

Commissioning in children's services

What works?

Simone Vibert

September 2016

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September 2016

EXECUTIVE SUMMARY

Despite significant policy attention and political action, looked-after children and children with special educational needs and disabilities (SEND) remain some of the most vulnerable children in the country with their later life outcomes – social, educational and health related – remaining stubbornly poor. It is no coincidence that in Ofsted’s inspections of local authority children’s services departments from November 2013 to March 2016, three-quarters were given one of the two bottom ratings: ‘requires improvement’ or ‘inadequate’.¹ These failings have profound impacts on the lives of children and young people.

Two sets of pressures are putting children’s services departments under considerable strain. First, demand for children’s social care is rising. Between 2008 and 2015, local authorities saw a 22 per cent rise in referrals and a 16 per cent increase in the number of children in care.² It is not only the volume of demand but the kind of demand that is exerting pressure: the needs of looked-after children are becoming more complex, and the introduction of Education, Health and Care plans (EHCPs), although a positive move forward, require local authorities to think more creatively about how they will meet the needs of children with SEND. Second, local authorities are facing continued and severe cuts to their budgets. Between 2011/12 and 2014/15, spending by England’s local authorities on children’s social care dropped by 18 per cent,³ resulting in staff reductions, increased workloads and less support for foster carers.

In short, local authorities need to do more with less, and perhaps unsurprisingly many struggle to achieve the quality expected of them by the government and regulator. In some areas, outsourcing services to independent providers⁴ has been adopted as a potential solution, while in others, ‘externalising’ (setting up an independent trust) has been used. In some cases, these changes in governance have been forced on the local authority in response to what was seen as a failure in in-house delivery.

However, there is some concern about the use of outsourcing in children’s services, particularly where it involves the use of for-profit providers. It is also a challenging undertaking to do well. Yet evidence suggests that when used correctly outsourcing has the potential to help local authorities deal with the pressures they face, drive up standards, and ultimately secure better outcomes for vulnerable children and young people. Pressures to do more with less are likely to be exacerbated now Britain has voted to leave the European Union – it is too soon to judge the full effects of the referendum result, but domestic funding will most likely be impacted, and planning in the short term will become more difficult. As pressure to improve outcomes under resource constraints

increases, it is likely that so too will the number of local authorities opting to outsource at least part of their children's services. With this in mind, this report looks at domestic and international examples to identify some of the features common to outsourcing which seem to be working well, and possible pitfalls to avoid, to help inform this rapidly developing agenda.

Methodology

For this report we reviewed the literature relating to current policy and practice for children's services, focusing specifically on innovations and responses to failure. We brought together two combined case studies that shed light on how outsourcing has been used to date in the UK and elsewhere – the independent trust model in the UK (as implemented in Slough and Doncaster) and the liberalisation of children's services in the US (specifically looking at Kansas, Florida and Washington). We also held 12 semi-structured interviews (face to face and by telephone) with professional experts drawn from the voluntary, independent and statutory sectors in England, Wales and the US and received written feedback from a further two experts. In addition we collected evidence using a survey from members of the Children's Service Development Group.⁵ Finally, the project benefited from an expert advisory board,⁶ which met at the start of the project to comment on our methodology, and provided written feedback on our interim findings and this report.

Findings

We used our research to identify what outsourced children's services that work well tend to have in common, and what pitfalls can prevent outsourcing in this area from working well.

What works

Having strong relationships

Commissioner–provider relationships are critically important to the success of outsourced children's services. Where these relationships were collaborative, with high levels of communication and trust, and mutual respect between both parties, outsourcing tended to achieve better outcomes. However, we identified further sets of relationships that impact on the success of outsourcing: relationships within local authorities, relationships between local authorities, and relationships between a given local authority, providers and the local community.

Using data effectively

We found that commissioners who made strategic use of data tended to secure better outcomes for the children and young people in their area than those who did not. Three sets of data are needed:

- data about populations, so commissioners can plan strategically and ensure they have the right number and kind of placements
- data about costs, so that commissioners know how much their contracts are worth and can pay providers accordingly
- data about the outcomes achieved by children and young people, so that commissioners can measure and monitor performance

We found that a number of barriers can make it difficult for commissioners to use data effectively, including the expense involved in collecting them, the skill and time needed to analyse them, and the common error of making incomplete calculations using data about costs.

Having clarity on outcomes

There is little consensus on what precise outcomes local authority children's services should be seeking to achieve. Yet our evidence shows that a strong focus on consensually agreed outcomes is a typical feature of local outsourced services that have worked well, giving all parties involved in planning and delivery a clear vision of what they should strive towards. Once decided, outcomes can be used in more and less ambitious ways: from using outcomes to measure and monitor performance; to commissioning according to outcomes – to give providers the freedom to improve outcomes in new and innovative ways; to paying providers according to how far they achieve them. The latter may improve the accountability of providers, but also presents them with greater risks and threatens financial sustainability, so outcomes-based payment mechanisms need to be used with caution and well planned.

Pitfalls to avoid

Underfunding

Budget cuts have a significant impact on service quality. Not only do local authorities have less money to spend on services, cuts radically alter their commissioning practices. The fundamental impact of budget cuts is that they create a price-driven environment. Commissioners are forced to make decisions on the basis of cost rather than quality, data collection may become an unaffordable luxury, and there is a loss of sight on outcomes. All this serves to poison commissioner-provider relationships, can tempt local authorities to use in-house services (without any evidence that they are more cost-effective than

independent services) and reduces the range of placements offered (as standard placements are favoured over specialist offers, prompting independent providers to respond in kind). Ultimately, those who suffer most are vulnerable children and young people.

Using outsourcing only in the context of failure

Outsourcing has often been used in the US as a response to significant service failure. In contrast, the most frequently used response to children's services failure in the UK has been 'externalisation' – the creation of an independent trust. Externalisation can enable children's services to break from past failures, and frees them from the bureaucracy of the local authority. It should perhaps also be used as an opportunity to review outsourcing arrangements. However, our research suggests that outsourcing may not be the best response to failure, in that failure does not create the right conditions under which outsourcing succeeds. Commissioning outsourced services is complex, time-consuming and currently under-supported – it is not easy to get right at the best of times, and certainly not when a local authority is in crisis. We argue that there needs to be a more proactive attitude towards outsourcing – that it should be used to make improvements before a local authority has reached crisis point, so that the process can be properly planned.

Poor planning

Our research has shown that preparation is critical to the success of outsourcing. A decision to outsource should mark the start of a long period of planning, piloting and transitioning to the new system, and the evidence we have gathered shows that less successful outsourcing attempts were invariably rushed or poorly planned. A range of activities needs to be completed before the process begins, including mapping of the provider landscape, designing contracts, establishing outcomes, gathering costs data, and engaging with the local community. Pilots can be used to test how effective this preparation has been, as well as to allow providers to iron out any issues they experience from dealing with a higher volume of cases than before. Finally, there should be a transition period so that roles and responsibilities are transferred safely.

Recommendations

Drawing on our research, we make the following five recommendations that would maximise the benefits of outsourcing in children's services and minimise the pitfalls outlined above.

For policy makers:

1. Local authorities and central government should adopt a proactive approach to outsourcing, so it is seen not as a way of responding to failure or cutting costs, but as a way to improve outcomes in a planned and strategic manner.
2. The government should bring back the Commissioning Support Programme.

For policy makers and practitioners:

3. A new national children's social care forum should be created to bring people together to help develop outcomes-based strategies, and identify ways of cutting costs while maintaining quality and promoting innovation.

For practitioners:

4. Each local authority should facilitate a community-led exercise, in which local stakeholders define what desired outcomes ought to be for looked-after children and children with complex needs in their area.
5. Local authorities must prioritise data collection across their children's populations, costs and outcomes as a central plank of market shaping, and commissioning or externalisation strategies.

1 INTRODUCTION

This report looks at how outsourcing local authority children's services can be used to improve outcomes for the most vulnerable children and young people in England and Wales: looked-after children and young people, particularly those with SEND.

Providers of children's services are operating in a changing landscape. Services are facing mounting pressures throughout the country and across sectors. There are a growing number of children with increasingly complex needs, and more children are entering the care system – at the same time as fewer leave care for a permanent placement because of the record low numbers of adoptions. While children's services have hitherto been (relatively) protected within local authority budgets, it is highly unlikely that this protection can be sustained. High-profile failures in areas like Slough and Doncaster, which predated the financial downturn, show that children's services are difficult to deliver at the best of times – let alone in an age of austerity.

At the same time as these pressures mount, the way services are delivered continues to evolve. Third party contracts (or 'outsourcing'), often to a plurality of different providers, account for an increasing proportion of local authorities' expenditure. Although historically there has been a resistance to outsourcing children's services, this too is now a growing trend. Following a consultation in 2014, the government gave local authorities the freedom to outsource children's services functions (except adoption and independent reviewing officer functions) to third party providers, including profit-making providers who have set up non-profit subsidiaries.⁷ Furthermore, there are indications that greater use of externalisations⁸ will be made in the future to deal with failing local authorities.⁹ The Children and Social Work Bill currently progressing through Parliament also makes provision for local authorities to be made exempt from requirements imposed by children's social care legislation, for an initial period of three years, to test different ways of working that might achieve better outcomes, or the same outcomes more efficiently.¹⁰ The role that outsourcing could play in these interventions remains unclear. Britain's vote to leave the European Union is likely to draw attention away from the domestic agenda and could delay the passing of legislation, including the Children and Social Work Bill, so these ambiguities do not look set to be resolved in the near future.

There are benefits to pooling and rationalising services: wider reach, economies of scale, greater transparency and accountability, and the ability to respond rapidly to provider failure. Diversity brings choice, competition and innovation, and – particularly where smaller providers are involved – local knowledge and

connections, trust and relationship-based approaches. But while outsourcing to a wider range of providers can bring great rewards, any change in service delivery presents risks. The purpose of this report is to explore how we can maximise the benefits of outsourcing local authority children's services, while protecting against those risks.

Methodology

Research for this project took place between February and June 2016. It comprised the following elements:

- We reviewed literature relating to current (and potential future) policy and practice surrounding the delivery of children's services in England and Wales, with a particular emphasis on innovations and responses to failure.
- We undertook two combined case studies of previous experiences of outsourcing in children's services: one domestic (the independent trust model, as implemented in Slough and Doncaster, and Achieving for Children in Kingston and Richmond) and one international (the liberalisation of children's services in the US, specifically in Kansas, Florida and Washington).
- We held 12 semi-structured interviews (face to face and by telephone) with professional experts drawn from the voluntary, independent and statutory sectors in England, Wales and the US. These included academics, local authority practitioners and members of representative bodies. We received written comments from a further two professional experts.
- We collected evidence using a survey from members of the Children's Service Development Group, a group of independent providers of care and specialist education services for children and young people with complex needs.
- The project benefited from an expert advisory board (see list of names and positions in the acknowledgements), which met at the beginning of the project to discuss and give feedback on methodology, and provided written feedback on our interim findings and this final report.

Background

Writing in the *Sunday Times* this year, days ahead of the Queen's Speech, former Prime Minister David Cameron announced that children in care have been 'let down for too long'.¹¹ The plight of children and young people who come into contact with children's services is not an area of new political interest. Indeed, the issue has received attention from across the political spectrum over the years, resulting in various policy initiatives.

Despite this, children and young people with complex needs remain one of the most vulnerable groups in the country. In Ofsted's inspections of children's services departments from November 2013 to March 2016, 21 departments were judged inadequate and 43 were judged as requiring improvement. Only 23 were deemed good or outstanding.¹² Chief inspector Sir Michael Wilshaw described the results as 'unacceptable'.¹³

Poor children's services have a profound impact on the children and young people who depend on them. Almost half of children in care have a diagnosable mental health disorder, compared with just one in ten children who are not in care.¹⁴ The Prison Reform Trust recently called on the government to prevent children in care from being prosecuted for challenging behaviour that would normally be managed within the family home.¹⁵ Furthermore, there is a much higher incidence of SEN among looked-after children than among the rest of the child population. In 2014, 66.6 per cent of looked-after children for whom data are available had SEN. Children with SEN lag behind their peers in educational attainment and associated outcomes. In 2013/14, pupils with SEN accounted for 7 in 10 of all permanent exclusions and 6 in 10 of all fixed period exclusions.¹⁶

Rising demand

Demand for children's social care is rising. The number of looked-after children has increased steadily over the past seven years and it is now higher than at any point since 1985, with 69,540 looked-after children as of 31 March 2015.¹⁷ Between 2008 and 2015, there was a 22 per cent rise in local authority referrals and a 16 per cent increase in the number of children in care.¹⁸

Not only are the numbers of children and young people in care increasing, but their needs are also becoming more complex. Providers report seeing fewer children with behavioural, emotional and social difficulties but far greater numbers with a range of other needs, particularly those related to mental health disorders, and many come from dysfunctional families. Providers also report an increase in the number of children experiencing multiple placements breakdown which, understandably, makes it less likely that future placements will prove successful.

Another strain on the resources of children's services departments has been the implementation of the Children and Families Act 2014, which overhauled the SEND system. Under the act, statements of SEN and learning difficulty assessments (LDAs) are being phased out, and replaced with EHCPs. The legislation was welcomed by the children's disability sector as it offers greater

personalisation, and a strong focus on securing positive outcomes for children and young people with SEND. However, replacing statements and LDAs with EHCPs is a time-consuming and expensive process, and concerns have been raised by the children's disability sector and local authorities that the process is putting local authorities under strain, and will not be completed by the deadline of March 2018. According to a report by The Key, a management support service for schools, three-quarters of schools have pupils who have been waiting longer than the expected time for an assessment of SEN or an EHCP.¹⁹ Commenting on the report, Cllr Roy Perry (chairman of the Local Government Association's Children and Young People Board) said,

We were clear with the Department for Education at the time that implementing the SEND reforms in the Children and Families Bill was significantly underfunded by the government and this has been borne out in reality.²⁰

Financial pressures

The pressures exerted by the increases in demand for children's services have been compounded by the effects of financial austerity. Between 2009/10 and 2014/15, spending by England's local authorities was cut by 20 per cent. Children's social care has been protected from the brunt of these cuts. Nevertheless, spending has still fallen: in 2011/12, £2.58 billion was spent by local authorities on children's social work and child protection services. This dropped by 18 per cent to £2.12 billion in 2014/15.²¹ Further planned cuts to local budgets make it likely that children's services departments will come under increasing pressure to make savings.

The impact of these cuts has been severe. Local authorities are reducing staff numbers in an effort to contain costs – for example, Newcastle Council made the news in January 2016 for its plans to shed 50 social work posts, including 28.5 full-time posts in children's services.²² Staff reductions impact on the size of caseloads for remaining staff, which are reaching dangerously high levels. In a survey of social workers (for both adult and children) conducted on 29 April 2014, 39 per cent of respondents said that their caseload was over the formal limit on that day.²³ Staff who worked in children's services were more likely to be over the formal limit than those working with adults; 42 per cent of respondents left work with serious concerns about one or more of their cases. It should be no surprise that in its report into social work reform, the House of Commons Education Committee argued that unless endemic problems such as the poor working conditions faced by frontline social workers are addressed, the entire reform programme will be put at risk.²⁴ Foster carers are feeling the impact of

cuts, too. According to a report by the Fostering Network, 67.8 per cent of respondents felt that cuts have reduced access to a fostered child's social worker, and 53.7 per cent feel that cuts have affected the quantity and quality of foster care training.²⁵ In the chapters that follow we examine how these and other cuts make outsourcing harder to implement successfully, which can result in poorer outcomes for children and families.

Brexit and the change in political leadership

Britain's vote to leave the EU has created significant uncertainty regarding the future of the domestic policy agenda, including children's social care. The next few years are likely to see significant time, energy and resources within government diverted to planning Britain's exit, so many domestic policy agendas (such as children's services) risk being deprioritised. More directly, a particular concern for those working in children's services could be the long-term impact on staffing. A significant number of Britain's social care workforce are non-British EU workers. With the recruitment of care staff already a challenge for the sector, changes to immigration rules could potentially exacerbate the problem.

The change in political leadership that accompanied the vote adds another level of uncertainty. It remains to be seen what May's pledge to champion social justice and improve the lives of the most vulnerable²⁶ amounts to in practice. At the time of going to print (September 2016), new Education Secretary Justine Greening has revealed few details of her plans for the department. However, there is an important element of continuity in the retention of Edward Timpson as Children's Minister, who has indicated that the Children and Social Work Bill will be a key focus of his role, and form a major part of May's life chances agenda.²⁷

Outsourcing of children's services in the UK

Outsourcing has a long history in many areas of the public sector in the UK, but there has been a great deal of public and political resistance to outsourcing of children's services. This concern is somewhat understandable, given the highly sensitive nature of the service and the children it supports: children and young people with complex needs are a highly vulnerable group. Local authorities have important responsibilities as corporate parents, and failing to live up to these responsibilities could have disastrous consequences for the children in their care. Nevertheless, concerns about outsourcing are not always based on an objective view of the available evidence. The potential for outsourcing to help

the public sector manage rising demand and budgetary pressures, and deliver high quality outcomes for children and young people ought not be overlooked.

The first attempts at outsourcing certain children's services functions began around ten years ago. In 2006, the Labour government introduced the idea of 'independent social work practices', autonomous organisations, which could be voluntary or privately owned, responsible for employing social workers. The idea was tested in a series of pilots from December 2009 to May 2010. Further exercises and initiatives were launched at the same time, many of which were supported by government programmes, such as the Commissioning Support Programme and the Children's Social Care Innovation Programme. The latter was launched in 2013, with further funding announced in April 2016, and has funded a range of pilots, enabling local authorities and service providers to explore new, innovative ways of working. For many of these projects, outsourcing is critical. For example, it is funding Cambridgeshire County Council to migrate its successful Multi-Systemic Therapy team to a staff-owned, mutual model of delivery, with the aim of empowering and motivating staff. Torbay Council has also received funding to bring together children and adult's health and social care functions in early help teams, delivered by an independent provider, and to establish a public service trust to allow pooling of budgets and joint commissioning. Not unexpectedly, given the complexity of commissioning children's services, these early efforts have had varying degrees of success.

The move towards outsourcing has not been a straightforwardly linear process. Local authorities have responded in different ways. On the one hand, under financial pressure following the economic downturn in 2008, some local authorities reduced or resisted outsourcing, perceiving independent and voluntary provider services to have higher costs than in-house services. On the other hand, many local authorities reacted in the opposite way, seeing budget cuts as a reason to outsource more, not less.

The motivation has not just been to control costs. Outsourcing has also been used as a means of responding to failure. Following successive 'inadequate' and 'requires improvement' ratings from Ofsted, and seven serious case reviews, an independent review recommended in 2013 that Doncaster children's services be removed from local authority control, and made an independent trust, with the council commissioning services from the trust for at least five years.²⁸ Also as a result of sustained failure, Slough moved to the trust model in 2015, and Sunderland and Birmingham are to follow. At the end of last year, David Cameron pledged that children's services departments judged inadequate by Ofsted will be taken over by high-performing councils and charities if they

cannot demonstrate improvement within six months.²⁹ Furthermore, a clear commitment to 'alternative models of delivery' (including trusts and combined authorities) was made in *Putting Children First*, which states the government's ambition that by 2020 over a third of current local authorities will either be delivering children's services through a new model, or actively working towards one.³⁰ Therefore we can only expect further services to be taken out of local authority control, inevitably altering commissioner-provider relationships in the process.

Today, independent and voluntary providers play a significant role in the delivery of children's services. Of all children and young people in foster placements as at 31 March 2015, 67 per cent were placed by local authority fostering agencies. The rest were placed by independent fostering agencies, the majority of which are privately owned rather than voluntary.³¹ Of the children's homes on Ofsted's register on 31 March 2014, 21 per cent were run by the local authority, 6 per cent by voluntary providers and 73 per cent by independent providers.³² With ten years of experience to draw from, and the mixed economy becoming ever more prominent in children's services, now is the time to reflect on what has worked and what has not.

Outsourcing is an art, not a science. Commissioners must be sensitive to local circumstances and local needs, and for that reason there can be no bullet-proof plan to guide them. But that does not mean we cannot derive general principles to follow, on the basis of experience within England and Wales – and further afield too. Outsourcing children's services has a longer history in other parts of the world than it does here, most notably the US. In the following chapters we outline key lessons from past experiences of outsourcing in this area, identifying ways of maximising its benefits and potential pitfalls to avoid.

2 WHAT WORKS?

In this chapter we consider some of the factors that outsourced children's services that are working well have in common. We can draw these together under three broad themes: having strong relationships, using data effectively and having clarity on outcomes.

Having strong relationships

Relationships are at the heart of high quality commissioning – particularly in an area as complex as children's services. Research into outsourcing has tended to focus on the relationships between commissioners and providers. But the success of outsourcing depends on the nature of a much wider range of relationships, including relationships within the commissioning organisations, relationships between commissioning organisations, and relationships between the commissioning organisation, providers and the wider community. Below, we explore what each of these sets of relationships tend to look like when outsourcing is a success.

Relationships within the local authority or trust

Relationships within the commissioning organisation itself are important because they shape how commissioners respond to providers. Currently, the commissioning organisation is usually a local authority (or local authorities), although in some areas an independent trust has taken on that role.

Evidence suggests that within local authorities (or trusts) that outsource successfully there tend to be strong relationships between the internal commissioning and operational functions. Whether there is a close relationship between these functions depends partly on the size of the organisation. In small or medium-sized local authorities the commissioner often has a wide remit that encompasses operational work as well as commissioning. This is beneficial as it gives the commissioner first-hand insight into the market, as well as influence over the placements service. But in larger local authorities, roles and responsibilities tend to be compartmentalised to a greater degree, leading to weaker relationships between the commissioning and operational functions. This is particularly problematic in commissioning for children and young people with SEND. As one of our independent provider interviewees said: 'Good commissioning from our perspective is where the commissioner is intimately linked with the special educational needs department.'

Without strong relationships between commissioning and SEND teams, SEND teams are unaware of the kinds of placements offered by providers.

Commissioners lack knowledge of the needs of children and young people, making them less able to articulate those needs to providers.

One way of strengthening the link between the operational and commissioning functions of local authorities (or trusts) would be to widen the remit of commissioners. For commissioners of SEND, this wider remit might include having a voice in the EHCP assessment process.

The impact of trusts on internal relationships

The move towards creating trusts raises further questions about internal relationships. It is important to note that there is no single trust model – the roles and responsibilities of each party vary from trust to trust. However, in Slough, for example, it has been agreed that the trust will be responsible for both strategic and operational commissioning. There are two benefits of transferring more services, rather than less, from local authority control: first, the trust has more autonomy, which enhances the feeling of there being a ‘fresh start’ and an opportunity to do things differently. Furthermore, removing the vast majority of the function ensures that commissioners and operations staff remain part of the same organisation. This helps develop strong relationships between the two functions, which has been shown above to increase the chance of outsourcing being a success.

However, the risk of creating a sharp divide between children’s services and the rest of the local authority is that it makes partnership working between different service areas more difficult. Children’s services are more successful when they are well integrated with other departments, such as adult social care and mental health services, to ensure that children and young people have the wider support they need to succeed, and they are well prepared for the future. This is more difficult when the departments are situated in different organisations. A similar point can be made about SEN, which remains the responsibility of the local authority when a trust is created. Independent providers may have a role in mitigating this risk. Independent providers deliver a range of services, including services for children with SEN, those for looked-after children, and services for children who are looked after and have SEN. In the course of delivering these services they would be brought into contact with both the trust and the local authority. This would help to bridge the gap.

Commissioner–provider relationships

Much of the evidence emphasises the importance of commissioner–provider relationships to the outsourcing process. Many of the providers we spoke to were keen to stress that they had good relationships with some local authorities. Nevertheless, a significant proportion identified commissioner–provider

relationships as being significant impediments to service delivery. The two key features we identified of constructive commissioner–provider relationships were collaborative working and having positive attitudes to outsourcing.

Collaboration

Collaborative working has two key components: good communication and trust between commissioners and providers. First, there needs to be frequent communication between commissioners and providers for the purpose of sharing information as information flow is vital in both directions. For example, commissioners should articulate the needs of their population to providers so that providers can plan the right services, while providers need to share with the local authority what services they will be able to provide. These particular information flows are crucial for the local authority's strategic planning. An independent provider who responded to our survey drew attention to this, saying that one of the top three things that would make delivering quality services easier would be, 'Being involved in the planning of services with local authorities so the right services are offered in the right places.'

Second, collaborative working requires there to be trust between commissioners and providers. Trust enables providers to follow commissioner leads about future strategic direction and budgets, allowing them to respond appropriately in their own internal planning procedures. It is also important for commissioners to trust the professional abilities of providers, and their motivation to do what is best for the children and young people in their care, in order for outcomes-based commissioning to take place. Outcomes-based commissioning fosters innovation by allowing providers to engage in activities that they think will improve outcomes for children, rather than activities dictated by the local authority. Without commissioners trusting providers, it is unlikely that they would commit to outcomes-based commissioning, which necessitates the use of micro-management and targets, which do not achieve the best outcomes. We discuss this further below.

Evidence from the US shows that collaboration should ideally start before the outsourcing process begins (or before the use of outsourcing is expanded). This is important so that the public and independent sectors can work together to plan how they will ensure that there is sufficiency (as discussed in the next section) and that providers will have the relevant expertise and capacity to deliver high quality services. Strategic planning is complex, and without strong relationships it does not yield results: as the case of Washington demonstrates (box 1).

Box 1 Children's services in Washington

Following the lead of Kansas, Florida and others, Washington's legislature passed a bill in 2009, which intended to reform the child welfare system bill through a two-stage process. The first phase required the Children's Administration of the Department of Social and Health Services to convert existing contracts with independent providers to performance-based contracts, and to reduce the number of providers. The second phase was to set up pilots, which would be used to compare case management by state and independent providers. The legislation also established the Child Welfare Transformation Design Committee, a board of community representatives, to oversee and guide the transition. The move to the new system has been hit by a series of delays – the Committee being suspended by an injunction, a lack of bidders for network administrator (lead agency) contracts, and opposition by the Washington State Federation of Employees. As a result of these delays piloting (phase 2) has not yet begun, and is years behind schedule. Nevertheless, much can be learned from the way Washington has gone about preparing for liberalisation.

Learning from the experience of states including Kansas and Florida, where initial mistakes were made because these states were some of the first to attempt liberalisation of children's services, Washington planned the process very carefully. Nevertheless, five out of eight potential bidders for 'network administrator' (lead agency) contracts indicated that they would not submit proposals, suggesting the state had not properly understood the positions of providers.

There was a perception among independent providers we spoke to that changes in commissioning practices in recent years had made commissioner-provider relationships less collaborative. In particular, the use of framework agreements had reduced these relationships to the sum of sporadic, one-way interactions whereby the commissioner contacted all providers on the framework with potential referrals. One provider said that often there was no named contact given, so that the details of the referral could not be properly discussed. When there is one-way interaction providers cannot work with commissioners on strategic planning. One provider said that the change they most wanted to see was for local authorities to show a 'willingness to talk about their needs and about how potentially an independent provider could work with that'. This would be more helpful than simply holding annual provider events, which were described as 'tokenistic'. Several respondents to our survey cited greater engagement with the market as being one of the top three pieces of

advice they would give to local authorities looking to improve their commissioning.

Attitudes to outsourcing

Local authority resistance to outsourcing, for ideological or other reasons, is often another feature of poor commissioner–provider relationships. Evidence suggests this issue is a polarising one, and some commissioners are comfortable with a mixed economy and want to work with providers (of all types). Others feel strongly that children’s services should be ‘protected’ from profit-making organisations regardless of any evidence regarding outcomes or efficiency. Several of our interviewees also said that they thought that many commissioners wanted to work with independent providers, but lacked the freedom to do so because of the bureaucratic nature of local government. One independent provider commented, ‘There are commissioners where you can sense that they really want to do something but they feel a bit strangled by the regulations.’

Great emphasis was put on the fact that local authority decisions are often influenced by their internal cultures, and that these cultures are determined by senior management. Given the hierarchical nature of decision making in local authorities, it is critical that senior managers demonstrate positive attitudes towards outsourcing, giving commissioners further down the organisation the freedom to engage with providers. One independent provider told us:

Some local authorities have quite innovative management, who recognise the need for a mixed economy, and the messaging goes down through them to their troops.

Another agreed:

I also think that then creates a bit of a culture, where commissioners know what the rules are, they know what they can and can’t do, and so what they do is behave in a way that fits the norms of that culture.

Evidence suggests that cultural resistance to outsourcing also results in independent providers being held to higher standards than in-house services, which causes further breakdowns in relationships, as one of the sector experts noted:

Frankly, they [independent providers] are held to a higher standard than public sector providers... If one of them fails this is regarded as a criticism of the whole system of outsourcing, whereas if a public sector provider fails that isn’t regarded – well, not always regarded anyway – as a criticism of the whole public sector

Externalisation may be one solution to cultural resistance to outsourcing. In particular, newly created independent trusts may have an advantage when promoting positive attitudes to independent providers. First, the sense of doing something new provides a break from the past, allowing – if not encouraging – staff to get away from ‘business as usual’. As one representative from a trust told us, ‘You mustn’t underestimate the value of a fresh start.’ Second, externalisation may remove a barrier for commissioners who want to engage with independent providers but who were previously prevented from doing so by senior management within the local authority.

Relationships between the local authority (or trust), providers and the wider community

Children’s services departments rely on the support of a wide range of stakeholders when delivering services, such as carers, charities, and health and education professionals. Without their support it is incredibly difficult for children’s services to secure positive outcomes for children and young people. Therefore outsourcing too should be focused on improving services for the local community, and the local community must be part of the process from the outset. Engaging stakeholders is particularly important where there may be public resistance to outsourcing. As outlined in the introduction, children’s services is a particularly sensitive and emotive subject area, as looked-after children and children with complex needs are known to be vulnerable. This has prompted some public opposition to outsourcing in children’s services, particularly where this includes for-profit providers. For example, proposed powers to test different ways of working, which form part of the Children and Social Work Bill currently passing through Parliament, have provoked opposition from a range of third sector organisations and academics as well as the Labour Party.³³ In order to reassure the wider community that outsourcing can be a positive step, it is important to ensure that the process is transparent and legitimate, with participation from and oversight by the local community.

Engaging with children with SEND and their families

It is particularly important that commissioners and providers foster relationships with children and young people with SEND, and their families. The 2014 SEND reforms were partly a response to ongoing complaints that the previous system was adversarial, complex for parents and carers to navigate, and failed to take into account the voice of the child and their family. The shortcomings of the system were recognised by politicians across the political spectrum – hence the high degree of political unity there was on the need for the reforms. As a provider told us, the reforms are an opportunity to ‘get it [commissioning] right for this group’. If the system is to be truly person-centric, and work with rather

than against families, it is important that commissioners of services for children with SEND commit to building bridges with the community, including families, children and young people.

Ways of building relationships with the community

The importance of there being positive relationships between commissioners, providers and the wider community is also clear from the experiences of the US. Kansas liberalised its child welfare system very rapidly, failing to engage with the local community beforehand. During the process, many community representatives voiced their concerns that independent providers would not be able to deliver adequate services. This made it very difficult for providers to foster positive working relationships once the contracts began, as there was no initial basis of support or engagement to work from.

Box 2 Children's services in Kansas

Kansas was the first state to undergo a wide-scale reform of its child welfare system. In the early 1990s the Department of Social and Rehabilitation Services (SRS) was in crisis. The number of child abuse and neglect reports investigated by the SRS had increased by approximately 34 per cent between 1980 and 1990. In 1990, 20 per cent of investigations were not reviewed timely and adequately, putting children and young people at serious risk. Department procedures were not being followed and staff felt they did not have the resources to do their job. In 1996 the state began a liberalisation process whereby all family preservation, foster care and adoption services were contracted out to the independent sector, in an effort to improve outcomes and drive down costs. Being the first state to liberalise in this way, mistakes were made and lessons learned, and after several years of correcting these mistakes and honing their model, the child welfare system in Kansas now ranks among the best of all US states. In the Federal Children and Family Services Review (2010) Kansas was judged first for preserving family connections and in enhancing families' capacity to meet their needs.

Learning from the mistakes made in Kansas, Washington gave community stakeholders a key role in the liberalisation process by forming the Transformation Design Committee. The Committee was made up of foster carers, representatives from the state's health and legal systems, children's charities and more. It was not simply consulted about the transition to the new system, but was made responsible for overseeing and driving the transition. By giving community stakeholders this role, Washington fostered trust with those who might have been concerned about liberalisation and resistant to the change.

Another key form of community engagement is to call on stakeholders to help define what positive outcomes are for looked-after children and children with SEND. Some of the experts we consulted stress the point that there is no 'gold standard' of provision for children's services. There is no consensus on what outcomes for children and young people these services should strive towards. Because outcomes are contentious, they should be defined by the individual community. Washington recognised this point and acted accordingly, giving the Transformation Committee a key role in defining the outcomes which would be used by commissioners and providers to attempt to accomplish. We discuss outcomes in greater detail later in this report.

Relationships between local authorities

There is an important trend in commissioning of children's services towards the creation of consortia. A commissioning consortium is a group of local authorities who join together to commission, for example by use of a common framework agreement. An example of this is the North West Fostering Framework, created in 2010, which was joined by all local authorities in the North West region except Cumbria. Sir Martin Narey expressed his support for large commissioning consortia in his review of residential care, and this support was echoed by the government in *Putting Children First*.³⁴

It is beyond the scope of this research to examine the advantages and disadvantages of consortia commissioning in depth. In summary, consortia offer a number of benefits. For example, they allow member local authorities to benefit from economies of scale, as providers are able to offer lower costs in return for greater numbers of referrals. For this reason, Sir Martin recommends, 'The Department for Education must require local authorities to come together into large consortia for the purpose of obtaining significant discounts from private and voluntary sector providers.'³⁵ Consortia also offer benefits to providers, who are able to do business with a large number of local authorities without acquainting themselves with an equivalent number of procurement procedures, which can vary greatly from local authority to local authority.

However, joining a consortium presents risks to a local authority, for example if it holds less power than other local authorities. This may be the case if the local authority in question is a small, unitary authority. Successful commissioning hinges on delivering the right services for the specific population. If a small local authority joins a vast fostering framework, it risks losing its voice, which may result in the fostering framework failing to deliver the placements required to meet the needs of its specific population. This is more likely to happen where the consortium consists of local authorities which are highly diverse in their

populations and cultures, or in the challenges they face. The risks that consortia commissioning presents to individual local authorities should be kept in mind as more local authorities start to consider this option. Therefore we are sceptical of Sir Martin's call for local authorities to be required to come together into consortia.

Box 3 Children's services in Kingston Council and Richmond Council

In April 2014 Kingston Council and Richmond Council launched Achieving for Children, a community interest company that provides their children's services. Achieving for Children aims to increase partnership working to provide a whole-person approach at a reduced cost, to increase the capacity and resilience of public services, and to provide a centre of excellence and innovation that will be available to other authorities and public service providers.

Independence from its two parent councils has enabled Achieving for Children to create its own culture, behave differently and be less hierarchical. The company has also given the frontline more power – for example, a pilot was launched giving frontline staff small budgets to spend on children and families as they saw fit. In 2015, following the launch of the company, Kingston's children's services were rated as good – an improvement on being rated inadequate by the council in 2012.

Achieving for Children is now considering five expansion models:

- setting up a franchise scheme, to sell the model to other local authorities
- adding another council as a co-owner
- taking on contracts to run services in other areas
- selling consultancy to other areas
- setting up an Achieving for Children subsidiary company with another council

Despite its successes, the case of Achieving for Children shows that externalisation cannot be expected to yield immediate cost savings. Set up costs were significant, at £1.4 million, and by the end of 2018/19 there is a forecasted deficit of £8.2 million.³⁶

Using data effectively

The importance of collecting and effectively using accurate data as part of the commissioning process is a consistent message across our research.

Furthermore, in its paper *Putting Children First*, the Department for Education (DfE) has committed to move from 'a system of data collection to data-driven practice, and improve the quality and collection of data'.³⁷ Evidence suggests three sets of data are needed in order for the benefits of outsourcing to be

maximised: data about the population, data about costs, and data about outcomes. We discuss each of these in turn.

Population data

The sufficiency duty

Section 22G of the Children Act 1989 conferred a duty of sufficiency on local authorities. According to this duty, local authorities must take steps to ensure that, as far as is reasonably practicable, there are sufficient placements available locally to accommodate all looked-after children for which the local authority is responsible. Policy regarding sufficiency has since been strengthened, first by the introduction of Sufficiency Statutory Guidance in April 2010, which requires local authorities to include their plans for meeting the sufficiency duty in their commissioning strategies. Second, by requiring that from April 2011, local authorities must be in a position to secure, where reasonably practicable, sufficient accommodation for looked-after children within their area.

In order for a local authority to undertake effective strategic commissioning, and thereby fulfil the sufficiency duty, it needs to predict what services will be required in the future. More specifically, it needs to be able to predict the characteristics of the population potentially using the services (the case mix), the rate of referral and size of the population, the duration of each case, and the level of services required for each case. The only way of making accurate predictions is through obtaining and using accurate population data.

Lack of population data currently used

One of our survey respondents said that the quality of commissioning has not moved on since 2010 because there is still 'a lack of focus on sufficiency'. Our research uncovered a strong consensus that simply not enough population data are collected, which explains the lack of focus on sufficiency. Summarising a widely held view, one respondent to our survey said,

Much more time should be spent understanding need and demand. All too often this is ignored or simplified because of the level of difficulty involved in analysing human trends and need patterns. Without it, however, commissioning is misguided at best.

One of our interviewees described his perception that some local authorities simply parroted widely held beliefs about what future populations will look like (eg children will have more complex needs), rather than analysing what would be true for their specific population.

Barriers to using population data effectively

There are clear reasons why local authorities might be discouraged from making full use of data. They are challenging and time-consuming to analyse – not to mention costly to collect. Moreover, there are additional factors currently at play that are further discouraging the use of data in strategic commissioning. First, local authorities may feel that even with an accurate picture of the future needs of their population, they are in a weaker position to act on their understanding to ensure sufficiency. For example, small unitary local authorities might feel that they will lose their voice in the move towards regionalisation (as described above).

Second, and more significantly, is the impact of the 2014 SEND reforms. These are making it more difficult for commissioners to grasp what the children and young people in their area need, for a variety of reasons. The needs of a child with SEND are now understood as being relative to the outcomes the child (and their family) wants to achieve. This is a very positive move, as it makes the system more person-centric, but it also means that identifying what services a child needs becomes a less standardised process, increasing the workload of commissioners. Furthermore, not all local authorities are currently assessing children in the correct way – some are issuing more EHCPs than others, even though the level of SEND is comparable. As these issues are ironed out, there will be greater unpredictability for commissioners to contend with.

Costs data

As well as data about populations, data about costs are needed for successful outsourcing. Without knowing the average cost of a service (in this case, a child's care journey), commissioners risk over or underpaying providers, as they do not know how much contracts are worth, nor can they determine value for money when assessing contracts.

International evidence on the importance of costs data

Kansas offers a clear illustration of what the consequences of lacking costs data can be. Given the absence of the data, providers in Kansas were forced to base their bids for contracts on speculation, and significantly underestimated their costs. Furthermore, no start-up costs were built into the contracts they signed. After the first year of outsourcing, there was a 20 per cent increase in the number of cases entering the child welfare system, as a result of the child protection function (which remained wholly in-house) having more time to investigate cases. This combination of unanticipated start-up costs, lack of data on service costs, and an increase in the number of children entering the system all contributed to significant financial challenges for providers, resulting in

widespread loss and one bankruptcy. Provider failure not only impacts on shareholders – it also disrupts a local authority’s strategic commissioning, making it more difficult to ensure sufficiency, particularly when the provider is large, as many independent providers are in England and Wales.

Methods of calculating costs

Establishing costs data is a difficult task. The more complex the case, the more difficult it is to calculate the cost of care. However, it must become a priority if local authorities are to manage the market effectively. Learning from what happened in Kansas, Washington made it a key responsibility of its Transformation Committee to identify a model for minimising financial risk to service providers and to establish a description of the costs involved for the transition and start-up periods.³⁸ Similar work on data costs is being done by some local authorities in England and Wales, but not consistently by all local authorities.

There are a number of tools that can be used to establish data on costs. For example, researchers based at the Centre for Child and Family Research at Loughborough University have created a software tool, the Cost Calculator for Children’s Services (CCfCS; www.ccfcs.org.uk/), which can be used to calculate the costs of different care journeys based on local historical data. The calculator uses a ‘bottom-up’ approach to estimating unit costs, first explicated by Beecham in 2000.³⁹ As the researchers explain, the bottom-up approach is ‘particularly well suited to children’s social care services as it can accommodate variations in costs incurred by an extensive range of interventions offered to children with very different levels of need’.⁴⁰

Common mistakes when calculating costs

The single biggest mistake made by those estimating children’s services costs is interpreting ‘costs’ too narrowly – a point raised implicitly in written feedback we received from a sector expert:

No local authority has done a full cost benefit analysis of how much in-house fostering costs (including quality of support against caseload, placement breakdowns due to this, staff turnover due to caseloads, etc).

The CCfCS makes a distinction between service costs (the cost of a placement) and case management costs (functions carried out by social workers, family support workers and other social care personnel). Both sets of costs need to be taken into account when calculating the total cost of a service. This may seem obvious, but many estimates fail to account for case management costs fully. Take two placements: one is more expensive but of higher quality. The other is less expensive but of lower quality. Because the more expensive placement is of

higher quality, less case management is required – in real terms, less intervention by the social worker is needed, freeing up their time. On the other hand, the less expensive placement requires greater intervention by social workers. If the placement was very poor, it might result in a breakdown, requiring a vast amount of a social worker's time – and other people's time in order to find a new placement. A service may appear to be more or less expensive than it actually is, if case management costs are not properly considered.

Another set of costs that are often neglected when costing a service are back-office functions (such as the human resources and finance functions of the organisation providing the service). One interviewee told us that when costing their service independent providers include the cost of back-office functions, whereas local authorities do not do the same. If this perception is correct, then the costs of in-house services and independent services are being compared inaccurately. The same point is made by Sir Martin Narey, who reports that there may be reason to be concerned about the profits taken by private foster care providers, but that the local authority underestimating its overheads may partially explain the difference in price.⁴¹

The impact of incomplete cost calculations

Lack of clarity around costs damages relationships between commissioners and providers, as they may not fully understand each other's actions nor feel they can trust the other side.

A more worrying issue was raised by several of our interviewees, who expressed concerns that incomplete calculations of costs were driving local authority behaviour that was damaging to the lives of children and young people. An independent provider told us:

What has got worse in my view is this business now of wanting to move children that are pretty settled back in-house as soon as they can, for what appears to be financial reasons.

Moving a child who is settled and doing well in a placement would be questionable even if it was known that the costs of the new placement would be lower. But the fact that actions like these are taken without a full understanding of the longer-term costs is deeply worrying. It may be the case that in-house services in a particular area are cheaper, but it may not, and local authorities need to have the data in order to make an informed decision. We discuss the issue of price-driven behaviour further in chapter 3.

Demos' own research demonstrates that placement stability reduces costs and promotes good outcomes for children. There is also evidence to suggest that using the independent sector can help ensure placement stability.

First, using independent providers enables children to be matched to more appropriate placements. According to Schofield et al, 'the number of possible placements to choose between did seem to increase when it was possible to approach the IFP [independent and voluntary sector fostering provider] sector', compared with cases in which local authorities refrained from using independent providers.⁴² Having access to a wide range of placements increases the likelihood that children will be given placements suited to their needs, thus minimising the chances of placement breakdown. This is particularly likely to benefit children and young people with more complex needs, who require placements that can offer more specialist support.

Second, evidence suggests that foster carers working with independent providers are better supported than those working with local authorities. This is certainly a perception among parents: according to a blog written by a foster carer and hosted by the Fostering Network:

The level of support – especially practical – is often higher with an agency than an LA [local authority]. They have a better ratio of supervising social workers to foster carers so one is usually available to step in, if necessary, in an emergency and offer hands-on support, for example, by collecting a child from school.⁴³

Where foster carers are better supported, placement breakdown is less likely.

Outcomes data

Finally, collecting and collating data about the outcomes achieved by children and young people in order to measure and monitor performance is crucial. As is the case with data about populations and costs, data about outcomes are expensive to collect and time-consuming to analyse. However, outcomes data have become increasingly significant with the growth of interest in outcomes-based commissioning across many public sector areas. Outcomes-based commissioning is a subset of payment by results. It involved payments based on social outcomes achieved, rather than broader output measures.⁴⁴ As payments to providers are determined by how far outcomes have been achieved, it is crucial that accurate data about outcomes are collected, if outcomes-based commissioning is to be a success. We discuss outcomes further in the next section.

Box 4 In loco parentis

In the study *In Loco Parentis* Demos researchers used an analogy to make the point that lower expenditure on a looked-after child's care journey does not necessarily generate cost savings. The report draws on two hypothetical examples of the journey of children who have had either a very fortunate, stable experience with their placements (child A) or an unstable, disrupted experience with their placements (child B). The study did not seek to prove that one particular type of care journey comes with inevitable consequences on a young person's future as it does not take into account a young person's personal characteristics, which significantly define the impact of their care journey.

The study aimed to display the differences in costs associated with two hypothetical and realistic examples of extremely different care journeys. The study found a significant variation in immediate costs between the two examples: overall state expenditure on child A (the stable journey) was £352,053 over a 15-year period, compared with £393,579 spent on child B (the unstable journey) over a 7-year period. Therefore, the difference in annual costs per year is even greater: £23,470.20 per year for child A and £56,335.57 for child B – a short-term cost difference of £32,755.37 per year more for child B's journey than for child A's.

The report then considered the long-term consequences of the children's respective care journeys and illustrates the cyclical escalation of unstable care experiences and costs, as child B experiences an inverse relationship between costs and outcome. The cost data used in the report were able to capture very clearly both the short and longer-term cost implications of different types of care planning – something so critical for local authorities as they plan their services.⁴⁵

Having clarity on outcomes

How and why outcomes need to be defined

As described earlier in this chapter, there is no agreement on what outcomes children's services should aim towards. But an independent provider we spoke to said what was really needed was 'real clarity from the commissioner about what it is they're trying to commission'. In its paper *Putting Children First*, the DfE recently announced a new What Works Centre, with the remit of 'bringing together in one place our national understanding of practical excellence' in children's social care.⁴⁶ But without clarity on what good outcomes are, children's services will inevitably lack an overarching vision towards which commissioners and providers can unify and work towards – to the inevitable detriment of children, young people and their families. This vision is needed whether or not a local authority chooses to outsource.

Defining outcomes for looked-after children is difficult. Managers of the child welfare system in Kansas used 'permanency' as their key indicator – a good outcome being for a child to stay in the same foster care placement for a long period of time. Other outcomes that are often used internationally and domestically include safety (absence of repeat abuse), reunification, wellbeing and educational attainment. Box 5 lists some possible definitions of outcomes for looked-after children.

Efforts to clarify outcomes should draw on existing work and research. Nevertheless, it is important for each community to develop its own understanding of what positive outcomes are for children and young people in their local area, according to the needs of the local population and challenges faced locally. Therefore defining outcomes needs to be a community-led exercise, allowing local groups to contribute to the process.

Box 5 Possible definitions of outcomes for looked-after children

Directors of children's services

In a position statement the Association of Directors of Children's Services sets out the purpose of the care system as being to protect children from further harm, to improve outcomes for vulnerable children and young people by addressing their individual needs, and to address a child's needs for good parenting.⁴⁷

The United Nations

The United Nations Convention on the Rights of the Child (UNCRC) states that children might be considered to have achieved positive outcomes when they enjoy the rights accorded to them under the UNCRC. Certain articles are particularly relevant, eg Article 20 (children deprived of a family), 'If a child cannot be looked after by their family, governments must make sure that they are looked after properly by people who respect the child's religion, culture and language.'⁴⁸

Work on children's wellbeing

Work on definitions of children's wellbeing drawn from children is being led jointly by the Children's Society and the University of York. Research focuses on subjective wellbeing, based on two elements: life satisfaction and experience of positive or negative emotions at a specific point in time.⁴⁹

Children and young people in care

The definition of outcomes might draw on what children in care themselves consider to be important to their wellbeing. The School for Policy Studies at the University of Bristol conducted 18 focus groups to develop an online survey measuring the subjective wellbeing of children in care. Unlike children in the general population, looked-after

children thought that having a coherent account of their histories and knowing the reason for being in care was crucial.⁵⁰

Particularly close consideration must be given to defining outcomes for children with SEND, given the diversity of this group and the new focus on adopting a person-centred approach. EHCPs specify tailored outcomes for children and young people, thus the very principle of identifying a small number of generic outcomes appears to be in conflict with the spirit of the SEND reforms. Nevertheless, a list of broad outcomes for children with SEND is needed, while recognising that an individual's outcomes may deviate slightly from the broad list. Without it, children's services will lack a clear strategic vision for children with SEND.

Using outcomes to improve services

Once a local authority has defined what a positive outcome would be for children and young people in their area, there remains a question of how outcomes will be integrated into the children's services system. There are more and less ambitious ways of using outcomes to improve services.

Measuring and monitoring outcomes

As a starting position, outcomes (once locally defined) should be measured and monitored. Data on outcomes enable the local authority to understand how well existing services are delivering for children, young people and their families. The local authority can identify where existing provision is falling short, and share this information with in-house and independent providers, which can then plan improvements to their services.

Outcomes-based commissioning

Measuring and monitoring outcomes presents no risk to commissioners, apart from the cost involved in collecting and analysing data. A more ambitious way of using outcomes is to adopt outcomes-based commissioning (as previously mentioned). Rather than contracting providers to deliver certain outputs, providers are contracted to deliver positive outcomes for the children and young people in their care. Outcomes-based commissioning involves a shift in control from the local authority to providers, as providers are free to undertake whichever activities they think will promote positive outcomes – not activities which are predetermined by the local authority. This shift is often beneficial as it fosters innovation among providers, who find new ways of delivering high quality services. Speaking about a project that used outcomes-based commissioning, one of our independent provider interviewees said:

They set the problem, and said, 'it's up to you to solve it, so we haven't got a fixed idea of what the solution looks like in our head, what we do want is an evidence-based programme that solves the problem'... I thought that was a creative way of doing a piece of contracted work.

However, there are two potential risks involved in outcomes-based commissioning. First, it risks being ineffective if the outcomes set (which may be entirely valid at the local level) are not outcomes which providers have control over. As one of the sector experts we consulted said:

The ability of the organisation concerned to affect the outcome may be limited, particularly in the children's services area where one might, say, look at, specify, outcomes in terms of educational performance of looked-after children, but that's subject to so many different factors, not least the school itself, that it's hard to hold, say, a fostering organisation or whatever to account for that, because it has so little influence over it.

Furthermore, there is a risk that providers lack accountability for their actions as they are paid not for the outcomes that they achieve, but for the cost of the activities they undertake in pursuit of those outcomes. This problem can be solved by aligning payments with outcomes, as we discuss below.

Aligning payments to providers with outcomes

The most ambitious outcomes-led approach is not only commissioning according to outcomes, but paying providers according to how far they achieve those outcomes. Paying providers according to outcomes improves the accountability of providers to the local authority, as they are only rewarded if their activities produce real results.

A strong case in favour of outcomes-based commissioning over alternative payment mechanisms can be made on the basis of evidence from Kansas, which has adopted several different payment methods since it began outsourcing its services for looked-after children in 1997. First, it used a case rate based on an historical average length stay. But it was found to be too risky for providers, many of which suffered significant losses as children stayed in care a lot longer than expected. In 2000, Kansas moved to an annual case rate paid per child per month to remove the risk of losses through lengthy stays, though was still liable for losses if children needed costlier services than expected or if they re-entered care after achieving permanency, as payments did not restart. Some argued this led to a perverse incentive not to achieve permanency, as providers were paid as long as children were on their caseload. Therefore, payments changed again in 2005, and became outcomes based. Payments declined the longer a child remained in care, in order to incentivise more rapid permanency – so payments are 100 per cent for the first 6 months, 66 per cent for the next 6 months, then

29 per cent for 12 months or more. No payments are made if the child returns to care within 12 months after being placed in a permanent placement, and providers have to give this service free of charge, to reduce incentives for poorly planned placements which may break down quickly.

Evidence from the UK shows that there are further benefits to payment according to outcomes. One example of an outcomes-based payment mechanism is a social impact bond (SIB), in which non-statutory investors pay for a set of interventions (by a non-statutory provider) to bring about a positive outcome that is of interest to a government commissioner. If the outcome improves, the commissioner repays the investors for the initial investment, and sometimes a further financial return.

In early 2014, Manchester City Council launched its MTFC [multidimensional treatment foster care] SIB, aimed at improving outcomes for looked-after children in residential care, and those in foster placements at risk of entering residential care. Since their investment depends on the project securing positive outcomes, investors have been incentivised to donate money and training (separate from their investment) to improve data collection procedures. A representative of the project from Manchester City Council told us:

The investor has an interest, a very live interest, in knowing how this is performing... The investors have learned from it, putting extra money of their own into data collection and training to both the provider and ourselves [Manchester City Council] to provide information.

SIBs are therefore one way of overcoming the cost and training barriers faced by local authorities and others, which may prevent them from collecting outcomes data. Like SIBs, the Children's Social Care Innovation Programme is facilitating the collection of outcomes data by evaluating all the projects being funded, using 25 partner organisations and a steering group (results are to be published in September 2016). Furthermore, there may be spillover effects, as local authorities and providers are able to use their new skills to improve data collection in other areas – such as costs and populations: 'It's been beneficial on a much bigger scale than just this one intervention,' said a representative from Manchester City Council.

Despite the various benefits of outcomes-based payment mechanisms, there are drawbacks to their use. First, paying mostly or completely according to outcomes presents serious risks to providers. However good a service is, it may not promote positive outcomes for all children and young people as these outcomes are partially beyond the control of providers (as discussed above). Under outcomes-based payments, providers risk failing on the basis of factors

beyond their control. An unintended consequence of increased risk would be that providers become less innovative, as innovation would be a further risk that they would feel unable to justify. Furthermore, if too many providers fail then it becomes more difficult for local authorities to ensure there are sufficient placements for the children in their area who need them. Because of these risks, it would be unwise to make payments mostly or wholly depending on outcomes. This view is endorsed by a sector expert:

It would neither be sensible nor desirable to contract entirely for outcomes, but there may be a small measure – say 10 per cent overall – could be based on an outcome measure.

Box 6 Outsourcing – what can be achieved?

Joint commissioning of children’s services and education services for children with complex needs

Six councils – Oxfordshire County Council, Buckinghamshire County Council, Milton Keynes Council, Reading Borough Council, Bracknell Forest Borough Council and Hertfordshire County Council – collaborated, with the following results:

- The six councils procured a single contract to provide services for children and young people with high cost, complex needs. By joining together, the councils were able to guarantee a minimum of 20 places for five years, so providers were able to lower their prices.
- There was a cost saving of £2.5 million across six councils per year. The cost of each placement was reduced by approximately £500 per week.⁵¹

Redesigning commissioning practices: option appraisal

Devon County Council introduced an option appraisal model to commission placements, whereby social workers specify the needs and desired outcomes of a child in a document, which is sent to providers. Providers express an interest, detailing the package of support they will offer. A multi-agency team reviews each proposal with reference to the five Every Child Matters outcomes. Price is only factored in after this appraisal has taken place and unsuitable proposals excluded.

This option appraisal model has had the following results:

- Over the first four years, around £2 million in savings were achieved.
- There has been a fourfold increase in placement choice and significant improvement in placement stability.⁵²

3 PITFALLS TO AVOID

In this chapter we consider three potential pitfalls identified when outsourcing children's services: underfunding, using outsourcing only as a response to failure, and poor planning.

Underfunding

The financial outlook

It is no secret that local authorities have been hit with massive budget cuts since the 2008 financial crash. As outlined in the introduction, local authorities have thus far managed to protect children's social care from the brunt of the cuts. Despite the protection, spending has still fallen by a significant amount: from £2.58 billion in 2011/12 to £2.12 billion in 2014/15 – a cut of 18 per cent.⁵³ The picture looks set to become worse given the continued budget cuts being faced by local authorities, whose officers have said that they cannot continue to protect children's social care, and other high cost functions, to the extent that they have been able to this far. Britain's planned exit from the EU is likely to exacerbate financial pressures, and will at a minimum make financial planning more difficult in the short term, as the full effects of our exit are at this stage unknown.

The impact of budget cuts on children's services

The inevitable result of budget cuts is that local authorities have less money to fund services. But more than that, budget cuts fundamentally alter the way that local authorities use their remaining funds. In some cases, the result of this change is better outcomes for children and families, as local authorities learn how to do more with less, delivering greater value for money while maintaining high quality services. But in most cases we have seen, budget cuts have made the already complex process of commissioning even more difficult, to the detriment of children and families throughout the country. Ultimately, commissioning can enable the public sector to do more with less, but in these conditions it cannot do it all. In our survey of leading independent providers, we asked whether delivering high quality services had become more challenging, less challenging or had remained equally challenging since 2010. All respondents said that it had become more challenging.

Our purpose here is not to deride local authorities. Commissioning is a difficult process in the best of times, let alone in the context of massive budget cuts. Indeed, during our evidence-gathering process, we encountered a great deal of

sympathy for local authority staff from a range of stakeholders. One independent provider told us:

I don't think local authorities are in a position to provide what they would like to provide any more. It's very much just a situation of what they are physically able to or what they can.

The core of the problem is that decreased budgets create a price-driven environment. Commissioners are forced to make decisions based not on quality, and on securing good outcomes for children and young people in their care, but on price. Furthermore, data collection is often one of the first activities to be cut when budgets are tight, so commissioners are not able to understand the real costs involved in prioritising price above outcomes and cannot make evidence-based decisions. The loss of focus on outcomes also poisons commissioners' relationships with independent providers. In the following section we explore these impacts in further detail, and look at how budget cuts are ultimately putting the lives of children and young people at risk.

The effect of cuts on relationships

Some children's services departments have been forced to reduce their staff numbers in order to make cost savings. Even in those that have not made reductions, increased demand has resulted in staff capacity becoming overstretched. This has led to vastly increased caseloads, less time to spend on each case, and less capacity for strategic planning.

The fact that local authority staff are overstretched and under-resourced has harmed commissioner-provider relationships. As evidenced in chapter 2, strong commissioner-provider relationships are commonly a feature of successful outsourcing. We heard from some providers who said that local authorities have called on them to help with strategic planning, as a result of the pressures they faced. But in most cases, in the age of austerity commissioners and other local authority staff have not had sufficient time to foster relationships with providers, as noted by a survey respondent:

There has been significant turnover of staff and workforce reductions in most LAs which has limited the amount of time commissioners tend to have to engage and partner with the market.

There have been several consequences of this: first, it has made assessment and referral processes more difficult, as commissioners have less time for them, and each party knows less about what the other party needs or provides. In response to a question asking for survey respondents to identify the key impacts budget cuts had had on their ability to deliver services, one independent provider said:

LAs unable to provide professionals to attend regulatory meetings and thus support or action assessment, intervention.

Second, it has made strategic commissioning more difficult, as providers are often excluded from the process. Finally, and perhaps most importantly, it has reduced trust. Local authority staff, commissioners and providers alike know that they are corporate parents to some of the most vulnerable children and young people in the country. Where one party perceives the other to be compromising quality for cost, tensions arise. Many interviewees expressed not just frustration but deep worries that the system was moving away from its focus on the needs of the child.

The drive to use in-house services

Faced with the prospect of financial retrenchment, and without credible cost comparisons by which to judge in-house services and non-state providers, it is feasible that local authorities would consider altering their use of outsourcing in two ways:

- increase their use of outsourcing, in the belief that there are cost savings to be made through this strategy
- seek to decrease their use of outsourcing, under the perception that non-state providers have higher costs than in-house services

Outsourcing in general has increased over the past five to ten years, in particular with the introduction of the austerity programme. This trend looks set to continue, as noted in Deloitte's report *The State of the State 2015–16*:

Governments around the world are watching as it [the UK's public sector] seeks to carve out a more affordable model for the modern state... Growth in the volume and value of services contracted out will continue to be rapid.⁵⁴

Nevertheless, in a small-scale qualitative study, carried out in one locality in England between September 2011 and January 2012, Dr Clive Sellick found that all but one of the six independent and voluntary sector fostering providers he researched had experienced a sharp reduction in referrals after the 2010 October Spending Review.⁵⁵

We found evidence that the reaction of local authorities to the financial crisis has been polarised, at least with regard to children's services. Some have pursued innovative new ways of delivering services, which have included, in many cases, an increased reliance on outsourcing. But we also found evidence similar to Dr Sellick's that some local authorities have sought to deliver more services in-house. A sector expert observed:

LAs seem to know they need a mixed economy. However, the practice of going about generating it varies vastly from LA to LA; some seem to treat the independent sector as an irritation that they will use as a last resort and some will treat it as a great service that they must use more.

The reason behind this polarisation is lack of data. Local authorities have radically different understandings of the relative costs of in-house and independent services, because most lack data and base their understandings on guesswork. This is particularly the case in the context of budget cuts, when local authorities do not feel justified in spending money on collecting data and staff have little time to analyse them.

Using independent providers much less frequently can backfire on local authorities. We heard evidence of local authorities going to great lengths to avoid placing children and young people with independent providers. The subsequent placements were often unsuitable for the child, resulting in the placement breaking down. Only at this point did the local authority put the referral out to independent providers. And by this point, having experienced a placement breakdown (or often multiple breakdowns), the child's needs had become more complex. Thus, local authority behaviour has partly driven the rise in more complex cases – this has done little to improve commissioner-provider relationships.

The effect of cuts on the range of placements available

In a time of increasing demand for placements for children and young people with more complex needs, changing commissioning practices are reducing the pool of placements available for this group, and standardising the service provided. One of the survey respondents observed:

Cuts have also worked to standardise expected services. This is no more apparent than in foster care where the majority of frameworks are based on 'standard' placements. The unintended consequence of this has been that specialist care services, which we are seeing more of late, have been sidelined within commissioning approaches.

An independent provider agreed:

The fact that you have a standard option placement is where commissioners will start. And then there will be lots of to-ing and fro-ing and discussion about whether or not that young person actually has the needs that will meet the definition of 'standard'.

Local authorities, seeking to make cost savings, are favouring the commissioning of standard, 'no frills' placements, instead of bespoke placements, or placements with greater packages of support attached. This

demonstrates a loss of sight on outcomes. The result has been the creation of a race to the bottom among providers, which are developing fewer services to meet the needs of children and young people with more complex needs, for whom the standard placements are inappropriate. As there are fewer placements available for children and young people with complex needs (including SEND), and because there are increasing numbers of children and young people in this group, providers are having to turn down an increasing proportion of referrals, for fear of being unable to accommodate their needs. An independent provider told us:

For providers to take risks, they have to be confident that they can ably support their carers and they can ably care for that young person, and unfortunately on standard fees you can't always be sure you can do that.

Independent providers are being further discouraged from expanding their offer by the wider effects of austerity. For instance, increases in the cost of living and stagnant wages make the day-to-day costs of being a foster carer more expensive. These costs cannot be met by foster carers, nor are they met by the local authority, so they must be absorbed by providers. A survey respondent spoke about the increasingly difficulty in keeping costs at an acceptable level:

[The] uneven playing field between independent and maintained sector appears to be increasing. [It is] very difficult to keep costs at an acceptable level as LAs are struggling for funds.

Providers are also now required to pay their residential home staff more as a result of the introduction of the living wage, further decreasing profit margins. Decreased profit margins make it riskier for providers (particularly small providers) to enter new areas and expand their businesses.

Using outsourcing only in the context of failure

Outsourcing has been seen by some as an appropriate response to failure. It has been a favoured method of intervention in the US. For example, in Kansas, the change of system was prompted by a lawsuit brought against the Department of SRS by the American Civil Liberties Union, which highlighted excessively large caseloads and inadequate monitoring of children. The case was settled in 1993, on the agreement that the child welfare system would undergo significant reform – hence the move to outsource.⁵⁶

Externalisation as an alternative to outsourcing

In contrast to the US experience, the most frequent response to persistent or systemic failure in children's services in England and Wales is, currently, the

creation of an independent trust – an exercise in externalisation, rather than outsourcing. In *Putting Children First*, the government makes a clear commitment to ‘supporting new organisational models’, and states its ambition that by 2020 a third of all local authorities will deliver their children’s services through a new model or be actively working towards a new model. The report presents trusts as a prime example of a new model, and praises them for marking a ‘new stage in innovation and improvement’.⁵⁷ However, the evidence on the effectiveness of trusts is contested, with the House of Commons Education Committee saying that there has not been adequate evaluation, and urging the government to undertake a full evaluation before expanding the model any further.⁵⁸

Why have policy makers in England and Wales seen externalisation as the first-line response to failure, rather than outsourcing? Sir Julian Le Grand, prominent academic and expert of public sector reform, was able to shed some light on this issue in his report to the Secretary of State for Education on the way forward for Doncaster’s children’s services. According to Le Grand, Doncaster’s children’s services were being held back from improving by two key things: its association with past failures, and the constraints imposed by the bureaucracy of the council. Retaining children’s services as a council function but requiring the department to make greater use of outsourcing would have solved neither of those problems. It was removing children’s services from local authority control that Le Grand et al believed would make the crucial difference:

We have argued that it is the cultural legacy of failure in Doncaster, as well as the interaction with the council’s other difficulties and challenges, that is the fundamental problem with children’s services, not just the absence of good leaders or managers. If this is accepted, then the need is for some form of re-organisation of the structure and governance of children’s services: one that marks a decisive break with the past. There needs to be a line drawn under the historic failure: a separation that permits the development of a new culture – one of development, improvement and innovation, instead of one of frustration, disillusion and stagnation.⁵⁹

A service that has been externalised has greater freedoms than its predecessor. Often, there is also a new energy and culture: a willingness to do things differently and a determination to make the most of the opportunity and get things right. A representative from an independent trust told us:

I think the move to something like this is very, very positive. When you’ve got an endemic problem, and one that’s been intractable within the local authority, I think there are times when you mustn’t underestimate the value of a fresh start... for the staff themselves, you say, ‘Right, this is a fresh start, we’re going to do it a different way and we’re going to make it right.’

Using externalisation as a platform to outsource

Where responsibility for strategic commissioning is handed from the local authority to the trust, the trust has sole control over outsourcing. Given the freedom and energy within a newly created independent trust, some might argue it is the ideal time to re-think relationships with independent providers, and look to improve or increase the use of their services.

However, we found significant evidence to suggest that reviewing outsourcing arrangements should not be a priority in the context of failure. The same independent trust representative as the one quoted above told us:

It's complicated because so much needs to be done, and when I first looked at this I wondered if we could do something more creative quite quickly, around our relationships with the independent agencies, and look at a way of letting single points at a better rate, but once we got in there's just so much else that's so messy, we ended up thinking [we'd] put that on the back burner for the moment.

Commissioning is very difficult to get right. It is a particularly underdeveloped field in relation to children's social care. In his review of residential care, Sir Martin reports, 'I was often told, by those with experience of both, that commissioning in children's services has not generally matured as much as in adult social care.'⁶⁰ The difficulties of commissioning services for children and young people was recognised by the introduction of the Commissioning Support Programme in 2008, which offered flexible support to local authorities designed to help them improve outcomes for children, young people and families. One of our survey respondents lamented the government's decision to close the programme in 2013:

Commissioning itself is under-supported compared to arrangements circa 2008 when the DCSF [Department for Children, Schools and Families, now DfE] provided significant training and development tools through the now defunct Commissioning Programme.

Not only is commissioning difficult, but it is time-consuming, requiring the attention of senior managers. For this reason, it may be considered one of the 'two edged swords' described in a recent report⁶¹ – a project that may reap great rewards, but that could prove damaging if staff become over-committed to making it work, at the risk of losing focus on other priorities. And when a local authority or trust is fire-fighting, there are many other priorities that need their attention. This is not to say that trusts should not consider reviewing or increasing their outsourcing arrangements – just that they might not necessarily do so straight away, if there are more urgent issues at hand.

This raises the question: when is an ideal time to outsource, if not in the context of failure? We believe that not enough attention has been paid to how outsourcing can be used to the benefit of local authorities already performing relatively well. Why not use innovative methods of service delivery to prevent local authorities from getting to crisis point in the first place, rather than saving those methods until they are already at that point? In the discussion of supporting organisational change in *Putting Children First*, the government indicates that over time it would like the balance of activity to shift away from intervening where there is failure to supporting the spread of excellence⁶² – but the question is whether structural change helps a failing local authority in the first place. In contrast, a local authority already performing well would be able to ensure it has a plan in place for developing relationships, gathering data and clarifying outcomes before the outsourcing process began, unlike a local authority in crisis. Indeed, ensuring one has all of these things (good relationships, clear outcomes and data) can help deliver better children’s services, regardless of whether one plans to outsource or not. Having these in place also increases the chance of avoiding another big pitfall should one then choose to outsource.

Poor planning

Any change to service delivery methods presents risks, and it is all the more important to minimise those risks when providing services for highly vulnerable groups, such as children. Therefore, a decision to substantially increase the use of independent providers should mark the start of a long period of planning, piloting and transitioning to the new system. It is inevitable that a move to a new system will present a degree of turbulence and disruption, as all parties involved adjust to new ways of working and different divisions of roles and responsibilities – but good planning minimises the impact of this disruption on children and families.

Prior planning

There are a number of essential activities that must take place in the planning period, before the piloting and transition starts. These include defining outcomes and designing contracts, and developing oversight mechanisms based on an accurate understanding of costs and outcomes. Also, existing services (by the local authority and non-state providers) must be mapped and assessed, in order to identify any gaps in provision and give providers the time to build capacity. Aside from these crucial elements that need to be prepared, there are some less obvious activities that need to begin from the very start of the planning process: developing relationships with the wider community (as

emphasised in chapter 2) and developing a data collection system. The data collection system needs to be ready to use from the start of the piloting and transition periods, so that monitoring can take place during these periods.

Piloting and transition

Ideally, planning should be followed by a piloting period. This is a helpful time in which the various systems and arrangements prepared during the planning period can be tested, including the readiness and capacity of providers, and payment mechanisms. Data collection systems may need to be tweaked during the pilots, in response to feedback from providers.

It is crucially important to put in place a transition period to act as a buffer when moving from the old system to the new. This gives providers the support and time they need to iron out any issues they face when taking on a higher volume of cases than they have before. In order for the transition period to be a help rather than a hindrance, all parties need to be aware of what their exact roles and responsibilities are – something which should have been decided and publicised during or after the pilots.

The need for a cautious transition is well supported by the international evidence. Kansas implemented its new system over two years with no pilots, transition period or clear plan. Independent providers did not have time to build their capacity, resulting in a shortage of services, and there was a great deal of confusion regarding roles and responsibilities. Staff turnover reached 50 per cent in some new agencies as workloads increased.

Learning from the mistakes made in Kansas, Florida took a phased approach, beginning with piloting, which led into a gradual transition over five years. All contracts included a start-up period of 12–18 months so agencies could build their capacity. During this time, agencies were also tasked with meeting a series of deliverables, including plans for systems of care, network development, quality assurance, and fiscal and risk management. The state developed a readiness assessment tool, and a formal process for assessing and preparing in-house teams and providers to transition services safely. The preparation resulted in much less turbulence for children and families. Nevertheless, the process was not flawless – the online data collection system used by providers to record their outcomes was flawed, leading to inconsistencies in the way that different providers collected their information. As a result the state could not monitor performance accurately.

Box 7 Children's services in Florida

Florida's liberalisation was also a response to failure. In the mid-1990s, staff at the Florida Department of Children and Families (DCF) were being overwhelmed by large caseloads and high-profile child deaths. In 1996 the legislature mandated the DCF to establish five pilot programmes. Although four of the five programmes failed, the state pressed ahead with state-wide outsourcing. By March 2005, the process was complete – 20 lead agencies managed 500 subcontractors, who together provided welfare services for tens of thousands of children. The system has shown significant improvement. The number of children in out-of-home care decreased by 38 per cent between 2005 and 2009, and in 2012 Florida scored very highly on the Right for Kids Ranking.

The risk of losing momentum during planning

If a lengthy transition period is put in place, it may be tempting to think that some preparatory work can be left until the transition has begun. But the evidence from Kansas and Florida suggests that the more successful transitions are those in which major preparatory work is carried out before piloting even begins. However, the flipside of taking a slow and cautious approach is that momentum might be lost. Take Washington as an example. Washington passed legislation in 2009 requiring the child welfare system to be reformed in a two stage process. Stage 1 involved making existing contracts performance based, and reducing the number of contracts. Stage 2 was set to consist of two pilot sites, to compare case management by state services and private services. Originally tabled to start in June 2012, stage 2 has still not commenced – having been met with disapproval by state employees and potential bidders. Furthermore, the Transformation Committee leading the transition faced an injunction and was suspended for a period of years. Those driving the reforms knew that it was important to undertake preparatory work before beginning the transition to the new system, but they have also learned that doing so has its own risks: you may hit stumbling blocks that severely delay the transition from going ahead.

The risk of 'seizing the moment'

There are times when it might be tempting to undergo a rapid reform of children's services in a given area. This might be in the context of failure (although we made the case above that outsourcing is not the default solution to failure) or when the policy environment looks as if it might support and enable reform – the temptation is to 'seize the moment'. The current SEND reforms might be considered an opportunity to get commissioning right for children and young people with SEND. Indeed, the time is ripe for discussions

about how commissioning might be used differently to support the SEND reforms. But policy makers and practitioners must be aware that in order for any reforms to succeed, planning time is needed, and the results will not be seen for years to come. This planning time is particularly crucial for services for children and young people with SEND as the SEND reforms will remain in a state of transition until the end of 2018, and further reform in this period would not be feasible.

4 POLICY RECOMMENDATIONS

Outsourcing has the potential to boost outcomes for vulnerable children and young people across the country, but it needs to be done in the correct way, or it can have the opposite effect. In this chapter we present five recommendations based on the critical success factors and pitfalls we have identified, which will help policy makers and practitioners to exploit the benefits of outsourcing while minimising the risks.

For policy makers

1. *Local authorities and central government should adopt an 'outcomes-first' approach, according to which outsourcing is seen not as a way of responding to failure or cutting costs, but as a way to improve outcomes in a planned and strategic manner.*

National guidance on when outsourcing is advisable must change. Currently, outsourcing and externalisation are presented in national guidance and policy as responses to failure. But we have shown that outsourcing may not be the best way of responding to failure or cutting costs, and that using outsourcing in these circumstances may certainly undermine its effectiveness. For the purpose of responding to failure, measures such as mentoring, performance management and a longer-term review of outsourcing processes may be more appropriate. Furthermore, outsourcing can be greatly beneficial to local authorities that are not failing, but are attempting to improve outcomes. Local authorities in these circumstances have more time to plan the outsourcing process, maximising its chances of success. Therefore, national guidance should present outsourcing and externalisation as tools to be used as part of an improvement process, and only one way of responding to failure (and very possibly not the best way).

Nevertheless, we recognise that given current pressures and policy direction, it is likely that some local authorities will be required to outsource rapidly in the context of a perceived failure.⁶³ There are measures that can be taken to improve the chances of success. First, expertise from elsewhere can be parachuted in to enable the local authority to learn from others where outsourcing has been successful. Those experts might also be able to share preparatory materials and processes that worked for them, reducing the time needed for transition. Second, the local authority might be supported by being incorporated into a consortium. The failing local authority could benefit from the expertise of better-performing local authorities in the consortium, and would be required to do less work themselves (eg by joining an existing

fostering framework). However, for this to work the consortium must be well matched (as we discuss in chapter 3).

David Cameron indicated that failing local authorities will be subject to takeovers by successful local authorities. Like the House of Commons Education Committee, we are sceptical about whether such intervention would help the failing local authority to improve standards. Children's services are highly locally variable and require deep local knowledge, strong relationships and delicate local planning – something another local authority coming in and taking over wholesale might struggle to achieve. A failing local authority can certainly gain insight and expertise from those that are more successful, through partnering, mentoring or in larger consortia. For this reason, we support the government's Partners in Practice initiative, which will aim to boost sector-led improvement. But removing a failing local authority from its own responsibilities seems to miss out on an important developmental and learning process. The failing local authority needs to be helped to stand on its own two feet, so to speak, and improve standards in its particular area. It is encouraging that Greening has granted Dudley Council and Norfolk County Council, both judged 'inadequate' by Ofsted, more time to improve, heeding the advice of the government-appointed commissioners.⁶⁴

2. The government should bring back the Commissioning Support Programme.

We echo Sir Martin's recommendation that improving local and regional commissioning skills must be an early priority.⁶⁵ To this end, the government should bring back the Commissioning Support Programme. The programme was jointly funded by the DfE and Department of Health from November 2008 to March 2011, then became independently run until it ceased operations at the end of 2013. The programme gave commissioners the support they needed to learn from the latest developments in commissioning, continually refresh their skills and gain from other's insights and advice. It was widely used and recognised as a valuable resource. Four out of five commissioners surveyed in a report by PricewaterhouseCoopers at the end of the second year of the programme were aware of its core services, and a third felt that it had had an impact on outcomes for children and young people. The bespoke support offered by the programme was particularly valued: three-quarters of commissioners who had used bespoke support felt it had enhanced skills and knowledge in their local area.⁶⁶

At a time when greater responsibility is being placed on local authorities not to deliver services but to shape, plan and facilitate them, effective commissioning

is one of the central skills local authorities now need to hold. Commissioning is an art, not a science – there are no simple rules that can be followed. Instead, the commissioner must use a range of skills in order to increase the chances of success. These include technical skills, such as being able to make sense of data, but also soft skills, such as being able to build relationships with diverse stakeholders. Such complex and high stakes decision-making processes need continued support. While bringing back a programme like this requires investment by the government, improving commissioning skills would generate significant savings.

There is some planned support for commissioners. For example, the recently announced Government Outcomes Lab, a partnership between the Cabinet Office and the Blavatnik School of Government at the University of Oxford, will support local commissioners in understanding and developing SIBs.⁶⁷ But SIBs are not appropriate in all circumstances. There needs to be wider support available to commissioners, and the Commissioning Support Programme has an excellent track-record in providing flexible support based on local need.

For policy makers and practitioners

- 3. A new national children's social care forum should be created to bring people together to identify new strategies to support the development of high quality children's services.*

A new national children's social care forum is needed, with a wide membership comprising social care leaders and professionals, commissioners, providers, and children and families.

The forum would have two key purposes. First, it would bring people together to help develop outcomes-based strategies. In order to maximise the benefits of outsourcing, commissioners need to be ambitious in their approach to using outcomes – measuring and monitoring outcomes is a good place to start, but commissioning and paying according to outcomes can bring far more significant benefits. Developing outcomes-based strategies is complex, so a forum is needed to bring together those involved in the process to share expertise. Second, the forum would help to identify ways of cutting costs while maintaining quality and promoting innovation. Budget cuts often lead commissioners to make knee-jerk decisions that do not ultimately result in cost savings. A forum would enable those involved in commissioning to learn from each other's experiences, helping to prevent short-termist attempts to cut costs. The forum would have the additional benefit of helping to build relationships among the diverse range of professionals involved in children's social care.

Similar bodies already exist in other areas. For example, the National Market Development Forum (NMDF) leads improvements in the adult social care sector, working specifically to strengthen the evidence base and capacity for excellence in person-centred commissioning. Representatives from across the sector attend meetings, and resources aimed at improving market relationships have been produced and shared on the NMDF website.⁶⁸ In the area of children's health, there is the Children and Young People's Health Outcomes Forum (CYPHOF), an advisory group that aims to identify the health outcomes that matter most for children and young people, and to raise the key issues that need to be addressed to achieve these outcomes.⁶⁹ Like the NMDF, the CYPHOF group brings together representatives from across the sector and produces reports advising government on how to improve health outcomes for children and young people.⁷⁰ These bodies can be used to aid the design of a new forum for children's social care.

For practitioners

- 4. Each local authority should facilitate a community-led exercise, in which local stakeholders define what desired outcomes ought to be for looked-after children and children with complex needs in their area.*

As we have seen, a focus on outcomes is critical to good commissioning. It is also important to engage the wider community when making changes to the way children's services are delivered. We believe that local authorities attempting to enhance their focus on outcomes and to improve their engagement with the wider community can fulfil both of these objectives at the same time, by calling on community members to help them define outcomes. The new What Works Centre could play a role in guiding local conversations such as these.

In order for this exercise to be a success, it would need to involve a wide range of stakeholders: commissioners (for both children's services and other local authority services), operations staff (again, for children's services and others), independent providers, children and families (those already in contact with children's services and those who are not), and members of the wider community including charitable organisations and local interested groups. Defining outcomes is a complex task: the process would benefit from the viewpoints of a diverse range of stakeholders. Being inclusive is also important in ensuring that the process is transparent, credible and legitimate.

Providing that a wide range of stakeholders engage, and that the process is genuinely collaborative, there will be two key benefits at the end of the exercise.

First, relationships between all parties involved will be improved. Participants will be able to put names to faces, and will have a greater understanding of each other's viewpoints. These relationships are critical for children's services to work well, as their success depends on the support of a range of other departments, organisations and community members. Second, it would create a cohering vision and mission for all those involved in children's services to strive towards. They would be able to make decisions knowing clearly what they are meant to be achieving, and would feel invested in making the system a success given their role in articulating what success looks like.

5. *Local authorities should prioritise data collection on outcomes, costs and demographic projections of their children's population irrespective of whether plans are in place to outsource or externalise children's services*

Evidence shows that commissioners who make strategic use of data tend to secure better outcomes for the children and young people in their area than those who do not. This includes data about:

- populations, so commissioners can plan strategically and ensure the right number and kind of placements
- costs, so that commissioners know how much their contracts are worth and can pay providers accordingly
- the outcomes achieved by children and young people, so that commissioners can measure and monitor performance

However, it is also important for local authorities that have no plans to outsource or externalise their children's services to collect data in these three areas. Understanding their local population and future demographic projections, having clarity of outcomes and knowing how much their services cost to provide all enable local authorities to deliver more effective in-house children's services. This is because local authorities are better able to target limited resources and make strategic decisions on (for example) placement stability if they are armed with this intelligence. Further, should outsourcing become an option later, local authorities have a much better grasp of the sorts of services they need and what value for money 'looks like' in their area, making the commissioning process far smoother for all concerned.

The expense needed to collect and collate the data, and expertise needed to analyse them, cannot be underestimated – nonetheless the evidence is compelling that decision making in children's services based on robust data can generate significant cost savings even in the short term.

5 CONCLUSION

Outsourcing is a tool that can be used to improve outcomes significantly – but only in the right hands, and in the right context. It is a delicate process that requires great skill from commissioners, who must be properly supported to succeed. Outsourcing is all the more challenging for high stakes service areas such as children’s services. Given the vulnerability of looked-after children and children with SEND, outsourcing can generate public opposition and local authority resistance, particularly when for-profit providers make up a substantial part of the market.

Nevertheless, it is an inescapable and widely recognised fact that in many areas children’s services are currently not meeting expected standards, and it is likely that funding pressures on local authorities will remain for the foreseeable future – and perhaps increase as a result of Britain leaving the EU. The solution cannot be just to plough more money into the system. We need to think about how we can innovate to achieve more with less, encourage professional creativity and diversify provision types to respond to changing demographics. Outsourcing can help to achieve all of these aims – but only when relationships are strong, when data are used effectively, and when outcomes are clearly defined and worked towards. The traps of underfunding, poor planning and using outsourcing simply as a response to failure must be avoided.

The recommendations we have presented are designed to maximise the benefits of outsourcing and to minimise the risks. But commissioning is a complex art – there is no single bullet-proof plan to follow, and the risks can only be minimised, not removed altogether. Everyone involved in commissioning and delivering children’s services needs to share knowledge, support each other, and work to cultivate better understanding and support from others, with the particular aim of developing an outcomes-based approach. Current government policy might make this a difficult task: the loss of policy attention and possibly funding associated with Britain’s departure from the EU, planned budget cuts, using outsourcing primarily as a means of punishing failure, allowing local authorities to take over others, and scrapping the Commissioning Support Programme – all of this prevents commissioners from focusing on outcomes and developing their skills, to the detriment of the vulnerable children and young people in their care. A more positive, proactive approach to commissioning, making it part of a collaborative and outcomes-based improvement process, is the only sustainable way of improving children’s services country-wide against a backdrop of dwindling resources and growing demand.

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⁵ The Children's Services Development Group is an alliance of six leading providers of care and specialist education services for children and young people with complex needs. The group aims to promote greater understanding of the common issues facing providers and commissioners, who together are trying to ensure the best possible outcomes for children. This is achieved by building strong working relationships with central government officials, local authorities, parliamentarians, children's campaigners and the media.

⁶ Members of the Advisory Board were Dr Ruth Allen (British Association of Social Workers), Lisa Forster (Chartered Institute of Public Finance and Accountancy), Stuart Gallimore (East Sussex County Council), Louise Heron (Acorn Care and Education Group), Brian Jones (SENAD Group), George

McFarlane (CBI), Professor Julie Selwyn (School for Policy Studies, University of Bristol), Dr John Simmonds OBE (CoramBAAF Adoption & Fostering Academy), and Louisa Thomson (Social Care Institute for Excellence).

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Despite significant policy attention and political action, looked-after children and children with special educational needs and disabilities (SEND) remain some of the most vulnerable children in the country. In Ofsted's inspections of children's services departments from November 2013 to March 2016, three-quarters were given one of the two bottom ratings. Local authorities face mounting pressures to improve their children's services, yet this has been made increasingly difficult by growing demand for children's social care and continued budget cuts.

In some areas, outsourcing services to independent providers has been adopted as a solution, offering the potential for wider reach, economies of scale, greater transparency and accountability, and the ability to respond rapidly to provider failure. Diversity brings choice, competition and innovation. But while outsourcing to a wider range of providers can bring great rewards, any change in service delivery presents risks. There is a continued and understandable concern with how outsourcing of children's services impacts upon the lives of vulnerable children and young people.

This report sets out how we can maximise the benefits of outsourcing local authority children's services, while protecting against the risks. Outsourcing is an art, not a science – but that does not mean we cannot derive general principles to follow. Drawing upon evidence from innovations in the UK and the US, we identify three features which successful outsourced children's services tend to have in common: strong relationships, effective use of data and clarity on outcomes. We also identify three pitfalls to avoid: underfunding, poor planning and using outsourcing only in the context of failure.

Improving outcomes for looked-after children and children with SEND will no doubt remain one of the most challenging tasks on the domestic political agenda. Yet the wealth of evidence from past experience now available puts policymakers in a stronger position than ever to effect change and, ultimately, to transform the life chances of children and young people across the country.

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