



# Self-directed Support and procurement best practice: Key points and myth busting

# Contents

	Page		Page
<b>Background: The problem and some good news</b>	5	<b>Case Study 1</b>	13
What is Self-directed Support?	5	Briefly, describe the structure of Self-directed Support arrangements your local authority has put in place?	13
What is procurement?	5	How did you 'do things differently' from your normal 'procurement processes' to put in place your current Self-directed Support arrangements?	13
What is commissioning?	5	What are the key aspects of how you approached matters that enhance provision of Self-directed Support in your area?	13
What is a 'procured service' and what is a grant?	6		
What is the problem with Self-directed Support procurement/commissioning and how can it be solved?	6		
<b>In Brief: Procurement law and Self-directed Support</b>	8		
The Legal Framework	8	What suggestions would you have for people in other local authorities in terms of getting various parts of the local authority comfortable with adopting a new and innovative approach?	13
<b>How procurement can support Self-directed Support - myths</b>	9	Did your approach to arrangements include a concerted effort to simplify contractual arrangements?	14
Myth #1	9	Further information	14
Procurement rules apply to all aspects of Self-directed Support	9		
Myth #2	9	<b>Case Study 2</b>	15
The procurement rules apply to grants	9	Briefly, describe the structure of Self-directed Support arrangements your local authority has put in place?	15
Myth #3	9	How did you 'do things differently' from your normal 'procurement processes' to put in place your current Self-directed Support arrangements?	15
Where the procurement rules apply, the 'usual' processes need to be followed	9	What are the key aspects of how you approached matters that enhance provision of Self-directed Support in your area?	15
<b>In Brief: Key procurement law provisions which facilitate more effective procurement of Self-directed Support</b>	10	What suggestions would you have for people in other local authorities in terms of getting various parts of the local authority comfortable with adopting a new and innovative approach?	15
<b>So where does the above bring us to and what is good procurement relevant to Self-directed Support?</b>	11	Did your approach to arrangements include a concerted effort to simplify contractual arrangements?	16
'Light Touch' Frameworks / 'Minimum Process' Frameworks	11		
'Light Touch Lists' / 'Light Touch Purchasing Systems'	11		
Ability to direct award health and social care contracts under £615,278	12		

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## Background: The problem and some good news

Quality and choice in social care is heavily dependent on the way services are commissioned and procured. This paper sets out how procurement law relates to the mainstream approach to social care in Scotland, known as Self-directed Support.

In summary, in order to meet duties relevant to Self-directed Support, local authorities require to construct their processes for procurement of services (and/or commissioning generally) to allow for flexibility. That flexibility is integral to supporting choice of the individual under Self-directed Support. The tools within the current procurement regime allow for this flexibility. The message is, therefore, 'use the tools that already exist' in your procurements and remember that adherence to 'off the shelf' rigid procurement processes (which are authority focused and not individual focused) will invariably fail to meet the requirements of the legislation underpinning Self-directed Support.

### What is Self-directed Support?

The Social Care (Self-directed Support) (Scotland) Act 2013 (the '2013 Act') places a duty on local authorities to offer individuals who are eligible for social care a range of choices in respect of how they will receive support. The 2013 Act aims to:

- ensure that an individual in need of social care will have as much involvement in their social care assessment and any resulting provision of support and services as possible;
- provide as much choice of service and support as possible for service users; and
- give service users a range of options for how much control they want to have over the funding for their care and support (the '4 Options').

The 4 Options are as follows:

- Option 1: the Local Authority makes a direct payment to the individual who then arranges their own support;
- Option 2: the individual selects their support and the local authority or a third party provider then makes arrangements, on behalf of the individual, for provision of that support;
- Option 3: the local authority selects and arranges appropriate support on behalf of the individual; or

- Option 4: a combination of the above options.

Self-directed Support is not just about how service users control the funding for their support, it encompasses having good social work related conversations with individuals to find out what outcomes they want to achieve from their support.

It is important to note that local authorities have specific duties relevant to Self-directed Support, including:

- to offer supported people a choice of the above 4 options
- to provide an individual with:
  - an explanation of the nature and effect of each option
  - information about how to manage support
  - information about persons who can give assistance with decisions about the options and management of support
- to promote a variety of providers of support and a variety of support

The above are contained in sections 5(2), 9(2) and 19 of the 2013 Act, respectively.

### What is procurement?

Procurement is the process by which 'services'<sup>1</sup> are purchased by a local authority.

Under the procurement law framework (see further below), there are considerations around whether an arrangement does indeed constitute a 'service' (such that procurement legislation applies and needs to be followed by local authorities). Where procurement legislation is engaged, different rules apply to services valued between £50,000 and £615,278, and services valued at over £615,278<sup>2</sup>.

Where services are valued at £50,000 or less, a local authority will have internal rules which it follows and which will be geared towards achieving best value.

### What is commissioning?

Commissioning is generally thought of as being broader than procurement, in encompassing all purchase and expenditure activity (including beyond purchases covered by the procurement law framework).

<sup>1</sup> Within Self-directed Support, certain goods may also end up being purchased/provided but we focus in this paper on services.

<sup>2</sup> Using values applicable 1 January 2018 to 31 December 2019.

Commissioning is described as:

*“... all activities involved in assessing and forecasting needs, linking investment to agreed desired outcomes, considering options, planning the nature, range and quality of future services and working in partnership to put these in place”.<sup>3</sup>*

*“Commissioning seeks to bring together intelligence about what is needed in an area with the resource required to deliver this. Procurement provides the primary means by which these supports, initiatives and services are purchased. As set out in the 2016 social care procurement guidance-procurement includes all the means of funding external services and thus includes grant funding; service level agreements and ‘formal’ procurement.”<sup>4</sup>*

2013 Act sought to provide them with (for example via a procurement process resulting in a restricted number of organisations being available/eligible to provide support);

- processes which do not result in meaningful availability for one of the 4 Options for support provided for under the 2013 Act (often Option 2);
- processes where there is little or no engagement with individuals and/or support and explanation in relation to consequences and/or options going forward;
- contractual arrangements being long, complex and burdensome for the organisations involved in the provision of Self-directed Support, again, meaning that the ability to ‘self-direct’ can be lost in complexity and/or the complexity can lead to the involvement of a reduced number of providers.

user is the purchaser (and not the local authority), is not subject to public procurement law;

- recognition that certain approaches to Option 2 may not necessarily engage procurement law;
- recognition that grant funding is not subject to procurement law; and
- recognition that the aim of Self-directed Support is facilitated by, so far as possible, clear and simple form documentation that focuses on the individual and is readily understandable to individuals and a range of providers, in addition to covering-off key requirements of a local authority.

#### What is a ‘procured service’ and what is a grant?

In the context of Self-directed Support, the difference between a ‘procured service’ and ‘grant funded activity’ can be broadly summarised as follows:

- under a ‘procured service’, an organisation provides a specified service to a local authority; whereas
- under a ‘grant funded activity’, the local authority provides funding to an organisation to support activities which the organisation itself is running.

Some of the above issues are summarised neatly in the recent CCPS publication produced under their P&P programme.<sup>5</sup>

However, commissioning and procurement practice is evolving and some local authorities have worked effectively and collaboratively to address these issues by reforming their processes and approach to procurement.

The key areas in which there has been identifiable change for the better can be summarised as follows:

- involvement of recipients/users of procured services/ grant funded activities in the commissioning/ procurement design processes;
- participation of organisations involved in delivery of procured services/grant funded activities in the commissioning/procurement design process;
- recognition, and use of, the flexibilities available to contracting authorities in procurement law;
- recognition that failure to use the flexibilities available in procurement law is likely to impact on meeting legal duties under the 2013 Act;
- recognition and use of the exemption from the requirement to advertise (and ability to directly award) for health and social care covered by the Procurement Reform (Scotland) Act 2014 (see below);

HMRC usefully updated its 2016 Guidance on the key differential factors/indicators between service contracts and grants in January 2018.

#### What is the problem with Self-directed Support procurement/commissioning and how can it be solved?

Some procurement and commissioning practices within Scotland mean that the aims of SDS are not being achieved. As noted above, these aims are underpinned by statutory duties and in several instances it would appear that those duties are not being observed. In particular, issues include:

- cumbersome and complex processes which are difficult for individuals and providers to understand and be involved in and, indeed, difficult for local authorities to set up and run;
- individuals not being afforded the choice which the

<sup>3</sup> Joint Strategic Commissioning – A Definition (2012) as quoted in <http://www.gov.scot/Resource/0049/00491248.pdf>

<sup>4</sup> <http://www.gov.scot/Topics/Government/Procurement/policy/SocialCareProcurement>

<sup>5</sup> <http://www.ccpsscotland.org/pp/resources/local-area-example-tensions-procurement-sds/>

## In Brief: Procurement law and Self-directed Support

- recognition that Option 1, where the service
- The Legal Framework**  
With a view to keeping this short paper brief and to the point, the key components of the legal framework relevant to procurement and Self-directed Support are set out below. Readers are directed to existing sources for background information on the various guidelines and overview documents which comprise the detailed legislative picture. The table below lists the key relevant

Procurement law framework	Social care procurement/commissioning and Self-directed Support
<b>Public Contracts (Scotland) Regulations 2015</b> Role: sets out rules for procuring services valued at over £615,278*.	<b>Social Work Act 1968</b> Role: key underlying legislation relevant to social care.
<b>Procurement Reform (Scotland) Act 2014</b> Role: sets out rules for procuring services valued at between £50,000 and £615,278*.	<b>2013 Act</b> Role: key legislation relevant to Self-directed Support.
<b>Procurement (Scotland) Regulations 2016</b> Role: set out rules for procuring services valued at between £50,000 and £615,278*.	<b>Local Government (Scotland) Act 2003</b> Role: key legislation relevant to local authorities achieving best value in all that they do.

pieces of legislation and their respective roles.  
\*Values quoted are valid for the period 1/1/18 to 31/12/19.

### Further reading

The Scottish Government's 'Guidance on the Procurement of Care and Support Services 2016 (Best-Practice)'  
[www.gov.scot/Resource/0049/00498297.pdf](http://www.gov.scot/Resource/0049/00498297.pdf)

The Crown Commercial Service's 'Guidance on the New Light Touch Regime for Health, Social, Education and Certain Other Service Contracts'  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/560272/Guidance\\_on\\_Light\\_Touch\\_Regime\\_-\\_Oct\\_16.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560272/Guidance_on_Light_Touch_Regime_-_Oct_16.pdf)

Item 12 Procurement & Commissioning 20 September 2016: Award of Contract – Self-directed Support Enabling Service  
<http://bit.ly/2EspJu6>

The Scottish Government's 'Self-directed Support: A National Strategy for Scotland'  
[www.gov.scot/Resource/Doc/301424/0094007.pdf](http://www.gov.scot/Resource/Doc/301424/0094007.pdf)

Social Work Scotland's 'Self-directed Support: A Quick Guide for Practitioners'  
[www.socialworkscotland.org/doc\\_get.aspx?DocID=903](http://www.socialworkscotland.org/doc_get.aspx?DocID=903)

CCPS' 'quick guide- Procurement Reform and Social Care'  
<http://www.ccpscotland.org/wp-content/uploads/2014/01/briefing-procurement-reform-and-social-care-1-1.pdf>

Providers & Personalisation 'Policy Briefing: Guide to the Social Care (Self-directed Support) (Scotland) Act 2013 and how it applies to different groups and services'  
[www.sks.org.uk/media/179056/guide-to-sds-act-and-how-it-applies-to-different-groups-and-services-2017.pdf](http://www.sks.org.uk/media/179056/guide-to-sds-act-and-how-it-applies-to-different-groups-and-services-2017.pdf)

## How procurement can support Self-directed Support – myths

The above legal framework is complex. However, misunderstandings exist which have held back improvements in commissioning and procurement practice. These include, as relevant to the application of procurement rules:

### Myth #1

#### Procurement rules apply to all aspects of Self-directed Support

Procurement rules apply only to 'public service contracts', namely a 'contract having as its object the provision of services' entered into by a local authority (or 'contracting authority') and they only apply above particular thresholds (see further below).

Procurement rules do not apply to Option 1 as the service user is the purchaser.

Depending on how a local authority arranges Option 2, procurement law may, again, not apply to all aspects of an arrangement. This is touched upon in section 8 of the Statutory Guidance for Self-directed Support. A key example would be where a local authority is simply arranging payment out of an individual's budget and pursuant to a direction from an individual.

Additionally, the ability to directly award certain health and social care contracts valued below £615,278 under the Procurement Reform (Scotland) Act 2014 can come into play as a useful (and substantial) tool to meet the aims of the 2013 Act (see further below). This is, of course, a very substantial amount.

### Myth #2

#### The procurement rules apply to grants

The procurement rules do not apply to 'bona fide' grants. This is set out in Recital (4) of EU Directive 2014/24/EU.<sup>6</sup>

### Myth #3

#### Where the procurement rules apply, the 'usual' processes need to be followed

A formal 'Light Touch Regime' applies to Self-directed Support procured services valued at £615,278 or more under the Public Contracts (Scotland) Regulations 2015. This does not require replication of the detailed procurement processes which apply where the full procurement regime applies.

The following quote from Crown Commission Services guidance emphasises this:

*"The new LTR rules are deliberately designed to give as much flexibility to contracting authorities as possible, and so do not lay down detailed procedural rules. Routinely using similar procedures to those in the main rules would deprive the contracting authority of the many flexibilities that the LTR rules provide."*

*CCS recommends that authorities take advantage of the various flexibilities where possible, to maximise the possible benefits from the lighter rules regime, such as reduced process burdens on procurers and suppliers. The key things are to be clear about what your process will involve, making sure the process ensures transparency and equal treatment of suppliers, and sticking to the process that you decide to run."*

A light touch regime also effectively applies to Self-directed Support procured services valued between £50,000 and £615,278 under the Procurement Reform (Scotland) Act 2014. As noted in response to Myth 1, for this value range there is an express ability to award contracts directly, without following a competitive process.

<sup>6</sup> Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC 12.

# In Brief: Key procurement law provisions which facilitate more effective procurement of Self-directed Support

For brevity of this document, below is an overview of the key aspects of the procurement law framework which facilitates change towards better practice in social care procurement and Self-directed Support in particular.

Facilitative aspects of the procurement law framework relevant to social care		
<p><b>Transparency in 'Procurement Strategies'</b></p> <p>Each contracting authority with ≥ £5m procurement spend needs to set out a publicly available procurement strategy.</p> <p>Helpful because: local authorities need to think about their practices and how well these are working. Publication is a tool which enables other local authorities to benchmark what they are doing and enables organisations involved in the provision of services to understand and engage with local authorities on what they are seeking to achieve.</p> <p><i>Section 15 of the Procurement Reform (Scotland) Act 2014.</i></p>	<p><b>Flexibility</b></p> <p>Certain health and social care contracts are not required by procurement law to be subject to competition (and may be awarded directly) where these are valued at between £50,000 and £615,278* (the relevant values from 2017 to 2019). Below £50,000, subject to local authority contracting orders, there is no procurement law requirement for contracts to be subject to competition.</p> <p>Helpful because: it is another flexibility tool in a local authority's armoury relevant to Self-directed Support Options 2-4. For example, this has been used as comfort by some authorities in operating more flexible processes for Option 2 (see case study 2).</p> <p><i>Section 12 of the Procurement Reform (Scotland) Act 2014.</i></p>	<p><b>Pre-engagement with organisations</b></p> <p>Since 2016, procurement rules have made express reference to the ability of local authorities to engage in pre-procurement discussions with provider organisations (provided base fairness and equal treatment rules are observed).</p> <p>Helpful because: this pre-engagement can be used to shape more appropriate procurement strategies and processes. Pre-engagement can also involve service users.</p> <p><i>Regulation 42 of The Public Contracts (Scotland) Regulations 2015.</i></p>
<p><b>Sustainable Procurement</b></p> <p>Each local authority needs to consider how it can: improve the economic, social and environmental wellbeing of the area; involve small businesses, third sector bodies and supported business and promote innovation in connection with service contracts valued at over £50,000.</p> <p>Helpful because: local authorities need to at least 'consider' the above aspect, including social wellbeing and scope for innovating to improve their approach. Considering the community and end-users ought to shape more appropriate procurement processes.</p> <p><i>Section 9 of the Procurement Reform (Scotland) Act 2014.</i></p>	<p><b>'Light Touch Regime' flexibility</b></p> <p>Certain services (including the majority of Self-directed Support services) only require a 'light touch' procurement regime to be followed where a service contract is valued at over £615,278 (rather than the fuller and more detailed rules which can otherwise apply).</p> <p>For completeness, for services between £50,000 and £615,178 that follow a procured process, the process is also light touch.</p> <p>Helpful because: this flexibility is key to achieving more appropriate Self-directed Support procurement processes. See more in section 4 below and each of case studies 1 and 2. In particular, it is within the light touch regime to operate a mechanism whereby providers meeting base requirements can be added at any point (so as to maximise choice) and reflects that contracts are entered into based on individual choice.</p> <p><i>Regulations 74 to 76 and Schedule 3 of The Public Contracts (Scotland) Regulations 2015.</i></p>	<p><b>'Light Touch Regime' reflection of 'value' drivers relevant to social care/ Self-directed Support</b></p> <p>Local authorities may take the following into account:</p> <ul style="list-style-type: none"> <li>• the need to ensure quality, continuity, accessibility, affordability, availability;</li> <li>• comprehensiveness of the services;</li> <li>• the specific needs of different categories of users, including disadvantaged and vulnerable groups;</li> <li>• the involvement and empowerment of users; and</li> <li>• innovation.</li> </ul> <p>Helpful because: it expressly sets out the distinct categories of considerations which can be taken into account when using the 'Light Touch Regime'.</p> <p><i>Regulation 76(9) of The Public Contracts (Scotland) Regulations 2015 and Statutory Guidance relevant to the Procurement Reform (Scotland) Act 2014.<sup>1</sup></i></p>

\*Values quoted are valued for the period 1/1/18 to 31/12/19.

# So where does the above bring us to and what is good procurement relevant to Self-directed Support?

As noted at the outset, we are already seeing good practice by some local authorities to ensure:

- involvement of recipients/users;
- participation of organisations involved in delivery in commissioning/procurement design processes; and
- recognition of the process flexibility which exists in procurement law.

The following offer some examples of approaches that are now being taken to maximise achievement of the aims of Self-Directed Support and the 2013 Act, particularly in relation to Option 2.

Importantly, to provide a context of practical application of what is being set out, we have included at the end of this brief publication 2 case studies of what providers and individuals in receipt of Self-directed-Support consider good practice. These include an overview of why the local authority approached matters in the way that they did and what their various considerations were.

## 'Light Touch' Frameworks / 'Minimum Process' Frameworks

A number of local authorities have already proceeded with 'frameworks' or 'systems' under the 'Light Touch Regime' for Self-directed Support services. There are examples available on the Public Contracts Scotland website including use of these for Options 2 and 3 of Self-directed Support. A simple search of 'Self-directed Support' or use of the relevant CPV (Common Procurement Vocabulary) codes for Self-directed Support services (generally 85300000 as the main code) should provide the reader with various examples.

An important point to note is that the detailed procurement rules that can apply to 'frameworks' under the Public Contracts (Scotland) Regulations 2015 do not apply to 'light touch' frameworks and it follows that a local authority can 'innovate' to have greater flexibility. An example of this is incorporating flexibility for an 'annual refresh' (or indeed other such period) to enable organisations to be added to the framework so as to better meet section 19 duties under the 2013 Act (see case study 1). Scotland Excel is now looking at a similar model for a Scotland-wide framework. Many of these frameworks make it very clear that the contracts (or 'call offs') subsequently entered into will be led/directed by the individual who is eligible for support.

What the above approach does is maximise choice for

individuals by avoiding 'closed frameworks' of selected providers which limit choice.

With this option, there is scope to dramatically reduce the 'tendering burden' on providers (and indeed local authorities) by reducing provider submission requirements, for example to: acceptance of contract structures to be used; base price; capacity; accreditations/certifications held and general 'approach to delivery' information.

Another way of thinking about how this approach (and what follows below) differs is that the local authority covers off its base 'light touch regime' procurement requirements and its own duties, but recalibrates its approach so as to facilitate maximum choice to the individual in terms of the support they are then able to receive. The local authority can also, usefully, capture sufficient information from its base process to assist individuals looking at options for support (for example, in terms of capturing price, specialism, capacity and approach to delivery information which can potentially be put in a virtual 'shop window' for individuals).

It is worth noting that there is also a potential further advantage to local authorities if there is removal of administration and detailed tender evaluation processes (and tender risk). This is, of course, also an advantage to providers who may experience a more streamlined and proportionate process to get to the point where they are eligible to be used for Self-directed Support.

## 'Light Touch Lists' / 'Light Touch Purchasing Systems'

Other examples, which are in effect variations on the above potential approach, include simply setting out a local authority's intention (for example in a 'light touch regime' Prior Information Notice) to establish lists of eligible providers with whom contracts under the advertised opportunity may then be entered into.

Alongside this, base requirements for entry onto the list and which require to be met by providers can be set out but without the requirement for detailed tenders to be submitted and detailed evaluation to be undertaken (again, such requirements might sensibly include: acceptance of base local authority terms and conditions required to cover-off the local authority's legal duties; relevant registration requirements where applicable and relevant capacity requirements – relevant to ensuring ability to service individual's needs in the particular local authority area).

Again, with this simple approach under the light-touch regime it can be made clear that the local authority is seeking to give effect to the 2013 Act, that the basis

for 'award' of contracts to providers will be individual choice and that the process element is focused on covering base Council duties and, potentially, to gather information that can be used to assist individuals in their choices between providers.

#### Ability to direct award health and social care contracts under £615,278

Across each of the above examples, it should be borne in mind that the use of 'lists' or 'minimum process frameworks' invariably result in very different support packages being provided to each individual – reflecting each individual's outcomes as agreed with the local authority. In addition, each package contracted for is almost certainly going to be of a value significantly below £615,278. It follows that there is a very good argument that each contract ultimately entered into with a provider fits with the ability of a local authority to award that contract directly pursuant to section 12 of the Procurement (Reform) Scotland Act 2014, noted above.

## Case Study 1

The following has been provided by East Renfrewshire Council in the form of an interview case study, setting out how it approached procuring its Self-directed Support services and why.

#### Briefly, describe the structure of Self-directed Support arrangements your local authority has put in place?

East Renfrewshire HSCP is a progressive organisation which was keen to identify and leverage new ways of working in partnership to drive change in the way care and support services for people with support needs were commissioned and procured, in order to deliver benefits to the people who use services, the communities they live in and the wider HSCP

In 2016, East Renfrewshire HSCP designed a new framework agreement for care and support services. The process used the Light Touch Regime and the contract was offered as a lotted multi-supplier framework agreement as follows:

- Lot 1 Care and Support Services – whereby following evaluation/interview, the top 40 providers were appointed onto the framework; and
- Lot 2 Self-directed Support Providers (Option 2) – whereby all bidders meeting the qualification criteria were appointed.

#### How did you 'do things differently' from your normal 'procurement processes' to put in place your current Self-directed Support arrangements?

East Renfrewshire HSCP took a number of different approaches to ensure that the framework would facilitate the uptake of all SDS options, this included:

- Working closely with colleagues from corporate procurement from the start;
- Using a dynamic purchasing system to annually refresh lot 2 by assessing any new providers before adding them to the existing list if suitably qualified; and
- Co-producing the tender with a range of stakeholders including providers, care managers, legal services and internal audit.

#### What are the key aspects of how you approached matters that enhance provision of Self-directed Support in your area?

East Renfrewshire HSCP implemented a second lot for Self-directed Support Providers (Option 2). The details of providers appointed onto this lot are now made

available to all people using services who instruct the council to make arrangements on their behalf, but wish to exercise choice over how their relevant budget is used to support the outcomes of service users. The care and support provider is then responsible for working with the supported person to enable them to exercise as much choice as they would like over their care and support package, based on an agreed budget. This includes a degree of choice over which staff will be directly involved in delivering the support to the supported person and how and when care and support will be delivered. The provider may also be responsible for helping the supported person to exercise as much choice and control as possible in relation to the 'community support' elements of their individual package.

We recognised that multiple differing models of care and support existed both locally and nationally. It was recognised that there was an opportunity to deliver an innovative approach to the future delivery of services, incorporating both national best practice and innovative locally focused models of care, which can benefit the people using the service the most.

We understood that an imaginative procurement process could be designed to be more effective and efficient when designed through collaboration with stakeholders and partners rather than in isolation.

We recognised the need to design and implement financially sustainable services which are fit for purpose and will continue to meet the needs of individuals well into the future.

#### What suggestions would you have for people in other local authorities in terms of getting various parts of the local authority comfortable with adopting a new and innovative approach?

There were a number of critical success factors which have underpinned the positive delivery of this framework model:

- Shared buy-in: All partners bought in to the approach and the primary focus was to jointly develop a procurement exercise which would meet the needs of the people who would use the service along with their families and carers.
- Open and transparent approach: The approach adopted by the commissioning team was open and transparent throughout. This commenced with the issue of the Prior Information Notice inviting all interested parties to take part in the exercise and continued through the use of meet the buyer events

and holding 'provider fairs' whose aim was to give Care Managers, service users and their families the opportunity to meet representatives from over 40 third and independent sector organisations. It also allowed attendees to find out about the new framework arrangements and what it meant for them and enabled people to make key contacts and see different approaches to care and support.

- Varied skills and knowledge: Using the light touch regime required a mix of skills and expertise, this included leadership, legal services knowledge, procurement knowledge, service user engagement and analytical skills. The approach ensured that the wide range of skills and knowledge which already exist could be accessed to contribute to the design of an efficient, effective and innovative framework agreement.

#### Did your approach to arrangements include a concerted effort to simplify contractual arrangements?

Yes, we made a concerted effort to simplify our documentation.

#### Further information

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## Case Study 2

The following has been provided by Scottish Borders Council (SBC) in the form of an interview, setting out how it approached procuring its Self-directed Support services and why.

#### Briefly, describe the structure of Self-directed Support arrangements your local authority has put in place?

There are numerous challenges in promoting a Self-directed Support culture; not least the issue of promoting market choice. This challenge is compounded by the rurality of the Borders, the comparatively small levels of provision, and the limited attractiveness of that situation to providers as new entrants to the market.

The promotion of choice and a mixed market is key part to the overall ambition for SBC to promote a cultural move from the delivery of standard social care services managed by the council to a provision that is flexible, empowering, creative and responsive to an individual's needs.

Prior to the 2013 Act being implemented the SBC had already delivered a significant number of individualised services via Direct Payments, these being managed through individualised budgets. The processes for this approach were therefore in place, including putting in place an independent provider to support clients to set up and manage their budgets.

A specific challenge once the 2013 Act came into force was how to further extend this cultural change and in particular how to manage the sourcing challenge to facilitate service funds.

#### How did you 'do things differently' as against your normal 'procurement processes' to put in place your current Self-directed Support arrangements?

We chose not to set up a framework arrangement to specifically facilitate route 2, (Individual Service Fund (ISF) option) as there were concerns it could restrict choice, for instance, a client wishing to select a provider who was not participating on the framework.

Similarly, a standard framework may seem like a block to small scale providers operating in the Borders. For example, providers in niche markets, concentrated in a very rural area and or having a mix of small scale private public provision, or providers predominantly working in adjacent council areas but willing to operate occasionally at the rural edges of the Borders, may not have an appetite to involve themselves in a procurement process for such marginal levels of service.

With this as the backdrop, the council set up an

individual service fund agreement to promote flexibility and greater client control. This service delivery route is open to all providers at any point in time, with a contract award being subject to a number of due diligence requirements such as appropriate registration, acceptable historical performance as well as financial organisational viability checks.

#### What are the key aspects of how you approached matters that enhance provision of Self-directed Support in your area?

This approach to facilitating ISF options has maximised the choices available to clients, which in very rural areas can be very limited indeed. This route alongside the Option 1 (and sometimes used in combination) has enabled flexible packages of support that otherwise might not have been possible, or which, traditionally, would have had to have been provided through services distant from a client's local neighbourhood, or provisioned at premium cost and with very limited opportunity to be flexible around the needs of the client.

#### What suggestions would you have for people in other local authorities in terms of getting various parts of the local authority comfortable with adopting a new and innovative approach?

The approach to ISF arrangements was primarily developed from a combination of the crucial principle of choice and the pragmatic reality of the geographical challenge.

Inclusive early planning and assessing the opportunities, challenges and risks were significant factors in determining the possible approaches and their subsequent successful implementation. This was delivered alongside a comprehensive consultation process with stakeholders, followed by a training and development programme targeted in particular at key stakeholders who could drive the cultural change.

It was appreciated relatively early on, that promoting and maintaining an empowering cultural change would require more than just processes being put in place, training delivered and a promotional launch, especially in an environment of increasing demand, limited resources, and local market limitations. A variety of supportive and monitoring management activities now routinely review the processes and practices facilitating Self-directed Support implementation. The ISF agreement and its use is likewise regularly reviewed in the context of practice to ensure it remains fit for purpose.



**Did your approach to arrangements include a concerted effort to simplify contractual arrangements?**

The use of the ISF approach described above simplified arrangements while facilitating choice. In terms of contractual arrangements, it has increased the number of providers so comparatively there is a wider range of provider arrangements to manage, which in some ways is the cost of success.<sup>7</sup>

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<sup>1</sup> [www.gov.scot/Resource/0049/00496919.pdf](http://www.gov.scot/Resource/0049/00496919.pdf).





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