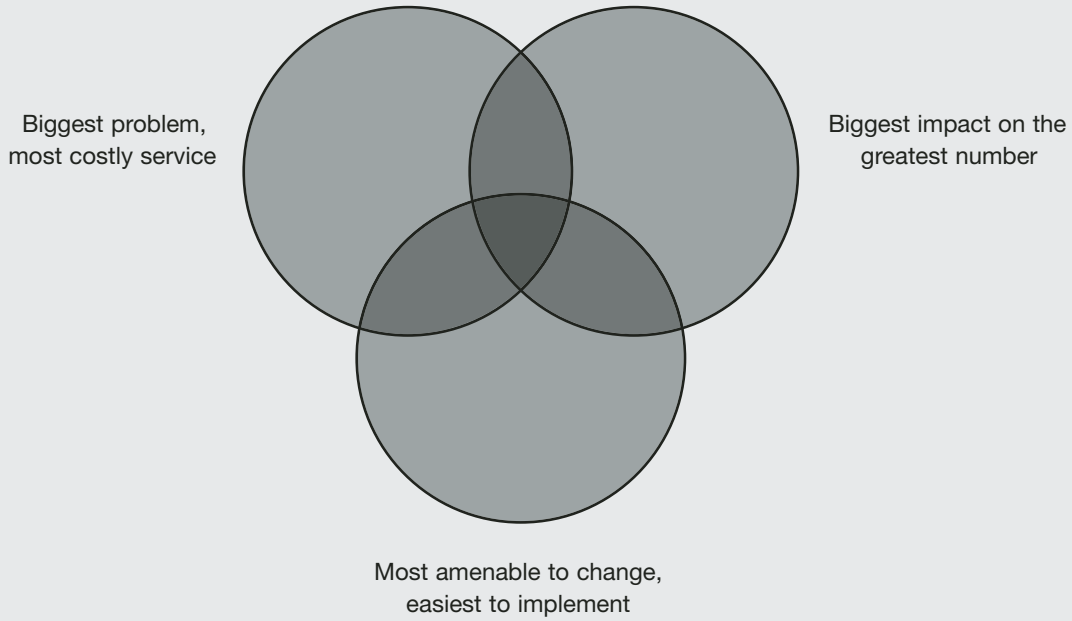
Clearly such an exercise is not easy and needs to start from categorising current and potential future interventions. Fig 4 below suggests one simple way in which commissioners might begin to think about the evidence to support the positioning of different interventions. Using the diagram, commissioners might contemplate which of the three categories interventions fall under and then begin to radiate inwards, eg some interventions may be high cost and affect a large number of people but may not be that amenable to change. This approach does not mean that single areas of change should not be contemplated but simply that it is wise to start by trying to locate what interventions may have the greatest impact on the largest number of people in an area where change is most easily achieved.

The two activities described so far allow commissioners to think through where the market is at now and how to analyse evidence in order to help shape the market in the future. The final task is to begin to define some of these options in terms of the potential benefits they can offer alongside what they might cost. This can then be compared to existing provision and costs and what might be commissioned/encouraged or decommissioned/discouraged.

Fig 4. Thinking about change and service provision



Establishing costs and benefits

While there are a variety of models for establishing costs and benefits of any activity it is suggested that what commissioners are looking for here is essentially a simple approach.

- Start by establishing the hypothesis or problem you are attempting to tackle.
- Write down on one side of a document or flip chart the things that would be costs (both capital and revenue) in

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implementing any new approach and down the other what benefits you think might accrue (costs may include the costs of decommissioning other services or the value of assets). Do not yet put any monetary values against any of the items. These are simply descriptions of likely costs and hoped for benefits.

- Having completed the descriptions of costs and benefits go through each cost and benefit identified and ascribe an approximate monetary value against each one. It is better at this stage to be realistic in terms of costs and cautious in terms of the value of benefits.
- Where costs involve capital expenditure there would need to be an estimate of over what time period would such capital costs need to be repaid.
- Even if the costs are greater than the value of the benefits it does not mean such a course of action may not be pursued because it may be estimated that there are other gains made which are greater than price but offer a low financial return. Nonetheless, even where this occurs, it probably means the proposition starts all the stronger from such scrutiny.

Fig 5. A worked example of cost/benefit thinking in relation to stroke care

- Establish hypothesis: If we gave some people increased stroke rehabilitation over a longer period of time, then this would mean a long-term diminution in health and social care costs.
- Establish current baseline: Of a sample of people coming out of hospital, what was the severity of stroke, what was the volume of rehabilitative input, what was the pattern of recovery, what was the level of service input at what cost?
- What is our best target audience: eg is it people in the most expensive provision, those that had the least severe stroke, those that research or practice suggest should make potentially the best recovery?
- Identify the new proposed activity.
- Identify existing anticipated spend on target population and additional costs of increased input over a target period.
- Identify the monetary value of hoped for benefits, eg fewer TIAs, less people coming into residential care.
- Implement and adjust.

The benefit of thinking about cost and benefits in terms of market intelligence is not only to work out the value of existing and new forms of provision but also in going to the market with a realistic assessment of what developing such provision might actually cost.

In addition to establishing factors that influence value (price against benefit) there might also be other factors that commissioners need to make sure providers are aware of in terms of planning future services. Some of these could include the following.

- What might be the local authority approach to how it will deliver its key performance indicators?
- Where the authority thinks it will be purchasing in the future, will this be on a cost and volume approach or will it be based on the outcomes to be achieved?
- Even where a shift is not made to purchasing by outcomes. does the tendering process require revision, eg to take account of personalisation and a revised approach to the relationship with providers?
- What provision will be jointly commissioned?
- How will the local authority consider innovation from providers and how might the risks associated with innovation be shared?

What will it take to deliver change?

Overall, what is being proposed here is simple. First, bring together the key elements of demand, the understanding of the market currently available and a model of what good provision should look like. From that analysis distil a set of key priorities that defines the market direction the local authority would wish providers to travel and the evidence on which that might be based. Finally, compare the benefits such change would deliver against the costs of provision as compared to existing costs and benefits. This approach automatically demands of commissioners that they have evidence of what works, what is likely to deliver the greatest benefit and what such provision might cost. Cost might be considered both in terms of starting new services and de-commissioning services that are no longer required as well as reviewing what might be the cost of not making changes.

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The end product of this activity should be a regularly updated, evidence-based, market position statement. Such a document, endorsed by elected members from the local authority and, where relevant, PCT boards, and widely discussed with providers, should set out:

- the overall market direction the local authority wishes to take
- its view and predictions of future demand, identifying key pressure points
- its picture of the current state of supply covering both strengths and weaknesses within the market
- the areas where the local authority wishes to see services develop and those areas where it is less likely to purchase or provide in the future
- identified models of practice the local authority will support, at what price
- the support the local authority will offer towards innovation and development.

Fig 6. Summary of market intelligence activities for commissioners

1. Re-appraise the JSNA in terms of what information effectively describes future demand in terms of helping to shape what the future market might look like.
2. Package the key elements of the needs analysis so that it can give a usable view of future demand across the market.
3. Understand providers' interpretation of demand – what changes do they feel they are experiencing in the marketplace?
4. Review the size, location and range of the local market(s).
5. Review the quality of services and identify what the local market pressures are.
6. Develop a view of good practice, in particular not just the shape of individual services but their overall configuration.
7. Have an effective grasp of local authority resources and trends over time.
8. Be ready and able to undertake a cost-benefit analysis of different areas of service provision.
9. Be clear about the overall focus of the market.
10. Discuss, develop and disseminate the market position statement.

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The preceding section ended with the development of a market position statement, which should signal two things clearly: Where does the commissioning body feel the market is at now and where (and why) would it like it to be in the future? Just as research has little impact without an attached implementation process, so the market position statement will have little impact unless an active role is taken in helping to move, shove, and cajole the market in the direction commissioners need it to take.

The material below is divided into two sections; interventions to reshape commissioners' own organisational approach to the market and work that commissioners might undertake with external organisations in order to help structure the shape of the market.

Internal activities

The first task is deciding how the market position statement should be used to be help structure the market. Some simple suggestions include the following.

- Do be prepared to talk about strategic direction and why commissioners have come the conclusions they have.
- Disseminate the statement widely, not only to existing providers but also to organisations that have not provided in the past but might be persuaded to do so in the future.
- Look at which forums are appropriate to discuss the statement. Big events may be a good way of getting the message across to large numbers of providers in a cost-effective way. If, however, the desire is to have discussions about the impact the approach might have on an individual organisation it is not reasonable to expect providers to reveal their business plans and strategies to competitors.
- Is there a need to segment the discussion into market sectors, eg home care, residential care, or into business groups such as the private sector and voluntary sector?

One of the common complaints in the past from providers is the difference in approach the local authority adopts towards its own provision as compared to the expectations it sets for its external providers. This has become less so as more services have been externalised but, nonetheless, it is still seen as a significant issue in some market segments such as home care.

While there will always be differentials in terms of, for example, the conditions of service that local authority staff enjoy, there are few arguments in favour of protecting an area of provision when the external market can provide a service of equal quality, which users want, at a lower price. Particularly, if changes or improvements to service provision are needed or there is a desire to move contracts from purchasing by beds or hours or days to 'outcomes to be achieved', then external providers are scarcely likely to be co-operative if they feel an in-house service is either not expected to make such changes or the market is being artificially segmented to protect an in-house service unnecessarily.

This does not mean there isn't a case for in-house provision. Where it occurs, the reason for such provision being available should be explicit and open, there should be evidence of demand and it should be based on fulfilling one or more pre-existing conditions such as the following.

- Given geographical isolation, there is no provider willing to offer a service.
- The area is either so experimental and/or mission critical that the local authority or PCT needs to provide the service.
- Commissioners wish to pilot provision before going to the market to provide a similar service.

Another frustration that providers raise is tendering in an environment where there is little indication of contract value. This may be less of an obstacle where the tender is for a long-established service where the scope for differing interpretation is limited. Where the contract is for a new type of provision, however, and where the detail is not, or cannot be, accurately specified then commissioners run the risk of tenderers being either well wide of the mark in terms of their proposals or of asking them to take on too great a risk to make tendering

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worthwhile. Obviously, this can be reduced by better specification, by open discussions with providers and by a preferred provider processes.

Nonetheless, there may still be times when the local authority or the PCT needs to accept that it has to pay a premium to cover additional risk, where it needs to enter into partnership for provision or where it needs to provide an indication of the minimum and maximum contract value. A tendering process that does not give an indication of value does not always serve commissioners and providers well and hence may be disadvantageous in the long run to service users. In many local authorities and PCTs there is an urgent need to review tendering process and to test whether they genuinely stimulate the market to be innovative.

Finally, commissioners need to identify:

- Are there barriers to market entry that arise from the local authority's own processes in terms of tendering and legal structures?
- What are the consequences of those barriers for the local market and how can they be reduced?

Encouragement is of course not only about removing barriers but is also about activities designed to stimulate the market, through business development, regeneration programmes, social enterprise schemes, etc. This may be particularly important when exploring new areas of activity, eg stimulating the third sector to take on new commitments and responsibilities or in terms of encouraging social enterprise.

External activities

The above activities are those which commissioning organisations can internally perform in order to help re-structure their approach to the market. There is also a range of activities that can help restructure the market through commissioners working with providers.

It is fairly obvious that commissioners need to know what providers are planning for the future, so that there is a reasonable chance that the services users may wish to take up are actually likely to be in place. Having said that, the impression given by commissioning organisations is that few seem to have made attempts to discuss providers' business plans or, where providers might not have the capacity to develop such plans, to offer assistance in developing them. Failure to do this might mean missing out on future market opportunities or providers over-extending their services in a way that is not sustainable.

Other papers in this series explore some of the potential impact that personalisation might have on the market. It will be vitally important to identify with providers how service users' choice can be developed and improved. This may be not only through the effects of direct payments and personal budgets, but also in areas where a choice of provider might not be available or relevant, eg to residents in care homes or where services are highly specialised or limited due to the low density of the population, such as in rural areas or among some ethnic minority communities.

It was suggested in the market intelligence section that part of the market review needs to be about identifying vulnerable providers. Vulnerability may of course arise through a range of circumstances. Over-commitment in agreeing to a contract that is not financially sustainable, changes in interest rates, changes in personnel, or too great a demand that cannot be controlled may all be circumstances that make a provider vulnerable. It is important that commissioners understand the nature of such vulnerability, do not acerbate it through harsh tendering processes and identify which organisations it may need to support and how it can best do that.

Where vulnerability occurs because the service is no longer desired by service users it may still be important that the resources in terms of people or premises or organisation are not lost to the social care sector. Therefore, having an early warning of the need to change and offering help in restructuring may be beneficial. Sometimes commissioners may be able to reduce vulnerability by assisting and encouraging organisations to merge or share contracting and tendering arrangements.

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The need for support might not come about just thorough vulnerability but also through an organisation's potential strength. Although developing a new service is particularly risky there may be very good reasons for commissioners to explore how they can encourage new enterprises. This may be accomplished through positive initiatives such as business planning support, grant aid or guaranteed contracts which will underwrite supply regardless of user choice. It may also come through exploring with potential providers the barriers to market entry of complex tendering processes, planning controls and limited land or building availability.

Some new developments may arise through diversification by existing providers. For example, a move to an outcomes-based approach may encourage home care providers to develop a wider range of services designed to help older people remain within the community. A number of registered social landlords (RSLs), recognising the increasing age of their tenants, might be encouraged to explore how they can begin to offer other services that can sustain people within the community, eg care and repair services.

Fig 7. Summary of market structuring activities

Internal activities

1. Publish the market position statement and develop a process for updating in line with the overall commissioning strategy.
2. Actively promote the model of what the range of care should look like based on good practice.
3. Be clear where and why the local authority is a provider. Diminish differences between in-house and external systems where these potentially compete in the same market.
4. Identify with other departments how well any local environment and community is configured in order to ensure that potential health and social care needs can be met.
5. Review tendering and procurement processes, evaluate their impact on provider communities and explore how improvements can be made that will help drive the market.

External activities

1. Develop an awareness of providers' long-term business plans and where future support might be needed. Identify business cycles across the third and private sectors.
2. Discuss whether support to strategic business planning is needed.
3. Work with providers to assess the impact that greater choice, via personal budgets and direct payments, might have on costs and availability of service provision.
4. Be able to work with providers on an open book accounting model to cost out the impact of new developments and innovations.
5. Where sustainable and appropriate demand for a service exists, and where the provider is vulnerable, identify how commissioners can reduce that vulnerability.
6. Identify where there are barriers to market entry where new resources are needed and identify with providers how these might be overcome.
7. Look for potential diversification among existing organisations, eg can RSLs do care and repair, can home care agencies deliver assistive technology?

5. MARKET INTERVENTION

This final section looks at those instances where the local authority may need or want to intervene to directly support particular activities and innovations within the marketplace. Such interventions may take place because commissioners feel there is a gap which is unlikely to be filled unless they directly intervene, because they want to achieve a particular end result for users of services, or because they recognise entering the market may be difficult and that small organisations need help and support if they are to grow and be successful.

As with all three sections of the market facilitation process, such actions may involve new activities and a different attitude from that in the past. Previously, many local authorities relied on tendering and pricing mechanisms as their sole means to influence the shape and function of the market.

Developing businesses
In terms of offering direct support to stimulate new initiatives, the *Commissioning framework for health and well-being* outlines a number of mechanisms by which local authorities and PCTS can encourage this activity.

"Encourage entry by new participants and growth from under-developed sources of supply, including social enterprises and the third sector. Health reform in England: update and commissioning framework *sets out a range of steps to facilitate this. These include using additional incentives to make the provision of new services more attractive to existing providers or new entrants by:*

- *paying a supplement to the tariff, only where this is necessary to secure new provision and meets the criteria set out in* Health reform in England: update and commissioning framework
- *providing guarantees within the contract*
- *reducing the capital investment required from the provider*
- *for suitable primary care providers, considering providing pump priming loans to start up a service (subject to affordability)."*

The current impression is that most social care departments of local authorities have had little contact with either national or local business enterprise schemes. Nonetheless there may be much that commissioners can do to help get new and innovative social care enterprises off the ground.

"When working well, business support can help enterprise. But many businesses say they are confused. Little co-ordination, numerous schemes and multiple providers mean that some companies, particularly time and cash-strapped SMEs, are put off seeking help. The Annual Small Business Service Survey 2005 found that over 50% of small businesses want government help, but struggle to find their way through the maze of provision."[9]

In addition to practical support, there are also a range of financial initiatives available to those wanting to start or develop care business further. Some of these schemes are contained within the Government's enterprise strategy *Enterprise Unlocking the UK's talents.*[10] Each local area also will have a Business Link scheme[11] that can help new or existing business in terms of the provision of loans, grants or information. It is important that social and health care commissioners establish relationships with such schemes, can advise on what particular help social care businesses may require, and identify the kinds of assistance that can be provided.

In exploring what support may be offered to existing business or help in order to facilitate new organisations starting up, local authorities and PCTs may want to look together at the development of social enterprises. The former Department of Trade and Industry defined social enterprise as follows.

"A social enterprise is a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners."[12]

9 | Simple Support, Better Business: Business Support in 2010, Department for Business Enterprise and Regulatory Reform 2008
10 | Enterprise Unlocking the UK's Talents Department for Business Enterprise and Regulatory Reform 2008
11 | http://www.businesslink.gov.uk/
12 | Social Enterprise, A strategy for success, DTI 2001

5. MARKET INTERVENTION

Social enterprise has had strong support within the NHS as a future model for service delivery, to the extent that existing staff have been offered a 'right' that they can request that their area of service be developed as a social enterprise scheme.

"We will also encourage and enable staff to set up social enterprises by introducing a staff 'right to request' to set up social enterprises to deliver services. PCTs will be obliged to consider such requests, and if the PCT board approves the business case, support the development of the social enterprise and award it a contract to provide services for an initial period of up to three years."[13]

One example of social enterprise in social care has been that developed in Sunderland by Sunderland Home Care Associates (SHCA)[14]. Originally set up in 1994 as a co-operative by a group of local women it initially secured a contract for 450 hours a week of personal care from the local authority. Now SHCA employs over 150 staff, has a turnover of £1.5 million and is Wearside's leading provider of home care in the independent sector.

Active support to providers

The preceding section identified how commissioners might start to shape, structure and influence the direction that the market takes. Such activities alone may not offer the diversity of supply and choice that is needed. Sometimes the support from commissioning bodies needs to be more active. For example, this may involve looking at how well the local planning system works for providers who need premises, or identifying if there is a need for supplementary planning guidance in order to discourage providers in sectors where there is already an over-supply of certain types of provision. While there may not be a history of intervention in the planning system by social care, this is far from uncommon for other departments of the local authority in terms of activities such as town centre planning and regeneration.

In the past most commissioners have tended to see planning interventions simply in terms of Section 106 agreements[15] where either the local authority is seeking to gain some additional social investment through granting planning permission or to constrain developers from making changes to a building or environment that might be considered detrimental. To a new or small social care business, however, the planning system can act as a major deterrent to investment and help in navigating planning processes from the local authority may be most welcome. It certainly suggests that at the very least the market structure plan should be discussed with planning colleagues.

Other areas of active support include the provision of training. Clearly, where commissioners want providers to adopt a particular approach or change the basis of their contracts with either the commissioning body or with individuals, then there is a need to train staff and managers to ensure that this can be successfully achieved. This may be particularly true where the desire is to change the focus of intervention and the measures of performance from outputs to outcomes. Such an approach requires much greater expertise in understanding the relationship between issues or problems and intervention and much greater flexibility in working practice. For example, in the case of home care staff it may require employing people with not only a wider range of skills and at higher cost but also with a greater ability to recognise key conditions that affect older people.

Following on from exploring vulnerability as part of the market intelligence activities there may be actions that commissioners would wish to take in order to safeguard key services. For example, if two organisations perform similar functions but both are too small to remain viable it could be helpful to broker discussions between them in order to develop shared working. If vulnerability arises from the provider having agreed contract terms that make the business unviable there may be a need to renegotiate those conditions. Obviously, commissioners need to approach the market in an even-handed way and not be seen to give preferential benefits to one supplier over another. On the other hand if a diverse market offering good quality services and choice to service users is to be created then different types of support are likely to be needed by individual providers. Even-handedness should never be used as a reason why a needed and irreplaceable service could not survive.

13 | High Quality Care For All: NHS Next Stage Review Final Report June 2008 CM 7432
14 | http://www.socialenterprise-sunderland.org.uk/startup.htm
15 | Section 106 of the Town and Country Planning Act 1990

5. MARKET INTERVENTION

Active intervention for service users
Market intervention may also of course occur in terms of interventions that directly support service users and carers to strike a better arrangement with providers and to push expectations of care.

In the past PCTs and local authorities have tended to rely on complaints or questionnaires in order to obtain the views of service users. There are a number of problems with this approach.

- Complaints and surveys tend to be passive, they rely on the user expressing a view rather than actively seeking to know how the service could be better and encouraging open criticism.
- People tend to be constrained by what they feel is possible or by what they know is available. It is hard to be creative in thinking of a new approach that does not exist, particularly in a climate where health and social care staff may regularly be telling service users how hard pressed they are.
- Many processes for testing the views of users tend to be confined to people who receive state support rather than surveys that cover self-funders, so the overall picture tends to be biased and partial.
- It is hard to complain when you may be dependent on that agency or individual for the delivery of a service that is highly personal, eg washing, bathing or helping people to the toilet.

Market influence may also be gained through good information in terms of making decisions. Increasingly we are getting used to the idea, via the internet, that before making major purchase decisions we look to see what other people have made of the product, whether that is buying a new car or holiday or computer. The care sector is one of the few areas where making a major purchase decision does not have this kind of consumer facility. Help to consumers of services can come not only through public bodies providing better information (although it needs to be configured around what people want to know rather than around the structure of local government or the PCT), but also looking to develop, possibly via a third party, consumer websites. Such a facility could offer both a good overview of what is available and what is not, and also what past and current users thought of the home care service they received or of the care home that they or a relative had contact with.

Fig 8. Summary of market intervention activities for commissioners

1. Refocus local authority business support initiatives onto the health and social care market.
2. Explore how local projects can attract capital investment and what guarantees may be needed.
3. Develop social enterprise organisations.
4. Explore where planning barriers exist and negotiate how that process can be improved for providers.
5. Offer access to training that commissioners and providers agree can improve performance.
6. Promote local care guides which emphasise a consumer perspective.
7. Help to broker consolidation of the market where there are gains to be made from small businesses becoming less vulnerable.
8. Offer purchase documentation for individual service users and carers to use.
9. Ensure standard frameworks and contracts are used that are fair to purchasers and providers.