

Commissioning Tool Information Sheet

Decommissioning checklist and guidance

Toolkit Reference:

Quadrant:

Planning

Level:

Operational

Topic:

Decommissioning

Description of tool, its purpose and application

The need to decommission or change existing services is being brought into increasingly sharp focus as personalisation and outcomes focused approaches gain momentum. This checklist is designed to assist Social Care Commissioners to work through the range of issues they need to consider when they are faced with a market that has either an over-supply of services or where services are no longer suitable for the nature of the demand. It provides practical suggestions on the things commissioners need to consider and steps they need to take to consider how to decommission services.

Useful links:

[SP Web - Decommissioning resource](#)

[OGC Programme Management Introduction](#)

[OGC Project Management Introduction](#)

[OGC Programmes & Projects Resource Toolkit](#)

[OGC Guidance on the Management of Risk](#)

Who has dealt with this issue and how

Decommissioning is an area that is in its infancy in social care services and there appears to be very limited experience of going through the processes described in a methodical way from a market management perspective. However there is good experience of decommissioning in Supporting People services; this has been precipitated by reductions in SP grant, the requirement to review all SP services within specific timescales and to decommission services that were either not required or were below standard. Links to some SP decommissioning resources are therefore provided below.

Contact:

Mike Charnley-Fisher

Care Services Efficiency Delivery

tel: 07710 381694

email:

mike.charnleyfisher@dh.gsi.gov.uk

September 2008

Example documents / case studies

[Rochdale MBC SP Decommissioning Process](#)

Related Project Management Tools:

[Common Causes of Project Failure - Key questions to address: tool / checklist](#)

[Prince2 Overview](#)

[Reading Borough Council – Prince2 and MSP Case Study](#)

Decommissioning Tool

Introduction

Decommissioning social care services is a current ‘hot’ issue. The personalisation of services, and in particular the introduction of individual budgets and self-directed care, will give much greater choice and control to service users over what care they receive and where they get this from. The flexibility they will get, together with an outcomes-based approach, will impact significantly on the local social care marketplace. People will have the opportunity to purchase their home care from whichever agency they want, they will be able to select genuine alternatives to day care, and there will be greater flexibility in their choice of accommodation and care, whether this is in a residential home, nursing home, or in extra care housing.

We have already seen examples of this with Direct Payments, the IB pilots, and in PD and LD services supported by In-control. However the current policy thrust signifies a significant stepping-up of activity and roll-out across all groups of service users.

These developments have substantial implications for our commissioning and contracting activity. The block contracting arrangement that many local authorities have entered into, with the price advantages that they gave to LAs and business stability, predictability and continuity to providers now pose a risk to LAs. This is because, with the increasing choice and flexibility that service users have, people may choose alternative providers to get their services from, leaving block contract capacity under-utilised but still having to be paid for.

Additionally, the shift from specifying the inputs that have to be provided (e.g. time and task home care contract specifications) to outcomes-based contracting means that the basis for the contractual relationship is becoming outdated. The majority of contractual arrangements will therefore need to be changed over time.

This guide aims to assist commissioners identify some of the issues for them, things they need to consider and steps they need to take to consider how to decommission services.

How to use this tool

The tool is designed to be used as a practical checklist for decommissioners. It is structured as follows:

Checklist Question	Why this is important? / advice / comment
A question designed to act as a prompt. The square box is there to allow you to highlight your status.	<input type="checkbox"/> Where possible we have added advice or links to other resources which might be relevant to the specific question being addressed

The tool is split into the following sections:

Preparing for decommissioning (general)	3
Identifying and preparing specific services for decommissioning.....	4
Informing the market and understanding the response	5
Commercial consequences – reducing them via leverage	6
Other Factors: quality, performance, value for money, future demand	6
Termination of contract.....	7
Transition / exit planning	8

We would recommend you go through the whole checklist quickly to get an overview.

Preparing for decommissioning (general)

This first part of the tool asks some general questions concerning your general readiness for decommissioning services. It places an emphasis on ensuring that the decommissioning activity is in line with the broader commissioning context, that the plans do not come as a sudden shock to the various stakeholders and that appropriate project and risk management infrastructure is in place.

Checklist Question	Why this is important? / advice / comment
Have you developed clear commissioning plans?	<input type="checkbox"/> Clear commissioning plans are a critical forerunner to developing a decommissioning strategy and making decommissioning decisions. If you don't know the shape and nature of the market that you require locally then you cannot take an informed view of where, when and what services to decommission or reshape/change.
Have you developed clear specifications for the services that you are or intend to commission?	<input type="checkbox"/> This will assist you to enter in to discussions with providers and form a basis for dialogue regarding the changes you wish to see in the provider market. It will provide a platform for judging to what extent providers will be flexible, creating the option of re-shaping, rather than decommissioning services.
Are these specifications outcome-based?	<input type="checkbox"/> Specifications do not need to be outcome-based at this juncture but you would be wise to make the change to an outcome-based focus as this would be in line with the direction of both policy and practice
Have you got a communications strategy for a move to an outcomes focus?	<input type="checkbox"/> You will need to differentiate between different stakeholders – the three most important groups of stakeholders are: providers (including their staff); service users and carers; and staff (assessment staff and provider staff).
Have you developed an appropriate training and development strategy for your staff?	<input type="checkbox"/> Your communications strategy will need to be accompanied by appropriate training and development strategies for staff. You will need to differentiate between staff working at different levels in your organisation and between staff working in assessment roles and provider staff.
Can you extend this to include independent and third sector staff?	<input type="checkbox"/>
Have you held personalisation / PPF / self-directed support / outcomes-based services workshops for providers and other key stakeholders?	<input type="checkbox"/> These will be part of your communications strategy but will also to help stakeholders understand the rationale for the changes you are making and provide a platform for negotiation.
Have you held personalisation / PPF & self-directed support / outcomes-based services seminars for elected members?	<input type="checkbox"/> Elected members need to exercise a clear leadership and governance role – you need political sign-up and ownership as there is likely to be turbulence as you implement decommissioning decisions.
Have you got a clear, written and published policy for decommissioning services that has been agreed by the directorate senior management team, corporate/strategic directors and elected members?	<input type="checkbox"/> This is critical to ensure that there is clear corporate and political commitment and ownership of the strategy and direction. It is important that a steady course is steered as decommissioning decisions are implemented.
Have you conducted a risk assessment of decommissioning services?	<input type="checkbox"/> The Office of Government Commerce (OGC) have useful Management of Risk (M_o_R) tools on their website. Click here ¹ to access this.
Have you established a clear programme management structure with project management streams beneath this?	<input type="checkbox"/> A structured approach to programme management, combining rigour with flexibility is necessary to achieve the desired results and outcomes. The OGC website has a useful introduction to Programmes (Office of Government Commerce) together with a more in-depth tool . An overview of Prince 2 project management methodology can also be found on the same website.

¹ http://www.ogc.gov.uk/guidance_management_of_risk.asp

Identifying and preparing specific services for decommissioning

With the general infrastructure in place, this part of the tool provides some guidance on identifying which specific services you are decommissioning, and how to prepare ahead of engaging with the market.

Checklist Question	Why this is important? / advice / comment
Have you mapped commissioned services against your commissioning plans?	<input type="checkbox"/> When you are considering decommissioning as part of shaping the local market and creating a change in emphasis (such as to an outcomes-based approach as opposed to decommissioning because of breach of contract) it is vital that your plans are developed in a methodical and rational way. A mapping exercise early on, which analyses the nature and scope of supply, together with demographic and demand information, provides the foundation for everything else that follows.
Have you selected the services to be reviewed against the above plans?	<input type="checkbox"/> The selection of services for review will be the next stage on from the mapping process.
Have you decided in what way services need to change?	<input type="checkbox"/> Do not focus so much in the service design but on the outcomes that you wish to see resulting from the delivered service and the quality standard that will apply to the process of service delivery
Have you developed criteria against which to review services?	<input type="checkbox"/> Public sector services are open to challenge in terms of the processes they engage in and the basis upon which they make decisions. All stages of the processes described in this document should be recorded with care taken to ensure that the basis for any decisions can be clearly justified.
Have you undertaken a review of services against criteria?	<input type="checkbox"/>
Does the service still fit with the strategic direction of LA activities?	<input type="checkbox"/> These are all important elements of the process described above. The answers to these questions will assist you to decide which services should be given greater attention and be examined in greater depth and detail.
Is the service fit for purpose?	<input type="checkbox"/>
In what way does the contracted service not fit with what is now required?	<input type="checkbox"/>
Have you decided which services should cease and documented the reasons for this?	<input type="checkbox"/> Documentation, including the forum in which decisions are made and the basis for them, is vital, as there may be legal challenges by provider organisations at a later stage in the process.
<i>For these services:</i>	
What does the contract say?	<input type="checkbox"/> It is important to review the contract and determine whether there are any legal reasons why it cannot be terminated (this may identify leverage for use in negotiations for the next step). This analysis (and legal opinion) of your existing contract(s) and service specification(s) is vital to establish your legal position, contractual and financial risk and/or liability, leverage that you might have to get the provider to make necessary changes (particularly if there is some time for the contract still to run), and your negotiating position.
What does the service spec say?	<input type="checkbox"/>
Is there flexibility within the contract to change services?	<input type="checkbox"/>
If a service is not at or near the end of the contract period, have you arrangement to enter into discussions with the provider?	<input type="checkbox"/> The objective of this is to see if the provider is prepared to reshape the service to deliver the required outcomes to the quality standards specified underpinned by a renewed service specification (by mutual agreement).
Otherwise (at or near the end of the contract period), have you prepared a new service specification ready for re-tendering?	<input type="checkbox"/> The service specification should ideally be outcomes-based and should include quality standards for the service delivery process. Preparation of tender documentation will also be necessary.
Which services could be retained if they changed sufficiently and which will have to definitely close?	<input type="checkbox"/> As long as service are of the right quality most might be capable, with the right co-operation and flexibility from the provider, of changing to fit new market requirements. However, if quality, persistent poor performance or compliance with contract or regulatory requirements is an issue then you may want to ensure that the provider will not be in a position to be a local supplier / provider or in a contractual relationship with your LA.

Informing the market and understanding the response

Once prepared you need to understand how the market will respond to your plans. You should gain this understanding prior to putting plans into action since this will affect how you proceed. The very process of engagement can smooth the way for subsequent implementation.

Checklist Question	Why this is important? / advice / comment
Have you notified affected providers and offered to meet (preferably individually) to explain the rationale and process?	<input type="checkbox"/> Engaging with affected providers throughout the process is not only good practice may mitigate a legal challenge to the process and decisions at a later stage.
Have you analysed the outcome of any such meetings?	<input type="checkbox"/> Following your meeting (or other form of communication) with the provider you should be able to answer the following: <ul style="list-style-type: none"> • what is their response? • do they want to keep strictly to the terms of the contract? • is there any indication of their willingness to agree to a variation in the contractual terms? <p>Map the extent to which they are flexible out on a continuum from:</p> <ul style="list-style-type: none"> a) Provider is completely inflexible and want to stick to the letter of the contract b) Provider is completely willing to change to suit local requirements
Have the providers in question attended any workshops that you have run on personalisation / PPF / self-directed support / outcomes bases services?	<input type="checkbox"/> If not then analyse (and if necessary provide) the communication with the provider about the policy and contextual changes.
Does the provider understand the context, policy direction and reasons for change?	<input type="checkbox"/>
Having gone through these stages, what is your assessment of the provider's attitude and the chances of reaching a negotiated solution?	<input type="checkbox"/> It will be important to 'take stock' at regular intervals through the process and to analyse and adjust plans according to the responses and attitudes of provider(s). The objective should always be to reach a negotiated position.
Is the provider inflexible? If not then have you considered the following?	<input type="checkbox"/> If no negotiated solution can be found and the provider intends to stick strictly to the terms of the contract, and the contract does not provide any of the flexibility required to achieve services of the required nature and volume, then the following actions should be explored.
Calculated the financial and non-financial (e.g. reputational) cost of buying the provider out?	<input type="checkbox"/> a) The cost of buying the provider out should be calculated from the time when the contract would cease, i.e. allowing for a re-tender / re-commissioning process to be concluded and a new provider ready to take over the services (or alternative arrangements for service delivery / availability to be put in place). The amount should have a direct relationship with the length of time the contract has to run.
SWOT and/or PEST analysis?	<input type="checkbox"/> b) see separate tool [hyperlinks]
Undertaking a Risk Assessment and impact analysis?	<input type="checkbox"/> c) This [hyperlinks] should cover: <ul style="list-style-type: none"> (i) Decommissioning the service(s) completely (effect on service users, provider organisation (particularly staff) and on your ability to deliver services). (ii) The provider ceasing business & your ability to provide service continuity in this instance (iii) Impact on service users of different scenarios that might be triggered by decommissioning or changed commissioning activity.
Does the provider understand the costs to them of not being prepared to be flexible?	<input type="checkbox"/> These could be in terms of lost future business in yours and other local authority areas, potentially prejudicing their chances of further contracts with your LA area, etc.
What is the advice of your legal department?	<input type="checkbox"/> The LA's lawyers should be involved at every stage in the process.

Commercial consequences – reducing them via leverage

There are likely to be costs associated with decommissioning – these need to be calculated. Some of these costs may be able to be reduced if you collaborate with your neighbours since, in the current climate of transformation, they are also likely to be going through similar experiences.

Checklist Question	Why this is important? / advice / comment
What will the cost of decommissioning a service be?	<input type="checkbox"/> It may be necessary for the LA to take a financial 'hit' if the consequences of continuing with existing contractual arrangements are limiting or risky in terms of performance or service quality. It is important to create an equation based on both financial and non-financial costs. This needs to be looked at in terms of the potential cost of reaching a financial settlement with the provider (i.e. buying itself out of a contract), or breaching a provider's contract on less than secure grounds and being successfully challenged on this. Against this needs to be set the adverse effect on performance judgement if the LA is not making progress with key national policy initiatives, or is not taking incisive action over services that can be considered to be retrograde (although they might be of an adequate quality they may be of a poor or outdated service model).
What will the cost of <u>not</u> decommissioning a service be?	<input type="checkbox"/> If a provider is completely inflexible it is an indication that they may only be thinking of their own business and not of the needs and requirements of service users nor of the organisations that commission them to provide services. It may therefore be appropriate or necessary to work with other LAs who do business with them to bring pressure to bear to reconsider their stance, to endeavour to get them to be flexible and prepared to enter into discussion and negotiation to find common ground and agreed solutions.
What leverage can you create with the provider by talking to neighbouring authorities and making collective overtures to them about the need for the provider to be responsive and flexible in their approach to delivering service and to their existing contractual relationships?	<input type="checkbox"/> If a provider is completely inflexible it is an indication that they may only be thinking of their own business and not of the needs and requirements of service users nor of the organisations that commission them to provide services. It may therefore be appropriate or necessary to work with other LAs who do business with them to bring pressure to bear to reconsider their stance, to endeavour to get them to be flexible and prepared to enter into discussion and negotiation to find common ground and agreed solutions.

Other Factors: quality, performance, value for money, future demand

Once prepared you need to understand how the market will respond to your plans. You should gain this understanding prior to putting plans into action since this will affect how you proceed. The very process of engagement can smooth the way for subsequent implementation.

Checklist Question	Why this is important? / advice / comment
What is the quality of the service?	<input type="checkbox"/> Is service quality good or acceptable – is there a likelihood of it being maintained and / or improved, or is there a risk that if the nature of the contract is changed then it might deteriorate? It is important to pay particular attention to process quality (i.e. the service user experience of receiving the service)
How effective is the service, particularly in terms of outcomes? Or has the service got the potential and adaptability to be effective in terms of outcomes?	<input type="checkbox"/> Even though the service may not be specified in terms of outcomes you need to apply your analytical skills to evaluating whether the service, if changed, has the potential to be effective – this will be critical in terms of any future decision as to whether to continue in a contractual relationship with the provider.
Is performance, against agreed measurables, meeting the requirements of, and standards set out in, the service specification in a sustained way?	<input type="checkbox"/> If this is the case it will bode well for future delivery and effectiveness of services, taken together with other factors that will be looked at as part of any decommissioning / recommissioning / retendering process.
How much has the service been costing?	<input type="checkbox"/> Price – deviation from the local mean (too low a price may be a concern as well as too high a price as it will have an impact on the quality and availability and abilities/skills of staff). Unit price will be important here but this also needs to be looked at in relation to effectiveness to gauge value for money.
Is the demand for the service commensurate with the services that the LA is committed to paying for (particularly if this is locked into a block contract)?	<input type="checkbox"/> If there is no longer the demand for the service, or if the block purchasing of services need to be reduced within the contract period due to the development and implementation of the personalisation agenda, then consider whether there is scope for negotiating with the provider on this point.

Termination of contract

The ideal situation is to terminate an existing contract via mutual agreement. However, there are likely to be situations where you will have to terminate without this agreement.

In contracts where you have no volume commitments or exclusivity clauses you may be able stop using it without needing to go to termination – in which case this does not apply.

Other than holding information exchange sessions with providers, you should not yet have entered into any formal negotiation. Doing so without being fully prepared, which includes asking yourselves the following questions, could leave you exposed.

Checklist Question	Why this is important? / advice / comment
Has the provider unilaterally changed any elements of the service, withdrawn service or failed to provide services that it is contractually bound to do to any significant or substantial degree?	<input type="checkbox"/> If any of these apply then they can be used as leverage to either ensure compliance or to get the provider to become more flexible and responsive to change contractual requirements. If any of these are serious enough to be considered a breach of contract then it is possible to use this to secure co-operation from the provider in providing the service differently and in changing the service specification and contract.
Has the provider failed to provide timely, accurate and agreed monitoring information (performance / outcomes / financial, etc.)?	<input type="checkbox"/> If necessary this can be forced under threat of termination. If things are serious you should consider terminating the contract on notice and retendering with a different service specification.
Has the service been provided on time and at the agreed volumes?	<input type="checkbox"/>
Has the provider met agreed targets and standards?	<input type="checkbox"/>
Has the provider met any value-for-money, best value and/or continuous improvement clauses within the contract?	<input type="checkbox"/>
Where you terminate a contract:	
Are you able to develop decommissioning / transfer / transition plans in conjunction with the provider?	<input type="checkbox"/> This is vital to effect a smooth transfer and to minimise the impact on service users and staff.
Have you got a communication plan – particularly to communicate well in advance with service users and the press / media, as well as other stakeholders.	<input type="checkbox"/> Ensure that service users know about the availability and benefits to them of DPs, IBs and self-directed support.
Have you briefed elected members and other key stakeholders?	<input type="checkbox"/> It is important to brief anybody within the governance structure, other stakeholders who might be affected, or where there might be an impact on other services (e.g. the PCT).
Who else should you inform or consult with?	

Transition / exit planning

Ideally, for major contracts, you will already have such plans in place – it is good practice to include transition / exit planning requirements in the original contract.

In practice, however, we know that few contracts do include proper provision for smooth exit and hand-over to subsequent contract holders. Given we are in a period of transformation, where flexibility under uncertain conditions is necessary, such clauses should be added.

Regardless, the following points highlight some of the factors which should be incorporated.

Checklist Question	Why this is important? / advice / comment
<p>Have you developed a decommissioning / transition / transfer plan?</p>	<p><input type="checkbox"/> This should be managed within programme management and or project management methodology with a proper degree of rigour and discipline.</p> <p>A decommissioning / transition / transfer plan should cover:</p> <ul style="list-style-type: none"> a) staff redundancy / TUPE b) options / alternative services for service users c) a communications strategy – including information to staff and service users, who will be consulted, when and how, publicity and media handling, information on the internet, etc. d) statements regarding the decommissioning e) any premises issues f) the handling of assets (including premises) g) service user file and record handling / handover h) transfer / handover of systems and processes i) finalisation of outstanding / final invoices and payments due at the end of the contract period and arrangement for any audit / reconciliation that might be necessary. j) arrangements for changing referral pathways and informing referral sources
<p>Is the closure / transfer /decommissioning of the service(s) likely to be longer than 3 to 6 months?</p>	<p><input type="checkbox"/> If a long period of closure / transfer (i.e. > 3 to 6 months) is likely then the development of a transitional contract or a shared protocol and understanding may be appropriate. This should include:</p> <ul style="list-style-type: none"> a) expected behaviour and standards of behaviour towards service users and carers, new service providers and other parties, by both the provider organisation itself and by their staff, particularly towards service users b) how with LA and provider will handle press enquiries, contacts from the public, provider staff enquiries, and other enquiries c) timescales for responding to enquiries d) TUPE arrangements (where these apply) & support and information to provider staff e) invoice to the LA and payment arrangements by the LA to the provider f) timescales and other elements to ensure a smooth closure, transfer or change with the objective of minimising any impact on service users g) any additional consideration to be given to the provider at the end of the contract period resulting from a smooth transition – it might be appropriate to reward a very co-operative provider financially in these circumstances h) monitoring arrangements for the transition period i) information and support to service users to secure alternative services
<p>For future contracts:</p> <p>Have you looked carefully at your contracts to ensure that they do not constrain you unduly?</p>	<p><input type="checkbox"/> Your contracts may need to be revised to be more flexible, to have notice clauses and break clauses in them, and scope for periodically revising the service specification. Specialist legal advice should be sought and examples sought from other LAs.</p>