Exploring ethical commissioning in practice – report

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1. Introduction and approach to the research

1.1 Healthcare Improvement Scotland's (HIS) role within the healthcare landscape is to support health and care organisations to improve health and social care outcomes for the people of Scotland. Since 2011, it has built constructive relationships with Integration Authorities, NHS Boards, and community providers to develop and review effective practice. HIS plays a critical role and importance in driving forward improvements in the health and care sector through its role in sharing and reviewing practice.

1.2 Significant change in health structures and processes has taken place over the last ten years, however, there is a gap between policy ambition and implementation in relation to ethical commissioning.

1.3 In December 2023 HIS commissioned Blake Stevenson Ltd to undertaken research into ethical commissioning to generate a deeper understanding of how services can be commissioned effectively and ethically, so that providers feel supported and more confident to accelerate adoption of ethical commissioning processes – to ultimately improve health outcomes.

1.4 There were four elements to the research:

- an initial desk–based review and research
- scoping discussions with 12 stakeholders within HIS, Scottish Government and other key organisations including Scottish Care, Coalition of Care and Support Providers in Scotland (CCPS), Institute for Research and Innovation in Social Services (IRISS), Unison, InControl Scotland and Key (a Glasgow based charity which provides housing and support to individuals with disabilities).
- a deep dive into areas that are trying to implement new commissioning models, interviewing commissioning and procurement staff in each area and five providers of service in three of the areas
- analysis and recommendations in relation to the key research questions

1.5 This report presents the findings from this research, and is structured as follows:

- in Chapter 2 we present a summary of the document review and the evidence and information on ethical commissioning that was used to inform the work
- Chapter 3 focuses on the early stages of the work to drive forward change in the way that commissioning takes place in the Scottish Borders (based on a HSCP interview and background documentation)
- Chapter 4 looks at how West Dunbartonshire has introduced more choice and accountability into the way the HSCP planned and offered support (based on a HSCP interview and background documentation)

- in chapter 5 the CAYR Ayrshire example looks at their approach to introducing micro–providers into the health and social care landscape (based on a HSCP interview, a provider interview and background documentation)
- Chapter 6 presents the experience of Falkirk HSCP and the development of a new framework for adult care homes (based on interviews with 2 HSCP staff, three providers and background documentation)
- In Chapter 7 the case study captures Edinburgh HSCP's work to improve commissioning and procurement processes for community mental health and wellbeing (based on a HSCP interview, one provider interview and background documentation).
- The final chapter summarises the learning about the barriers and enablers, identified within the case studies, to implementing models of ethical commissioning and considerations for policymakers in closing the implementation gap.

2. Existing knowledge and understanding of ethical commissioning – document review

2.1 The purpose of the document review was primarily to support the design and focus of our later research, ensuring this was underpinned by existing knowledge and an understanding of different stakeholder perspectives. As a result, the document review should only be considered as an informal analysis of grey literature which represents specific stakeholder views and insights.

2.2 The document review is based on documents identified by HIS that had a focus on understanding, addressing, and exploring ethical commissioning. These were supplemented by additional materials provided through stakeholder interviews and desk-based research.

2.3 The framework for analysis comprised:

- definitions and understanding of ethical commissioning
- commissioning models in use and the scope and scale of known implementation
- key enablers and barriers to ethical commissioning
- perspectives on what can be done nationally and/or system changes that could accelerate the pace of ethical commissioning
- identifying local areas that are on the journey to implementing better commissioning practices, to support with selecting case study areas.

2.4 We present key findings from the document review below. These are not intended to be comprehensive or representative but offer an overview of thinking and experience across the health and social care sector – and an introduction to the case study research.

What is ethical commissioning?

2.5 Ethical commissioning was introduced within the context of the Adult Social Care Feeley Review[1]. The terminology is embedded within the policy development in the National Care Service and the National Improvement Framework for Community Health and Adult Social Care that the Scottish Government is currently developing.

2.6 Ethical commissioning is defined by the Scottish Government as an adherence to a range of principles that are stated to lead to high quality services and outcomes for people, carers, staff, and communities. These principles are:

- **Person-led care and support**: The person should be the priority at all levels of the commissioning and procurement process, and they should have informed choice over the

[1] https://www.gov.scot/publications/independent-review-adult-social-care-scotland/

support they receive. Public services should work in an integrated and collaborative way to meet need and be transparent about unmet needs.

- **Human rights approach**: People's ability to access their human rights should be at the forefront of the commissioning and procurement process.
- **Full involvement of people with lived experience**: People should inform commissioning and procurement processes at every level to make sure support is designed for the people who will use it. Information should be accessible; governance should be clear and transparent.
- **Outcomes focussed practice**: Commissioning and procurement practice should focus on supporting people to meet their outcomes and live a good life, focused on what matters to the person.
- **High quality care and support**: Commissioned support should be of high quality and tailored to people's needs and choices. Quality monitoring should be part of contract management and there should be good complaints procedures and access to advocacy support for all.
- **Fair working practices**: The workforce should be recognised and valued for the important and highly skilled work they carry out and commissioning and procurement should thus enable fair work. This includes enabling effective voice, collective bargaining, trades union representation, fair pay, fair terms and conditions, access to training and career progression opportunities.
- **Financial transparency, sustainable pricing, and commercial viability**: Providers should share financial information with procurement and commissioning to allow for sustainable pricing. Financial information should also be shared within contract monitoring to mitigate against the risk of provider withdrawal/failure.
- **Shared accountability**: Commissioning and procurement processes should support shared accountability between providers and commissioners. These should be clear and transparent.
- **Climate and circular economy**: Commissioning and procurement processes should support Scotland's transition to Net Zero emissions by 2045, with climate friendly approaches used wherever practical.

2.7 There are several organisations in Scotland that are building expertise in developing effective commissioning and procurement. These include the Institute for Research and Innovation in Social Services (IRISS), Coalition of Care and Support Providers in Scotland (CCPS), HIS, Scottish Care and Social Work Scotland.

2.8 In relation to procurement, the Scottish Government identifies four centres of excellence Advanced Procurement for Universities and Colleges (APUC), Central Government Procurement, NHS National Procurement and Scotland Excel "which between them, provide support and guidance to all public sector bodies"[2].

[2] HIS Ethical Commissioning Stocktake, Dec 2023

Commissioning models

2.9 The following models were evident in practice from the document review. This is not intended to be a comprehensive list of all possible models.

Public Social Partnerships (PSPs)

2.10 A Public Social Partnership is a strategic arrangement which embeds the third sector, and thereby the needs and assets of people and communities, in all stages of the design and delivery of public services. It involves public and third sector bodies co-designing services or interventions to deliver agreed social outcomes. This approach encourages effective partnership working across sectors, places the third sector at the heart of service design and delivery, and explicitly emphasises outcomes rather than activity.

2.11 It is in essence a simple three stage[3] model comprising a co-design phase, a pilot/test phase and a long-term commissioning process and decision (normally a full tender process).

2.12 The advantages of this model include[4]:

- The co-design process brings the voice of those who use (or will use) the services into the process and brings the expertise and knowledge of those who can provide services into the process
- The piloting and testing stage further allows for the voices of both providers and service users to influence and shape what works
- Throughout the process the commissioner has the benefit of gaining greater understanding of both what matters most to people and in identifying and shaping the best value option possible.

2.13 There are several PSPs in operation in Scotland (some that received Scottish Government funding), examples include:

- East Renfrewshire HSCP supported living services (integrated working)
- Glasgow – The Life I Want for adults with learning disabilities
- Elevate-Glasgow for recovery from drug and/or alcohol dependence.
- PSP on the Disability Employment Gap, led by the Scottish Union of Supported Employment
- Several PSPs operating across NHS Lothian, including the Edinburgh Health and Wellbeing strategic PSP from which several intersectoral partnerships have been formed and the case study in Chapter 7 provides a detailed description of this PSP.

[3] Public Social Partnership Support (Internal from HIS, from West Lothian)
[4] Public Social Partnership Support (Internal from HIS, from West Lothian)

- Foster Care Services in Falkirk
- Inverclyde Third Sector Interface (TSI) – a public social partnership of provider organisations coming together to design services collectively.

Collaborative Commissioning[5]

2.14 As part of a Collaborative Communities programme, a HIS Collaborative Communities team worked with Integration Authorities across Scotland to explore commissioning systems and processes. They aimed to support change in practice towards one that was:

- Based on collaboration, rather than competition.
- An enabler to promote choice and control for individuals and communities.

2.15 In the short term, this work aimed to raise awareness and knowledge of local systems and processes and build the skills and confidence to enable a change in commissioning conversations across sectors. The longer–term aim was to change commissioning practice and behaviour through the development of collaborative commissioning approaches.

2.16 The Collaborative Communities team delivered a range of activities with key stakeholders including senior managers, commissioners, and operational managers within Integration Authorities, as well as independent and third sector providers. These activities include:

- Providing subject matter expert knowledge around commissioning
- Highlighting innovative models of practice
- Creating connections between those working on common issues
- Giving practical support through bespoke workshops
- Providing independent facilitation at local meetings and events
- Giving 'critical friend' advice and support.

2.17 As a result of the workshops, new ways of working were developed. For example, Orkney Health and Care explored how to put co–production into action through working with third sector organisations and communities to develop alternative solutions to traditional social care support.

Alliance Contracting

2.18 Alliance contracting is the term usually applied to project or service delivery where there is one contract between the owner/financier/commissioner and an alliance of parties who deliver the project or service. An alliance contract creates a collaborative environment without the need for new organisational forms. By having one alliance contract, all parties are working to the same outcomes and are signed up to the same success measures. There is a strong sense of

[5] HIS Collaborative Communities internal paper

your problem is my problem, your success is my success. Examples of alliance contracts in practice include:

- Granite Care Consortium in Aberdeen – the consortium is made up of local third and private sector providers with decades of experience in delivering health and social care services. Granit Care Consortium was set up to create market stability, improve outcomes and build a consistent trained and skilled workforce. Through collaboration and partnership the consortium has offered a step change in how care is delivered in Aberdeen[6],
- Future Pathways – is one of the support services delivered by the In Care Survivors Alliance (made up of four partners) which provides support to individuals to address the legacy of historic abuse in Scotland. The Alliance Leadership Team oversees the work of Future Pathways, and they work alongside people who have experienced abuse. [7]

2.19 In addition to these formal models, the document review identified examples of local good practice, which align with some ethical commissioning principles including:

- Collaborative working between providers and commissioners to adjust the way services are designed and procured; funded and more personalised
- Using Direct Award opportunities and engaging supported people and their families during the procurement process.
- Budgets and costing discussions conducted with care providers, local authorities, and supported people to ensure needs and choices are met.

Enablers of ethical commissioning

2.20 A range of strategic and operational enablers were identified through the document review. Many of these are interlinked and part of cultural change processes. Key to developing this section was 'A Guide to Collaboration' from Collaborate CIC[8]. Enablers include:

A 'Collaborative mind-set' and 'Collaborative behaviours[9]' –

2.21 All partners need to be able to relinquish their traditional ways of working so they are more open to developing a genuinely collaborative shared approach and perspective. This involves far greater involvement of providers and service users in the commissioning process at the community level. By building 'healthy, trusting relationships', safe spaces can be created for honest conversations between purchasers and providers "*It needs to be conversational,*

[6] https://www.granite.care/

[7] https://future-pathways.co.uk/who-we-are/more-about-us/

[8] https://collaboratecic.com/wp-content/uploads/2023/04/A-Guide-to-Collaboration-Final-Public.pdf

[9] A Guide to Collaboration Final (collaboratecic.com)

allowing for listening, honesty, collaborative problem solving and space to take risks and just get started somewhere"[10].

Developing a 'collaborative infrastructure[11]' –

2.22 For collaboration to be at the heart of ethical commissioning, alongside the behaviour change there needs to be an infrastructure where there is shared accountability and shared risk to allow innovation and creativity to flourish, to provide support in more adaptive and flexible ways.

Building a 'shared vision and purpose[12]' and system leadership

2.23 There needs to be a thread running through from outcomes for supported people and 'what good looks like' to the purpose and operations of commissioning and other functions including legal and finance. This supports the development of outcome-based contracts that align to the outcomes that commissioners and providers are working towards and helps all stakeholders to focus more on quality than price. Moving to outcome-focused thinking is helped by using 'change words' and not process words.

Evidence and data to inform decision making

2.24 There needs to be links between the information from individual planning to strategic planning, service profiling and market analysis to understand the needs and how these can be addressed. The literature suggests that strategic, practitioner, and individual levels of commissioning are essential, with a focus on assessing needs, linking investment to outcomes, and planning services in partnership. It also advocates for a review or development of commissioning and procurement strategies using the ethical commissioning principles, supported by establishment of an ethical procurement policy framework.

Building skills, knowledge, and confidence

2.25 To equip those in key roles of commissioning, procurement, legal and finance, this workforce need to have the skills, knowledge and confidence in (a) how to apply procurement 'rules' (b) leadership skills to enable change (c) good quality implementation planning and doing that attends to all aspects of change (d) develop high quality co-production, engagement and/or consultation with providers and people with lived experience to enable a better understanding of what people need and how it could be delivered.

Identifying and sharing models

2.26 There needs to be examples and evaluations of approaches which can be used as a good starting point for local discussions, to inspire more innovative thinking and bring confidence

[10] IRISS May write up of workshop with Adult Social Care Ethical Commissioning Working Group
[11] A Guide to Collaboration Final (collaboratecic.com)
[12] A Guide to Collaboration Final (collaboratecic.com)

that support can be provided differently. They can also help to develop and illustrate a common understanding around what is meant by 'good' or ethical practice.

Taking action and stimulating change

2.27 Change needs to be supported by a broad range of influencers. Often this starts with individuals 'making it happen'. "It needs a balance between thinking and analysing; getting on and doing things; developing and demonstrating practical solutions and working with emotions (cynicism, burnout, weariness, and resistance)"[13]. This can be started with small steps and encouraging new ways of thinking e.g. Clear, persuasive, and repeated communication of the need for change. Asking colleagues – "Does it shift power? Does it increase choice and control? Does it improve accountability and transparency? Does it improve social care sustainability"[14]. It can include practical behaviours such as setting time aside in diaries to build relationships and contributing to co-production as core/priority activities – and includes making practical changes such as building flexibility into contracts to allow for learning and adaptation, making contracts longer, enabling budget remits to be more flexible to follow the person rather than be too rigid.

Barriers to implementation of ethical commissioning

2.28 A range of barriers were identified through the document review which largely relate to complexity of the market, impact of competitive tendering on quality, fair work practices and sustainability and capacity to enact change.

- **Market complexity and conditions** – The social care and support market is highly complex and is operating in a difficult funding climate with increasing demand for services, budget pressures, varied and changing service models, and complex relationships between local authorities, providers, and policy bodies. This means "change involves multiple sectors, partners and an uncertain operating context"[15].
- **Price and working conditions**– The focus on achieving the lowest price in the tendering process impacts quality and maintains the public sector/community sector wage difference, which is accelerating the recruitment crisis, sustainability crisis and ability to achieve fair work practices. There are unrealistic concepts of self-sustainability; zero hours contracts; fixed rates that are below real costs which prevent improvements.
- **A lack of rigorous enforcement** and accountability nationally and through HSCPs in relation to existing legislation like the Sustainable Procurement Duty, Self-directed Support and Fair Work practices has led to systemic failure.
- **A lack of widespread capacity, knowledge, skills and/or confidence to**:

[13] IRISS May write up of workshop with Adult Social Care Ethical Commissioning Working Group
[14] CCPS 2020 – Big ideas for changing how social care is planned and paid for
[15] ASCEC implementation support proposal

- Find time/space for thought leadership, change management and implementation.
- Meaningfully involve people using respect and trust and know what good looks like.
- Focus on outcomes to improve commissioning experience and measure these effectively.
- Challenge cultural rigidity and risk-aversion (which can be particularly apparent across procurement, finance, legal functions), particularly in a climate of staff turnover where experience can be lost.
- Understand the cost of implementing ethical commissioning.
- Understand the impacts that differing procurement processes and requirements can have on providers, particularly smaller organisations.
- Understand what ethical commissioning is and how to do it in the absence of concrete examples and disagreement on approaches.

- **Lack of co-ordination** at a national and local level in implementing a national strategy for commissioning has led to a fragmented approach.

Perspectives on national actions that could accelerate the pace of ethical commissioning

2.29 A common view identified through the document review, was the need for a stronger, clear, national strategic approach to ethical commissioning to support local areas to overcome the cultural and system barriers they face. Suggestions identified within the document review included:

- **Nationally awarded contracts need to follow ethical commissioning principles** ensuring high-quality care that meets Scotland's Health and Social Care Standards and upholding transparency in financial and accountability structures.
- **A strategic approach to embedding policies and outcomes** within local frameworks, enabling innovative tendering and contract management to meet service user needs. A shift from competitive to collaborative commissioning is needed, to focus on quality care standards and ethical commissioning. This may require detailed national direction on how to put ethical commissioning into practice and nationally funded and co-ordinated capacity building to embed the policy and outcomes. Cross-sector mediation could also be offered "to rebuild culture of collaboration at local/national levels"[16]. The purpose and processes for national or regional commissioning versus locality commissioning could be reviewed.
- **Explicit definition of terms** such as 'sectoral bargaining' and 'ethical procurement' and 'integration', and what an outcome is – which can be interpreted differently across HSCPs.

[16] CCPS 2020 – Big ideas for changing how social care is planned and paid for

- **Wider guidance** to ensure that all stakeholders understand what is expected of planners, commissioners, finance, legal, procurement functions in terms of challenging culture around competitive tendering and embedding ethical commissioning principles. Guidance could encourage, for example:
    - Longer and more flexible contracting;
    - Use of reserved contracts to encourage smaller providers;
    - Setting up a formal bargaining space for external care and support providers so they have more leverage in discussions;
    - Making more use of collaborative contracting forms/consortia and collaborations to drive service efficiency (e.g. geographical lotting);
    - Removing the use of time and task contracting for personal care, with the right amount of funding allocated on a per person basis determined through a good conversation between the social worker and the person.
- **Policy framework changes and more effective scrutiny of practices** – to address fairer work and achieve equitable investment in recognition of the social care workforce. This would require understanding the real cost of care and using this as a basis for funding.
- **Training and development** for commissioners, procurement, finance, and legal teams to develop the knowledge and skills required to embed ethical commissioning.
- A **culture shift** to achieve greater investment and focus on early intervention, including moving away from price-based models and requirements to provide evidence that prevention works. A bottom-up approach to service planning could better ensure the focus is on meeting the needs of individuals and their communities.
- Build a greater **public awareness** of the value of social care and debate around what is expected of services and what people should expect of themselves -and to take a human rights-centred approach to the narrative (e.g. "where services are not there to relieve pressure on acute services; [we need to see that] people are 'trapped in hospital, [they are] not bed blocking"[17]). This could build external pressure for change and change the nature of the debate.

2.30 In the following chapters, the experience of introducing and progressing ethical commissioning approaches are captured from across five areas at different stages of development.

[17] CCPS – It's out of whack

3. Scottish Borders

3.1 In March 2023, Scottish Borders Council created a new role – Chief Officer Strategic Commissioning & Performance – to drive forward change in the way that commissioning takes place. The new commissioning approach will aim to embed the principles of ethical commissioning. They are at the beginning of this journey and their work has so far focused on:

- Developing an overarching commissioning framework for Scottish Borders Council and Scottish Borders HSCP
- Collaborative approach to the Care at Home design project which will take place over the next 12 months (starting April 2024).

Overarching commissioning framework

3.2 Historically commissioning has taken place through lots of different budgets. The overarching commissioning framework will increase the effectiveness of commissioning by supporting whole system review and providing oversight of all commissioning. This has involved designing new governance arrangements, developing commissioning strategy and principles, and mapping current provision.

Designing new governance arrangements

3.3 Creating a simple structure ensures that key people have oversight of all commissioning, and it brings coherence to the commissioning environment. So far, a Strategic Commissioning Board has been established to oversee key commissioning decisions going forward. Membership of the board includes relevant directors and budget holding lead commissioners from across the HSCP (including from Children's and Adult's Services and Social Work, Quality Improvement, Finance, Mental Health and Learning Disability, Primary Care, Housing and Procurement). The board has agreed Terms of Reference, and key developments and decisions relating to commissioning will now be reported and made at the Strategic Commissioning Board.

Developing a draft commissioning strategy and principles:

3.4 This draft strategy will be going through the Equality and Human Rights Impact Assessment process as well as full engagement with key stakeholders to obtain their ideas and feedback. It details 11 Commissioning Principles which will be adhered to when developing the approach to commissioning. Principles include commissioning for outcomes, early intervention and prevention and a commitment to innovation.

Mapping current commissioned provision

3.5 This activity will provide clearer evidence of the fit of services against the IJB three–year strategic plan and to what extent they are achieving Best Value. An initial mapping exercise has been undertaken over recent months which seeks to give an overview of the entire commissioning landscape across all commissioning areas including adults and older adult's services, learning disability, mental health, children, and education commissioning. Data from

existing contracts will be analysed to allow a better understanding of the commissioning that in many cases has been in place for some time. A report will be drafted with recommendations for commissioning going forward.

Care at Home redesign project

3.6 Alongside developing the overarching commissioning strategy, work has started to review the Care at Home framework. Scottish Borders HSCP want to improve capacity, sustainability, and innovation. They want to do the service design work collaboratively with providers and service users to improve the service model and provider market to procure new service delivery from 2025.

Enablers

3.7 The work in the Scottish Borders is in its early stages but to date, the factors that have supported change have been:

- Having an appetite for change across key stakeholders.
- The Chief Officer Strategic Commissioning & Performance bringing knowledge of other models and first–hand experience from other areas which is providing confidence that this is an effective approach.
- Framing the work in the context of the National Care Service supports stakeholder engagement by validating and locating the work in a wider, strategic agenda.
- The allocation of project management office (PMO) resources for this work going forward.

Barriers

3.8 There have been some key challenges to introducing change in processes. The time taken to do the groundwork has been considerable. It has taken a year to fully understand the current situation, develop a shared understanding of the role and build relationships to engender internal commitment to the new commissioning approach.

3.9 Until recently there has been no resource allocated to specifically support this work outside of the Chief Officer Strategic Commissioning & Performance role so there has been heavy reliance on matrix working with existing posts which has been difficult for those postholders in terms of committing time to this work, which has slowed the pace of change.

Next steps

3.10 In the immediate term they are about to move into the first phase of the Care at Home design process, working with providers and service users.

3.11 To support progress of the wider work, there are several key activities that are taking place:

- a whole system capacity of health and care modelling exercise is about to be commissioned externally to aid health and social care capacity versus demand modelling and will help to Determine the correct configuration and size of different parts of the system;
- engagement of providers and service users to seek their input into the outline and principles of the overarching commissioning strategy.

3.12 The intention is that the evidence base they are gathering will feed into an overarching workplan for commissioning which will detail a programme of redesign and recommissioning. The aim is to include a way of measuring the overall value and impact of all commissioned services.

3.13 Work in the Scottish Borders is focused across the whole 'planning to procurement' process and has the potential to widen the number of providers and/or widen choice for citizens by introducing new models of support and care.

4. West Dunbartonshire HSCP

4.1 West Dunbartonshire HSCP appointed a new Contracts, Commissioning and Quality (CCQ) Manager in December 2022. The post is responsible for commissioning, SDS improvement and quality across an estimated £80m portfolio of health and care services. This includes adult and children's social care services for learning disabilities and mental health, complex care, addictions, residential care, carer services, specialist training, short breaks services, physical disability, sensory impairment, and services for older adults.

4.2 Due to this key post having been vacant for a long period, there had been little active commissioning so historical contracts were ongoing with little review or oversight. This had resulted in a situation that was not working well for individuals, providers or the HSCP.

"*What we were doing before was not yielding results for anybody.*"

Aspects of ethical commissioning

4.3 The incoming CCQ Manager wanted to introduce more choice and accountability into the way the HSCP planned and offered support, to better reflect the values and principles of SDS. It was decided to first focus on re-commissioning care services across adults with learning disabilities, physical disabilities, and mental health because there were significant resources allocated to these service areas, very few providers and limited services. This indicated a lack of choice for individuals and a market risk around sustainability.

Building capacity for change

4.4 Recognising that a different approach was needed, the CCQ Manager contacted IRISS, whom he was aware of through his professional network. IRISS facilitated several workshops with procurement, operation, and quality colleagues to explore existing approaches, what was working well, the pinch points/barriers, outcomes and understanding where lived experience would provide a valuable insight. This enabled sharing of learning from different functions about the challenges each faced, including lack of resource and inconsistencies in operational issues and priorities. A separate session was organised for finance colleagues to support them to explore perspectives on their role in commissioning and approaches to value for money. This supported growth in their understanding of SDS and identified how some systems were not aligned with SDS principles. Subsequently IRISS provided support with the change process through their Foundations of Change Programme.

4.5 The approach taken to improve commissioning has been to develop a new provider framework, underpinned by SDS principles to attract more providers and build new service models. The CCQ Manager engaged with providers early on to support the development of the outcome-based framework in partnership, incorporating their concerns and ideas. Principles of 'just enough support' and 'just enough' due diligence were adopted to ensure that the framework is open and accessible to a wide range of providers. Contracts will be developed on a five-year plus two-year extension basis to offer commitment to a longer-term way of

working, meaning that by their nature, service models can adapt and flex over time to better respond to changing needs and emerging good practice.

4.6 Other processes changed include a partnership approach to:

- Developing services and specifications – service design and specifications are now influenced by multiple partners including the commissioner, procurement, providers, operational colleagues, and finance. For example, in the first tender issued for years for a supported living service, the specification was based on a model from elsewhere, and will be shared with the successful provider to get their insight and input before finalising. Commissioners asked, "Do you think this service would generate positive outcomes for people?"
- Contract management and monitoring – providers have been involved in discussions exploring what data is useful to collect to better understand trends, successes and good practice, outcomes, and prevention of escalation. New, improved contract management is now in place which is hoped to lead to better insight and less administrative requirement, which should free up delivery time.

4.7 Other examples of system change to support ethical commissioning include:

- The HSCP Area Review Group (ARG) worked on strengthening the quality of individual assessments so that providers could be confident that care package assessments are a good reflection of individual care needs, avoiding the need for providers to seek extra funding (due to finding additional needs post assessment). "Just Enough Support" training was a critical part of this.
- The procurement function agreed that voluntary sector providers inherently offered community benefit and therefore did not have to elaborate in bids. This is reflected in procurement documentation.
- Through information conversations and the IRISS sessions, finance colleagues understood that it was acceptable to have expensive providers for SDS options 1 and 2 because it was the choice of the individual if they wanted more expensive support and they understood that this did not necessarily mean increased budgets for the HSCP.

Enablers

4.8 There were some key factors that supported the development and buy–in to the new approach. These included, working closely with providers to build trusting relationships and enabling constructive discussions which helped to build an effective framework. Creating an independent space through the work with IRISS freed up individuals to have different conversations and share perspectives safely. In addition, the opportunity to shape the new Commissioning role, the size of the authority and investing in relationship–building are enablers that are discussed in more detail below.

4.9 Coming into a vacant post where the commissioning function was relatively inactive offered an opportunity to do things differently. The skills, knowledge and experience brought by the new postholder were a key enabler of change, including detailed knowledge of procurement rules to unblock historical perceptions of 'what was possible'. Knowledge of IRISS and working with them helped to work across functions to build an evidence base and an approach to change. "*If I had been promoted from within, I may have felt obliged to carry on as normal.*"

4.10 West Dunbartonshire is a small authority which meant that there were a manageable number of key relationships within and external to the HSCP. In addition, the commissioning function reports into Head of Strategy and Transformation which is coherent in culture and purpose in terms of ambitions to 'do things differently'. Having an open-minded Chief Finance Officer really helped.

4.11 Investing in relationship building – particularly spending time with the finance and the procurement team has helped to understand different perspectives and to build a more consistent understanding of SDS, what social care is in practice and why it is different to commissioning products. Building whole system senior management and leadership support was also important. Effective processes included early socialisation of ideas around ethical commissioning (e.g. longer contracts; social value), linking these to wider strategy and ongoing communication with colleagues and providers at every opportunity.

Barriers

4.12 There were challenges to introducing such an approach, in particular:

- historical ways of working and risk averse cultures were the norm in the absence of a commissioning function, which meant it was difficult for colleagues (e.g. Finance) to understand why they needed to participate in the framework development and change process.
- lack of appropriate services in place, for example for a step-down service to support an individual out of hospital/residential care setting to understand and respond to their long-term care needs and accommodation requirements. Also, there was a lack of understanding of different potential service models.
- useful evidence of effectiveness and impact is affected by a historical focus on collection of output data.
- capacity – managing a change process like this takes a lot of conversations, energy, and time. Making savings at the same time is a continual challenge.
- Scotland Excel framework feels to be too 'commodity based' and needs to be more flexible to better address local need, for example nationally approved fee uplifts which create local issues by constraining local ability to tailor uplifts to local financial contexts.

Overview of key learning

4.13 There has been some key learning from the process so far:

- Understand where colleagues are coming from and build open relationships.
- Build a robust understanding of procurement rules so you know what is possible, particularly the use of the direct award.
- Get to know providers – work with them to understand their strengths.
- Share models from elsewhere with colleagues and providers to widen discussions about what might be possible.
- Be clear what is within your gift and what is not – be open about the financial envelope.
- Be persistent – change takes time.

Next steps

4.14 The HSCP is continuing to work to explore outcomes–focused contracting with IRISS and pursue a strong ARG (Area Review Group) to move away from hours to budgets to promote more flexibility and choice. They are also considering ways to recognise workforce investment as part of the procurement process.

4.15 The approach will continue to focus on planning, commissioning, and procuring different models of support from a wider group of providers.

5. CAYR South Ayrshire

5.1 Across Scotland and the UK there have been significant challenges in providing person-centred health and care interventions and these challenges are particularly pronounced in rural areas.

5.2 In South Ayrshire, an area with a substantial and growing older population, workforce supply in health and social care has been a long-standing and significant challenge which has resulted in some health and social care providers "handing back" packages of care as they were not financially viable.

5.3 In an attempt to address these challenges, a group (CAYR) formed in South Ayrshire (comprising the HSCP, South Ayrshire Council, Voluntary Action South Ayrshire (VASA), Ayrshire BEATS and the Ayrshire Independent Living Network) to assess the viability of introducing micro-providers into the health and social care landscape, to address these gaps in provision.

5.4 The model they wished to trial was based on existing models in Scotland and the UK which have been established over the last ten years. Two examples, in Somerset and rural Perthshire, were of particular interest. These have involved the commissioning of micro-enterprises to plug gaps in health and social care services. As in South Ayrshire, these micro-enterprise models of care provision tend to have started in areas where the workforce for care provision is limited and larger care providers find it challenging to provide services in an economically viable way.

5.5 In Perthshire, the model comprises some 60+ small enterprises offering health and care support under the umbrella of a Community Interest Company. These micro enterprises often have only one or two members of staff and require the support of the larger company. In Somerset, there are currently well over 1200 micro-enterprises providing care. Income is generated through a mix of service charges, self-directed support (SDS) monies, and grants.

5.6 Frequently, the motivation for setting up a micro-enterprise to offer these services is that it gives the owners/staff the flexibility to work the hours that suit them.

5.7 CAYR set out to establish a similar model in South Ayrshire. This new approach was an attempt to address a commissioning landscape which could be risk averse and not risk enabling, and a recognition that alternative solutions were needed to address these barriers, all of which had resulted in a lack of provision in the area. It was also a response to Scottish Government's drive for more flexible forms of supply for health and care.

5.8 More specifically, the pilot was designed to address several key factors including:

- Unmet need, due to local supply issues
- Preventative support for people prior to them becoming eligible for care packages
- A desire to widen use of the different options available through SDS in their local area

- Provision of a structural solution to a risk-averse local culture of commissioning
- The recognition that people and families might have the means and wish to contribute financially to their support

5.9 In South Ayrshire, the micro-enterprises are given a range of support at the outset including advice in relation to tax and registration. Once they are established, they can access support through the Ayrshire Independent Living Network and a peer network, but the level of support is intentionally lean.

The pilot

5.10 This pilot aimed to support local people to set up small enterprises that offer care-based support services for older and disabled people that:

- provided personal, flexible, and responsive support and care
- gave local people more choice and control over the support they get
- offered an alternative to more traditional services

5.11 The pilot comprised a range of stages of activities including awareness raising, training sessions with potential micro-providers, 1:1 bespoke support to micro-enterprises, liaison with other health and social care provision to ensure duplication was avoided, and development of an online directory of micro-enterprises.

5.12 The pilot is active in three local areas with a mixed range of challenges, which were selected based on local data on waiting lists, access to services and other limitations.

5.13 The IJB in South Ayrshire agreed to provide financial support for the pilot. Grow Biz, an organisation which supports small businesses, also supported the process.

Progress

5.14 Through the pilot, which commenced in April 2022, 18 micro-enterprises have been referred since June 2023 and as at February 2024, 12 micro-enterprises were registered on the directory.

5.15 Between June 2023 and February 2024, 15 clients had been supported, and 2356 hours of support had been delivered (average of 97 hours per week). This support has been part-funded by Self-directed Support (SDS) and through self-funding by clients. To date, seven clients have funded the services through SDS and 10 have funded the service privately or through other sources.

5.16 Extensive awareness raising and promotional activity has been undertaken to raise awareness of the services being delivered by the micro-enterprises.

Reflections on the ethical commissioning model

5.17 The micro-enterprise pilot being delivered by CAYR is a good example of ethical commissioning. In addressing a key area of need in South Ayrshire, its focus is on working with local people to ensure access to a range of health and care services (giving them choice which is at the heart of the principles of SDS), whilst valuing the flexibility desired by the workforce (within the micro-enterprises) and retaining income in the local community (a key tenet of community wealth building).

Enablers

5.18 There were several key factors that have been instrumental in the success of the pilot:

Support of local and national partners

5.19 Local support was key to the successful implementation of the pilot. The partnership set up to deliver pilot activity involved key players in the local area including the local HSCP, South Ayrshire Council, and key third sector organisations including VASA, Ayrshire BEATS and the Ayrshire Independent Living Network. Support from Social Work Scotland was also cited as an important factor in their success.

Funding from the IJB for the pilot

5.20 The financial support of the IJB was critical in enabling CAYR to pilot the micro-enterprise model. This gave them the scope to work with local people and provide them with the support required to establish micro-enterprises that could address the health and care needs in the area.

The model did not compete with traditional care providers

5.21 The pilot came about because of unmet need. Care providers were unable to resource contracts, and in some cases handed these back to the local authority as a result. Consequently, the micro-enterprise model was welcomed as a solution to a lack of services rather than seen as a threat to existing providers.

Complementarity with local strategies

5.22 The pilot idea fitted clearly with a range of local strategies and as a result, relevant council departments and staff leads were keen to understand and embrace the work. There were positive links formed with Community Wealth Building, and employability teams such as Business Gateway.

Links to economic development within the local authority

5.23 There was a strong sense that the local (Ayrshire-wide) economic development strategy did not fully consider the considerable opportunities linked to health and social care, despite the large proportion of older people in the local population who spend/will spend money on

health and social care. CAYR considered this to be an area of growth and that strong links to economic development were essential to the success of the pilot. These have developed as the pilot has progressed.

Barriers

5.24 There remain some barriers in moving forward with this model. The pilot is still in the relatively early stages of implementation and there is now a need to firm up a lot of practice around legal requirements, commissioning, and referral.

5.25 There are structural barriers which need to be broken down – for example, it remains a challenge that if you are not a registered care company then SDS Option 2 cannot be deployed. They are hoping to move towards a model where micro-enterprises are registered with CAYR and that this legitimises their operation in this field. This will require permission from Social Work Scotland, but they are hopeful this will be forthcoming.

5.26 Local representatives are concerned about the lack of political leadership in Scotland on older people and keen to see this improved to strengthen the receptiveness to pilots such as theirs. They compared Scotland unfavourably with Wales where there is an Older People's Commissioner. They remain concerned that national agencies are not understanding the importance of older people as a demographic

Overview of key learning

5.27 CAYR suggested that some key learning for others undertaking to implement a similar model might include:

- Start with a small test of change, or small project and grow from there
- Be pragmatic and look at local opportunities and alliances
- Having the right set of partners with a shared vision and shared values is key
- Root the work within communities to ensure it
- meets needs and awareness is high
- Recognise the potential latent workforce that exists within every community and give them good opportunities to explore becoming a micro-enterprise
- Make sure there is good communication at all levels, including with funders, and include good case studies and stories as part of this
- Have realistic and measurable short-term goals that you can deliver and build upon
- Have the courage to be ambitious

Next steps

5.28 It is still early days with the model's implementation in South Ayrshire and those involved highlight the need to now firm up a lot of practice in relation to legal issues, commissioning, and referrals. They have recently been awarded a further two years' funding by the IJB to enable them to continue to address these issues. They also have plans to evaluate the model at the 18–month point to better understand its impact.

"*We are on a journey. We need another two years to try things and test them properly.*"

6. Falkirk HSCP

6.1 Falkirk HSCP spend a significant amount on adult care homes under 65 placements each year yet a large percentage of their spend was on placements that had not been through a robust procurement process, partly because only certain categories of care (LD/Autism) could be procured through Scotland Excel, their primary call-off contract at the time.

6.2 The HSCP sought to design a new commissioning and procurement process for their Adult Care Home placements (under 65) across varied care categories including Learning Disability (LD), Autism, Mental Health (MH), Physical Disabilities (PD) and Drugs & Alcohol Related Brain Injury (ARBI) and individuals who may also have complex needs and/or display some signs of stress and distress. Conscious of the Feeley review and local drivers, the aim was to co-produce a comprehensive framework to achieve sustainable, outcome-focused services, offering high quality care to individuals and a pathway to more independent living.

6.3 Over the course of a year, Falkirk HSCP have successfully developed a new Falkirk Adults Care Homes Under 65 Framework rooted in ethical commissioning principles. The development process has been effective in strengthening relationships and building trust, which has resulted in high levels of provider engagement in the framework. Following the tendering process, the percentage spend on services procured 'off contract' reduced by 60%. This means that circa 80% of the services procured are now working to a consistent set of expectations, with individual outcomes firmly at the heart of provision.

6.4 Falkirk hope that the new framework will drive up standards due to the higher level of joint working and collaboration and further improvement in performance against current KPIs. They plan to identify new KPIs in relation to individuals' outcomes as the framework progresses. With only one framework this will enable a co-ordinated approach to sourcing care packages, with the aim of freeing up time for staff to focus on care management rather than sourcing support.

Aspects of ethical commissioning

6.5 Falkirk HSCP shifted from a competitive tendering to an innovative, collaborative approach. They developed their commissioning and procurement strategy and framework with full involvement across all stakeholders, embedding a Human Rights approach driven by principles of high-quality care, full involvement of individuals, shared accountability, financial transparency, climate and circular economy and fair work practices. They are keen to continue to collaborate with key stakeholders to develop a mutual understanding of all nine ethical commissioning principles and to fully integrate them into the new framework.

Stakeholder engagement

6.6 Significant time was spent engaging with stakeholders to ensure that all elements of the strategy and framework would be driven by what is important to individuals using the service, their families, providers, and staff.

6.7 In line with third principle of ethical commissioning, where people who will use the service should inform commissioning and procurement processes, an inclusive consultation process for individuals living in adult care homes was undertaken. This included:

- an online survey completed by individuals living in a local care home and their family members and carers.
- on-site visits were also made available where individuals were helped via low-tech visual communication tools (talking mats) to complete the survey.
- survey links and updates shared with colleagues at Forth Valley Advocacy and the Carers Centre.

6.8 A total of 48 service user responded via these survey options. One provider explained how their service users and family members contributed to the consultation and they appreciated the easy read version of the documents so that they could meaningfully engage in the process and give their views.

6.9 The consultation evidenced that individuals placed high value on dignity, respect, and quality. There was largely positive feedback and individuals were happy with where and how they lived.

6.10 Providers were engaged through a collaborative event and a post-session survey; Fifty providers attended the consultation event and 16 responded to the survey. communicating their preferences for a simple, open framework, supporting a term of four years with the option to extend up to a further three years. They supported the establishment of a training consortium and a Fair Working Practice Academy to increase their own organisational capabilities and improve joint working with other providers.

6.11 The providers valued the opportunity to contribute to the shape of the framework and the regular updates that were provided so that they understood how development of the framework was progressing, what the consultation responses said and what actions were being taken.

6.12 Feedback was also sought from the Care Inspectorate, Scottish Care, Healthcare Improvement Scotland and HSCP specialist teams and IRISS to ensure that the framework was in line with best practice.

6.13 This engagement process influenced the approach in many ways. The Pre-market engagement with key stakeholders established what was important to people, what the HSCP could do to assist, what could be done better.

6.14 Individuals accessing support wanted more opportunities to go out, have access to transport for group activities and improvement to the food options. This fed into the service specification and T&Cs which were updated to include proper meal planning, transport, and activities.

6.15 Providers confirmed that collaboration and partnership were key and welcomed the opportunity for more engagement and joint working with the HSCP throughout the framework and they were keen to get involved in the Training Consortium, "I think this is an excellent idea, share of cost for external training, facilities, and resources. Good to work with other providers and share knowledge."

6.16 Providers also acknowledged that' ethical commissioning' was not straightforward and appreciated the prospect of exploring this further in the working groups. The pre-market discussions highlighted the staffing issues and pay gaps between NHS, local authority staff and provider staff and so there was a willingness to setting up fair working or a workforce academy where these issues could be explored collectively with the hope of finding solutions to some of the ongoing problems. One of the providers involved in the pre-market engagement valued this opportunity to contribute and viewed it as another indication of the collaborative relationship with the HSCP team.

6.17 The combined contribution of the stakeholder feedback informed the ten principles which underpinned the new framework. These are to:

- Ensure spend undergoes a full procurement exercise and improves governance.
- Enhance pricing transparency and minimise payment queries to improve quality data.
- Maximise collaboration and enhance a partnership approach in the market.
- Stimulate interest in this area and create a wide choice of high quality, person-centred services and control for people using services.
- Ensure continuity of care and focuses on the achievement of personal outcomes.
- Promotes health and social care standards.
- A more co-ordinated approach to sourcing Adult Care Home placements which in turn will create efficiencies for HSCP staff.
- Provide a mechanism for improving quality consistency in standards and outcomes for people using services.
- Gain a greater understanding of the nature of the services including training and specialisms through the tender process, leading to better informed decisions.
- Incorporate the principles of ethical commissioning into the process

Development of the framework

6.18 As already described, the stakeholder engagement process informed the commissioning and procurement redesign with the aim of tightening up governance and ensuring the best outcomes for individuals.

6.19 Falkirk used the Light Touch Regime (LTR) to produce a procurement process which is similar to an Approved Provider List (APL). The HSCP was mindful that providers often lack the

budgets and resources for arduous tenders (It has been known for providers to employ consultants to complete the tenders) and they were therefore keen to reduce both the bureaucracy and the barriers to tendering.

6.20 Tenders had to meet the following minimum requirements to be awarded to the Framework Agreement:

- Care Inspectorate registration & required relevant grades.
- Minimum Insurance levels
- Assessment of mandatory/discretionary grounds for exclusion via the SPD.
- Fair Work First commitment including payment of the Real Living Wage.
- 2023/24 rates (plus Scottish Government uplift for Real Living Wage effective from 01/04/24). (Out of Area Care Home rates benchmarked with host authority agreed rates).

6.21 Providers welcomed the simplicity of the process, and this approach also reduced the resource and time requirements for HSCP staff evaluating bids.

6.22 Informed by the engagement process, new Terms & Conditions (T&Cs), Service Specification and a Catalogue of prices were developed with individuals at the heart of the process. This co-produced suite of products provides a mechanism to strengthen governance and set out clear expectations, which through contract monitoring will improve quality and consistency in standards and outcomes for individuals.

6.23 Providers were very positive about the T&Cs and service specification viewing it as "putting in place the checks and balances at the start of the process and setting out the stall as to what providers needed to meet". They also highlighted that the framework recognised that if the quality of care dropped, they could be supported to improve performance rather than face a punitive response.

Enablers

5.29 There were some key factors that supported the development and buy-in to a new framework. These included:

- Commissioning and procurement knowledge and expertise within the Falkirk team – the work was led by an officer with detailed knowledge of both procurement, contract management and commissioning legislation and practice which allowed the work to be steered by a knowledge of what is possible (considering ethical commissioning principles) rather than simply repeating existing commissioning and procurement practice.
- Drive and commitment across key individuals who could visualise, champion, and lead the change and who were given the autonomy to progress with the project.
- Strong commitment to building and ensuring effective relationships has been key to all the work including:

  - Excellent connection between procurement, commissioning, finance staff and HSCP senior management and frontline staff helped by long established and trusted working relationships amongst key individuals in these roles which enabled the project to progress faster

- Established management information systems and robust contract management that provided data such as purchasing patterns, evidence of commissioning needs (e.g. a gap in the market in relation to Drugs & ARBI and for people presenting with challenging issues) which informed the procurement strategy to shape the framework
- HSCP/Provider relationships that are trust–based and honest which enabled focus on the task at hand, working together on the project and improvements /innovation rather than managing concerns or issues that may be present in less robust relationships.
- Effective relationships and connections with other key stakeholders including the Care Inspectorate and HIS
- Encouraging colleagues and providers to fully understand ethical commissioning principles, by discussing the principles as part of the information and engagement sessions

6.24 One provider described their decision to remove themselves from the Scotland Excel framework "*it wasn't working for us, we are one care home, and this nationalised approach might work for a chain, but we couldn't access timely and responsive support to our queries, the management reporting was time consuming with monthly and quarterly returns that had little relevance to the service users and the support we provided*".

6.25 For this provider, a localised framework that understood the context of their work with staff with whom they could develop an effective relationship with timely and honest communication, as in the new Falkirk framework, was what they wanted and welcomed.

Barriers

6.26 There were challenges to introducing such an ambitious approach within the timeframe and ensuring that all key stakeholders were on board with the changes.

6.27 Resource Implications – the range and scope of work required to deliver good quality, ethical commissioning was significant and local capacity in roles responsible for this work was limited. This required individual staff to sometimes work well beyond their normal work capacity to complete such a robust exercise.

6.28 Aligned to this was a local system (not unique) where the commissioning lead and resources functions were subsumed into the procurement function of the local authority via a restructuring exercise. While this led to strong joint work between commissioning and procurement, it was much harder to have coherent commissioning practice across the whole of the HSCP commissioned services. As a result of a further restructure, there were three procurement advisers subsumed in the HSCP and they were responsible for procurement,

commissioning, and contract management for social care and there was no single reporting line direct to the Senior Leadership Group.

6.29 The re-structures have resulted in only a small proportion of staff within the HSCP having a full awareness and understanding of the full vision and concepts of ethical commissioning, largely due to a lack of capacity and other priorities.

Next steps

"*By coming together and sharing our expertise, training knowledge, potentially share costs then we anticipate we can improve care standards and achieve a happier workforce*".

6.30 The providers have applied to be part of the framework, the bids have been evaluated and contracts have been awarded which started on 1 April 2024.

6.31 The priority is to continually improve standards of care and to make further progress the HSCP is developing a training and development webpage for contractors with links to varied online training and provide an awareness of some local training sessions provided by our Training and development Team as well as key training documentation.

6.32 They also plan to set up a collaborative partnership with framework providers to fully explore the principles of ethical commissioning, gain a mutual understanding and apply them in practice. This will be rolled out through setting up of a Training Academy so that stakeholders will have a platform for sharing training resources and awareness. There will also be a Fair Work Academy/Workforce Academy to discuss issues and find solutions together, sharing power more equally.

6.33 The providers confirmed that they welcomed the enhanced opportunities within the new framework. They could see the benefits of accessing a Training Academy explaining that "*we are on our own a bit*" and felt that this would help to standardise learning across those providing services and share the costs of training.

6.34 As well as shared learning, the collaborative partnership will also enable providers to talk about and address the challenges that they are all facing, e.g. around recruitment. One provider explained that this would help to "*not always see other providers as your competitor*" and encourage more collaboration in a field that has felt very competitive.

6.35 By investing in collaboration and relationships, the hope is to drive trust-based commissioning and develop truly ethical commissioning. IRISS will be working with the HSCP, providers and key stakeholders over the next year to support the development of the Training Academy.

6.36 In addition, the HSCP wants to:

- Continue with their partnership working approach and test small changes that could be spread to other areas

- Continue to improve their contract management so they will liaise with the information team and pull data from all IT systems which will feed into contract management process and help to monitor individual outcomes and HSCP level outcomes.
- Reflect on the overall Framework principles in terms of efficiency and improved governance.

6.37 One provider reflected on the significance of the new framework, and how it is not simply the approach to developing it and the content that has been significant but "*it's what they have wrapped around it that makes it different*". He felt that it was a fundamental redesign of commissioning which should "*act as a benchmark for how other authorities should do it*".

Local learning and national action

6.38 There had been a huge local effort to design and implement the new framework and the HSCP reflected on what is important to consider and what support can help others who want to introduce good commissioning within their localities. Learning and action at a national level could assist the drive for change and includes:

- Improved resources – commissioning functions lack resources across local authorities and there is often no capacity to spread small test areas to large scale projects and, with the National Care Service, there will be the need to embrace and drive forward change.
- Increased understanding of the infrastructure for commissioning across Scotland – in every local authority the roles and staff structure differ dramatically, as do the systems they use. A better understanding of what is in place across Scotland would help inform the focus of and type of support that is needed, again essential given the ambitions of the National Care Service.
- Giving ethical commissioning a higher priority nationally – senior management have limited capacity to focus on ethical commissioning due to other demanding priorities so it needs to have a higher profile if it is to be taken forward. A Commissioning lead within the Senior Leadership Group, or as a minimum reporting to an Officer or Executive who reports to the Chief Executive, could bridge the gap between strategic and operational, and better support management teams to deliver on the aspirations set up for ethical commissioning in Scotland and a transition to the National Care Service. This will better support the transformational change required at the whole system level.
- Clarify what ethical commissioning is – even with the ethical commissioning principles, there is not a commonly shared understanding and language when talking about ethical commissioning.
- Workforce issues – the aspirations set out in the Fair Work agenda must be fully realised if there is to be a sustainable workforce. For commissioning practice to become truly ethical it is important that processes are right, but it is equally important that the conditions are available to make service models work. This requires proper investment in the pursuit of fair work.

7. Edinburgh HSCP

7.1 Edinburgh HSCP have been working to improve commissioning and procurement processes for over seven years across community mental health and wellbeing. The approach has been to develop strong intersectoral partnerships to drive commissioning and procurement processes that reflect principles of ethical commissioning.

7.2 Their journey to improving health and wellbeing has been driven through the development of the:

- Strategic Edinburgh Wellbeing PSP
- Thrive Welcome Teams and the Thrive Collective

Developing Edinburgh Wellbeing PSP

7.3 In August 2016, the Edinburgh Integrated Joint Board (EIJB) recognised significant opportunities to adopt a different approach to the planning and commissioning of mental health and wellbeing in line with the principles of the Christie Commission. At this time the Scottish Government was supporting the Public Social Partnership (PSP) approach and Edinburgh was a strategic partnership site for PSPs as part of the Government's Third Sector and Procurement Reform Process (and already had six other PSPs). Supported by the City of Edinburgh Council Procurement team, the formal Edinburgh Wellbeing PSP process began in December 2016.

7.4 Over the course of around 12 months, the Edinburgh Wellbeing PSP was developed though an in-depth collaborative process with partners, citizens, staff, and carers to explore, discover and design what services and supports were required to meet the mental health and wellbeing needs and aspirations of people living in Edinburgh. Following a review of all evidence gathered throughout the co-production process, it was agreed the best design to meet the needs of the city would be to set up eight wellbeing partnerships across the city.

7.5 Following transparent procurement, eighteen third sector providers were recommended to receive funding for a 24-month period as part of the Edinburgh Wellbeing PSP from November 2017, including one new wellbeing provider. These organisations, in partnership with statutory organisations, citizens, and carers were invited to form:

- four locality wellbeing PSPs providing a range of social prescribing, meaningful activities and psychosocial and psychological support to people experiencing mental health problems, and
- four 'pivot' PSPs focused on developing a Crisis Partnership (a 24/7 service); a Peer Collaborative (capacity building for peer working); an Active and Green partnership (to promote physical activity, physical health and promote the use of green spaces) and a Mind Space Partnership (to provide a range of evidence based psychosocial, accredited counselling and psychological interventions).

7.6 Throughout this highly collaborative process, relationships were strengthened and lots of learning gained about how to develop PSPs as a way of:

- joining the dots within the "cluttered landscape" described by Christie, maximising the opportunities of locality working whilst maintaining citizen choice with the provision of city-wide services;
- improved collaborative working at locality level between public and 3rd sector to tackle and problem-solve issues such as the long waits for psychological therapies.

7.7 This strategic work laid the groundwork for the implementation phase for Welcome Teams (multi-disciplinary/multi-agency community teams) and the Thrive Collective (commissioned collaborative services).

Developing Welcome Teams and Thrive Collective PSPs

7.8 Just as Edinburgh HSCP were building on the learning from the Edinburgh Wellbeing Public Social Partnership and completing the vision and priorities for the new Thrive Edinburgh strategy for mental health and wellbeing, the opportunity to partner with the Innovation Unit came along in August 2018 to develop the "Living Well" model into Edinburgh, through a successful bid for £300k funding support by the Big Lottery UK Partnership.

7.9 Learning from the collaborative process used to develop the strategic PSP, a three-step design process – invite, create, enact – was followed to identify and define what they needed to commission. Key to the design process was the establishment of a multi-disciplinary, multi-agency, multi-skilled Design Team from across the city. This included representation from statutory, and voluntary sector providers, carers, and people with lived experience. One of the first tasks was to co-design ten values to underpin the way they would work together.

7.10 The Design Team engaged with people in each locality at each stage of the design process. This engagement at locality level was key in generating insights, ideas and testing and prototyping proposals. The well-established Edinburgh Wellbeing PSP groups were central to this. Throughout the design process there was constant talking and listening to communities about what was needed, which enabled them to produce service specifications which were aligned to and reflected the discussions. This was supported by Extended Design Teams in the four localities that were tasked with working intensively with people with lived experience in their areas and wider stakeholders to develop and try out new ways of working.

"*This felt very different. The Design Team was a brilliant, diverse group which helped to develop and build relationships, as well as design the Welcome Teams. We were funded for our time to be part of the group – it was a notional sum, but we felt that this showed our commitment was recognised and appreciated. Significant time was spent getting people's thoughts and views – and lots of attention was paid to the views of people accessing support and carers – what they needed and wanted.*" [Provider]

7.11 Clear person-centred and system outcomes were agreed, and a new approach to monitoring and evaluation data collection was developed. Examples of the outcomes identified for citizens include:

- People have choice and control;
- People are recovering, staying well and can live the life they want to lead;
- People feel connected and have positive relationships;
- People are living in settled accommodation of their choice where they feel safe and secure

7.12 Examples of the system and financial outcomes sought are: timely access to high-quality person-centred help and support when and where it is needed; reduced levels of mental and emotional distress; reduction in unplanned and crisis health and social care utilisation, including emergency response as well as institutional placements.

7.13 Following the design process, support and services were commissioned through nine lots to include Welcome Teams (four multiagency/multi-disciplinary open-door teams), Locality Teams and seven themed lots (e.g. Thrive Arts and Creativity; Green and Active). In September 2019 a PIN (prior information notice) was issued for interested parties, following an information session at which 60 people attended. At this meeting, it was made explicit that partnership bids were anticipated for all the 'Lots' to minimise competition. Lots were offered as five-year contracts (plus potential extension) to support sustainability and reflective learning. Identifying and developing collaborative bids was hugely helped by the prior PSP work which had led to improved relationships and created a better understanding of respective provider strengths. Even with strengthened relationships, one provider shared that at times it felt uncomfortable and sometimes challenging to share detailed information with partner providers about finances, ways of working and to develop partnership models and lines of accountability. One provider collaboration received helpful support from Partnership for Procurement, which helped them with structuring the partnership, drafting Memorandum of Understanding, and provided feedback on their draft collaborative bid.

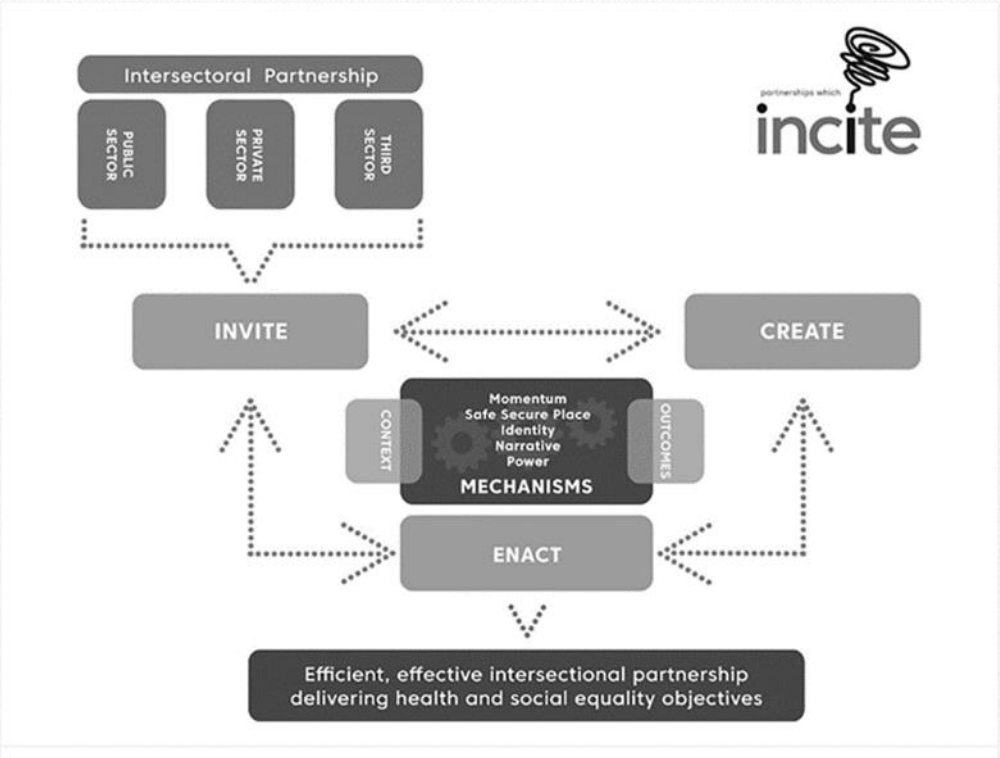
7.14 The bid evaluation process a two-staged process. A first stage evaluation panel (comprising people with lived experience and staff working in statutory and third sectors) that scored bids and gave advice to tenderers so that bids could be improved before final submission. This improved the quality of applications, built trust, and further encouraged working together – in several cases the commissioner suggested singular bidders sought collaborations. This two-stage process was cited as an important and welcome from the provider perspective, helping to clarify what was being asked for and an opportunity to ask further questions. The process also gave more opportunity for smaller organisations by making it less onerous, equitable and supported. Seven out of nine lots were awarded to collaborative partnership bids demonstrating that the PSP had led to greater collaboration between agencies.

7.15 Working in an open way through intersectoral partnerships has strengthened relationships and created innovative services with a focus on outcomes. Although the implementation pace was impacted by Covid-19, an independent evaluation identified a range of improvements and

impact. For example, by October 2021 the four locality Welcome Teams had supported over 300 people and only about six of those people needed to be referred to formal therapy. Under the historical system it is considered likely that these people would have visited their GPs and been placed on waiting lists for psychological therapies. Re-designed ways of working have reflected in positive changes for staff too, with one provider collaboration moving towards new outcome-based job profiles which allow staff to take a more flexible approach to support, based on the Thrive model.

Enablers

7.16 The model[18] developed through the experiences of building intersectoral partnerships has been formulised through academic research and is set out below.



7.17 Five key effective mechanisms were identified as core to enabling effective partnerships to develop.

- Building momentum by harnessing people's passion through focusing on what can change and recognising that pace is important (both in terms of keeping pace to maintain motivation as well as slowing pace to allow time to tackle difficult issues and challenges).
- Creating a safe psychological space and physical meeting space and using open processes to explore perspectives and enable change. Participants noted the importance of having conversations in the knowledge that they would be listened to, it would not be repeated to others, and that they could be supportive and open with each other. Participants also

[18] Linda Irvine Fitzpatrick, Donald Maciver, Kirsty Forsyth; Incite to Practice: Development of a Realist-Informed Program Theory to Support Implementation of Intersectoral Partnerships; August 2021.

described a congruence of ISP 'process' values and their own values, which supported a psychologically safe space. Being able take a positive (learning) attitude when things weren't working as expected supported safety. Participants also understood the power of different environments to promote or constrain positive actions, thoughts, and behaviours, e.g. holding sessions at football ground, art spaces instead of clinical spaces which may trigger fear or stigma.

- Enabling power sharing by acknowledging power imbalances upfront – explicitly talking about power and understanding power as a moveable concept, as well as being clear where the boundaries to power–sharing lie.
- Freeing up siloed 'professional identity' through reflection and challenge so professionals could see themselves working differently as part of different models. Partnership working sessions were perceived to give people space to reflect on their practice or to reflect on others' experiences, which in turn influenced their practice, and the ongoing work of the partnerships. "*To me, it's about being reflective and being willing to recognise what other people can contribute, along with what you can contribute*" [Participant in the process].
- Developing a narrative based on shared values, curiosity and all perspectives being valid to build commitment and authenticity in relationships. This involves developing ways of describing things in a way that is accessible/can be 'picked up'. The starting point of the narrative, or underpinning story for all the ISPs, was about intersectoral solutions to improve outcomes for people who were often marginalized. Seeing all perspectives as valid did not necessarily entail agreeing with the stated position of others. Participants described how at times this led to conflict but that it was mitigated through shared narratives and shared values.

7.18 Further enablers included building an open and transparent governance structure and collaborative representation (including by providing clarity on funding and using stakeholder sessions as part of governance), having a supportive environment in the IJB and having people who seek change around you (including procurement leads and experienced, motivated providers), having independent expertise to support exploratory thinking and for provider support, funding the input of third sector colleagues, service user and carer representees and providing backfill for statutory staff to ensure they has protected time to participate in the design meetings and work the process through in a quality way.

Barriers

7.19 Despite the success and progress with this model there were plenty of challenges including:

- People who work in a traditional role/way are still the majority – including commissioners and those involved in design, planning and procurement. Turnover of staff can be high and new staff can be limited by risk aversion, lack of experience/knowledge of other models and may not have local relationships.

- Not everyone understands the power sharing implications of PSPs, which can create issues later. For example, decisions are made more collaboratively; the commissioning role reduces as the tendering process approaches. It can be uncomfortable for providers to share their financial or 'intellectual data' as part of collaborations (especially due to the possibility of future competition between providers).
- The current climate in which savings need to be made threatens relationships and progress.
- Perceptions that PSPs are going 'out of fashion' – the lack of commitment by the SG to it as a model is frustrating. Collective learning gets lost as things move on and the learning is not embedded into the next 'preferred' model.
- From a provider perspective, barriers also include the uncertainty created by the length and unknown outcome of the commissioning process and factors that need to be worked through to collaborate – for example, differences in terms and conditions for those employed within providers. Forming collaborations requires technical support and is a process in itself. Writing joint bids takes time. "*Working within the grey can be challenging at times. It can be a stressful and worrying process – you need to be motivated to do it and there is a lot of trust involved*" (Provider).

Overview of key learning

7.20 From the experience of the process the HSCP identified key learning:

- Start with: What is the problem we are trying to solve? Get people to an 'invite' space – choose a trusted venue, create a welcome feel to the space and see what happens.
- "*Trust the process and know that things will get messy before you can work through them. You have to sit with the discomfort. Ask the questions you want to ask*". (Provider)
- Create opportunities to build trusting relationships and don't assume everyone knows what one another does. One provider emphasised how being on the Design Team created a different depth of relationship with other providers and the commissioner.
- Consider people's capacity to attend meetings and how you can support that.
- Bring together a mix of strategic and operational staff to participate from the start.
- Develop an outcomes framework that draws on quantitative and qualitative data.
- Develop a robust communications plan which promotes organisations, what they do, and how they can be contacted to facilitate relationship buildings and share ideas.

7.21 The approach in Edinburgh is a fundamental change from pre–PSP approaches. It has impacted across the whole planning to procurement process, and they have developed new ways of offering support, from a slightly larger set of providers.

8. Summary of key learning and considerations

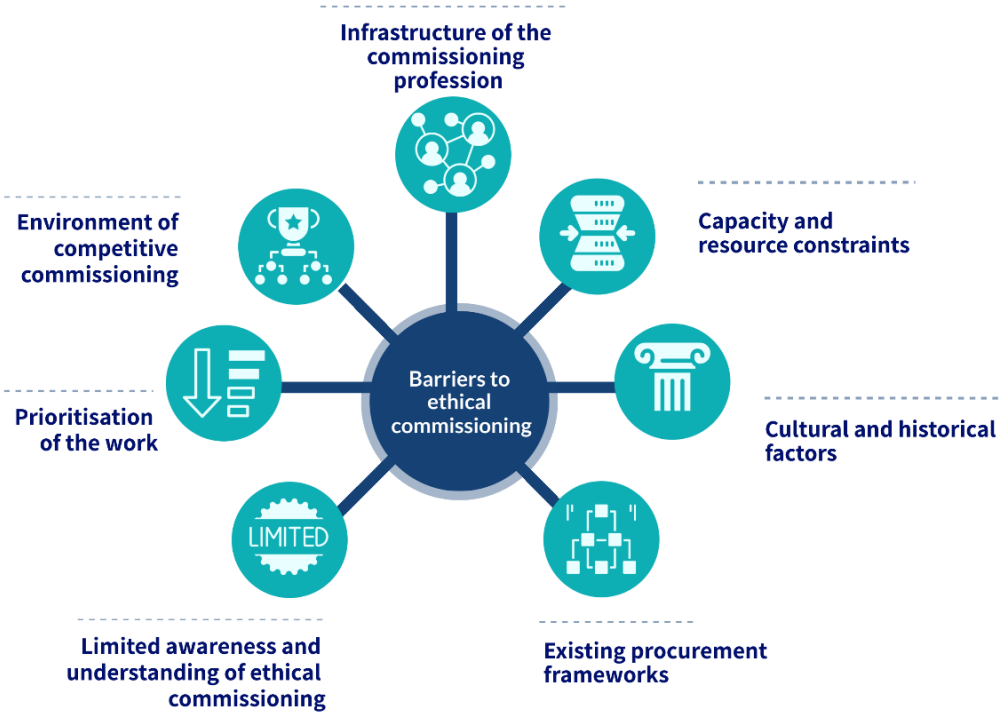
8.1 The five case studies highlight how good commissioning models and approaches can be developed at a local level to provide systems and processes that fit with ethical commissioning principles and result in more appropriate and relevant services.

8.2 When we consider the nine principles in detail, the table provides examples from across the five case studies as to how they are meeting the principles.

Ethical commissioning principles	Case study examples
Person-led care and support:	The model in South Ayrshire was designed in response to limited care options available through Self-directed Support in the local area and gives local people a greater choice in the way in which care is delivered. In West Dunbartonshire the new provider framework being developed is underpinned by SDS principles. The focus is on introducing more choice and accountability into the way the HSCP plans and offers support. It is now the choice of the individual to make an informed choice to choose less support from a more expensive provider (over more support from a cheaper option
Human rights approach	In Scottish Borders, the draft Commissioning Strategy will be going through the Equality and Human Rights Impact Assessment process as well as full engagement with key stakeholders to obtain their ideas and feedback. In Edinburgh this is strategically considered as part of Equality Impact assessment. Strong values framework aligned with human rights approach e.g., one of the core values of PSPs and Thrive is to always engage people as citizens in their community and embrace the whole person.
Full involvement of people with lived experience:	In Falkirk, accessible service user engagement identified needs which were then reflected in the service specification of the new framework. In Edinburgh, involvement of people with lived experience was embedded at all stages of developing the PSP and the procurement processes (e.g., bid evaluation panels).
Outcomes focused practice:	In Falkirk, the Framework two of the principles are focused on the outcomes for people – ensuring continuity of care and focus on the achievement of personal outcomes and providing a mechanism for improving quality consistency in standards and outcomes for people using services In Edinburgh, the Thrive outcomes are embedded in commissioning systems and related processes. Outcomes for citizens and people using mental health services and support include:• People have choice and control; • People are recovering, staying well and can live the life they want to lead; • People feel connected and have positive relationships; • People are living in settled accommodation of their choice where they feel safe and

	secure; • People have opportunities to learn, work and volunteer; • People receive good quality, person-centered help, care and support.
High quality care and support:	In South Ayrshire, the landscape now includes independent care providers that provide high quality care that is more flexible to needs and choices than other local models. In West Dunbartonshire providers have been engaged in discussions to review contract management and monitoring, exploring what data is useful to collect, to better understand trends, successes and good practice, outcomes, and prevention of escalation.
Fair working practices:	In Falkirk, a Fair Work Academy is being created so that providers can discuss workforce issues and find solutions together In Edinburgh relational approaches are embedded into the system and one of the collaboratively commissioned and delivered lots is a Peer Development programme with some evidence of impact on employment conditions e.g., role specifications in one provider have been changed to embed greater flexibility to facilitate a person-centred approach.
Financial transparency, sustainable pricing, and commercial viability	In Edinburgh there is financial transparency between commissioners and providers. A culture of working together to address financial challenges is in place, despite cuts being a challenge to sustainability and quality. In Falkirk, the engagement process informed the T&Cs and catalogue of prices (23/24 rates plus Scottish Government uplift for Real Living Wage and Out of Area Care Home rates benchmarked with host authority agreed rates) and the suite of products set out clear expectations, which through contract monitoring.
Shared accountability:	In West Dunbartonshire Service design and specifications are now influenced by multiple partners including the commissioner, procurement, providers, operational colleagues, and finance. In Scottish Borders shared accountability is driven from the Strategic Commissioning Board and Commissioning Strategy policies and processes with transparency in balancing risk and innovation
Climate and circular economy:	In Edinburgh legal duties are embedded in underpinning principles and approach. In Falkirk, the service specification requires providers work with the Council to support the ambitions and aims of its Climate Change Strategy and Action Plan which include a reduction in climate change emissions, such as through use of energy and transport, and minimise waste.

8.3 Every area has faced challenges when trying to progress these system changes. These barriers are summarised in the diagram below and discussed in turn.



Infrastructure of the commissioning profession:

8.4 The structure and roles for commissioning and procurement teams varies from one authority to another and postholders are often juggling multiple responsibilities and changing remits which restricts the opportunities to consider and embrace new approaches. The contract and commissioning teams are fundamentally important in driving forward transformational change including embedding ethical commissioning practices and further investment is required nationally to ensure this area of expertise is recognised and supported and to bring greater consistency across local authorities/HSCPs.

Capacity and resource constraints

8.5 Alongside the lack of infrastructure, there is insufficient capacity across the commissioning and procurement teams which hinders efforts to drive systemic change and broad-scale improvements and can slow the progress of service development. Once changes are in place the investment is still required for ongoing maintenance with frameworks, provider relationships and internal systems. For ethical commissioning to be enabled and embedded sufficient resources need to sit alongside the reinforced infrastructure for the commissioning profession.

Cultural and Historical Factors

8.6 Risk-averse cultures within certain organisational functions or traditional roles, like Finance, create resistance to the adoption of innovative approaches and collaborative practices which seem at odds with the well-established and commonly accepted competitive, best value

approaches. The limited understanding or misconceptions of alternative service models amongst postholders in these key functions reinforced historical approaches and impedes innovation.

Existing frameworks

8.7 Whilst existing frameworks may help with procurement efficiency and flexibility in selecting from a wide range of providers on the frameworks, local providers and local areas identified the lack of flexibility that was required to make ethical commissioning work in practice. By constraining the ability to adapt to evolving service requirements and develop responsive commissioning strategies to local needs, an alternative solution was often needed.

Awareness and understanding of ethical commissioning:

8.8 As described in chapter 2, although ethical commissioning principles are established and there are examples of models of practice and organisations providing support there still appears to be limited visibility of ethical commissioning concepts amongst postholders in key services which has resulted in low awareness among staff in functions that are part of the commissioning and procurement system.

Prioritisation of the work

8.9 There was a sense of a lack of support at a national level to navigate legislative requirements, address structural obstacles, and enhance local political leadership and this was viewed as preventing commissioning practices from advancing. The importance of focusing on the value of addressing the systems in order to provide better support services for sections of the community, e.g. aging population or those who will access the national care service was considered to be a lost opportunity to give ethical commissioning a higher priority.

Competitive commissioning environment

8.10 The commissioning and procurement process, when supply outstrips demand for services, has created an environment which has traditionally been competitive and with cost taking priority over quality which is at odds with the collaborative and non-competitive ethical commissioning approach. This tension and behaviour change that accepts more 'expensive' providers that deliver a higher quality service (but less volume) will need to be addressed so that there can be a meaningful shift to ethical commissioning in practice.

Enablers

8.11 Despite these barriers to change in traditional commissioning and procurement, the case study areas have highlighted that there are many enablers that have supported and reinforced the good commissioning processes and systems that they have introduced. Thes enablers have been grouped into those that supported development and buy-in and those that supported change.

Enablers for development and buy-in:

- Commissioning and procurement expertise: The presence of knowledgeable staff within local teams facilitated the understanding and implementation of new frameworks.
- Drive and commitment of key individuals: Champions of change played a pivotal role in driving the adoption of new approaches and fostering buy-in from stakeholders.
- Strong relationships: Establishing and maintaining strong relationships, both within and especially external to the organization, fostered trust and collaboration, enabling effective partnership working and allowing them to focus on driving change forwards rather than managing day to day activities or issues when relationships are not as robust.
- Robust data systems: Established management information systems provided valuable data insights, informing procurement strategies, and shaping framework development.
- Awareness of ethical commissioning: Efforts to educate colleagues and providers on Ethical Commissioning principles helped align actions with ethical standards despite competing demands.
- Investment in relationship building: Strategic investment in relationship-building activities, including engagement with finance and procurement teams, service providers and service users cultivated a shared understanding and commitment to change.

Enablers for Momentum and Change:

- Harnessing the appetite for change: Focusing on what could change and creating an eagerness for change among stakeholders provided a conducive environment for taking forward and maintaining the momentum for transformation.
- Creating safe spaces and addressing power imbalances: Establishing psychological and physical safe spaces enabled open dialogue, exploration of perspectives, and facilitated change in a supportive environment. Doing this alongside the acknowledgment of power imbalances helped to define clear boundaries and facilitate power-sharing and collaboration.
- Providing expertise and reflection: Leveraging expertise through external support or in-house expertise) promoted openness to new models and ways of working and helped professionals and key stakeholders to be challenged about the views and mindsets about existing systems and the opportunities for change.
- This was particularly the case when working with IRISS who not only provided external, objective facilitation but also had the operational and detailed experience of ethical commissioning which gave them the confidence, and freedom, as an external organisation to allow the discussions to explore issues, barriers and consider more ambitious solutions without the same constraints facing internal stakeholders.

- Alignment with local strategies or national Initiatives: Framing projects within the context of local or national initiatives facilitated stakeholder engagement and ensured relevance and acceptance of proposed changes.
- Resource allocation: Providing resources and funding, such as PMO resources to ensure adequate support and oversight or funding to enable third sector partners and service users to engage and contribute to the process created the capacity to invest in the development and delivery of the new approach

8.12 For all the case study areas, when system change was introduced and implemented a collection of these enablers were required to result in a successful transition to new models of commissioning. The approaches adopted drew on practice and examples from elsewhere but were tailored to local needs and the local context. This highlights the opportunity and challenge of moving towards ethical commissioning practice – there is not one model, but a bespoke approach designed in partnership with local stakeholders and those with lived experience and there is no quick route to that co-designed solution.

8.13 The challenges and opportunities for addressing the implementation gap between the policy direction of good commissioning and delivery at scale require some key considerations.

Consideration 1:

How does Scotland invest in ethical commissioning? It is clear from the evidence that the set-up, transition, and maintenance all require significant resource from both commissioning organisations and commissioned organisations. Expecting wide-spread adoption without appropriate resourcing is unrealistic.

Consideration 2:

How you create the right conditions is important and often this directly challenges the concept of competition. How confident and willing are we to move away from a competition driven environment that underpins commissioning and then support stakeholders from finance, procurement, planning, management in both commissioning and commissioned organisations to be able to do this?

Consideration 3:

How do we use the existing levers to support the move to ethical commissioning practices? The Sustainable Procurement Duty and SDS provide options and flexibilities that are under-used. How do we equip stakeholders to have the understanding and confidence to use this legislation to support progression and change?

Consideration 4:

How do we provide financial stability to commissioners and providers when funding cycles are often short-term, and resources are constrained? For providers to invest in delivering quality

services and wider community benefits and commissioners to aid providers to achieve this, then the offer of longer contracts is essential, yet more than a five-year contract is the exception in the established commissioning models.

Consideration 5:

How do you encourage locally suitable solutions given that the case studies are showing local action is needed to develop appropriate systems and this can often require working around nationally available frameworks, processes, and approaches?

Consideration 6:

How do we foster the innovation, creativity, and passion in areas where this isn't already present? All the case studies show that change starts and is supported by a particular individual demonstrating strong leadership. The status quo actively prevents people from implementing ethical commissioning and it relies on skilled and motivated individuals. How do you find and foster these individuals?

Consideration 7:

How do we create a well-resourced and cohesive profession with a clear identity? The fragmented workforce is a challenge to making progress on ethical commissioning and a challenge in ensuring that this progress is wide spread and not done in small pockets