The power of partnership: how to seize the potential

A practical guide to forming and maintaining cross-sector partnerships in healthcare

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ZPB editorial team
Jennifer Nemeth – Copywriter and project manager
Hilary Rowell – Executive editor
Alex Kafetz – Editor
Gita Mendis – Creative director
Jacqui Gibbons – Sub-editor

Survey and qualitative research
Oswin Baker – Rockpool Research Associates Limited

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Members of the reference panel

Sir William Wells	Chair of the reference panel
Jake Arnold-Forster	Director, Carradale Consulting
Richard Beazley	Former NHS Non-Executive Director
Chris Brinsmead	Independent Non-Executive Advisor
Beverley Bryant	Director of Strategic Systems and Technology, NHS England
Pam Chesters CBE	Chairman, Central London Community Healthcare NHS Trust
Caroline Clarke	Director of Finance, Royal Free London NHS Foundation Trust
David Colin-Thomé OBE	GP and former Director Primary Care, Department of Health
Saffron Cordery	Director of Policy and Strategy, Foundation Trust Network
David Dalton	Chief Executive, Salford Royal NHS Foundation Trust
Jim Easton	Managing Director, Healthcare, Care UK
Alan Farnsworth	Procurement Director, UCL Partners, Procurement Service
Mike Farrar CBE	Chief Executive, NHS Confederation
Rebecca George OBE	Lead Partner, Public Sector Health, Deloitte
Stephen Hughes	Partner and Head of Health, Bevan Brittan
Raj Jain	Managing Director, Greater Manchester AHSN
Samantha Jones	Chief Executive, West Hertfordshire Hospitals NHS Trust
John Mallalieu	Director, Turning Point
Sir Stephen O'Brien	Chair, Barts and The London NHS Trust
John Parkes	Managing Director, Greater East Midlands CSU
Sir Nick Partridge OBE	Chief Executive, Terrence Higgins Trust
Chai Patel CBE	Chairman, HC-One
Cathrin Petty	Special Partner, Vitruvian
Stephen Richards	Chief Executive, Oxfordshire CCG
Lisa Rodrigues CBE	Chief Executive, Sussex Partnership NHS Foundation Trust
Simon Scrivens	Managing Director, Sodexo and Chairman, iPP
Tim Sheppard	Head of Sector, Healthcare, Unipart

What this report is about and who it is for

- This report aims to promote the use of partnership arrangements and to offer practical advice and useful case studies of partnership working
- The focus is on cross-sector partnerships designed to deliver clinical and other services for the NHS
- It is aimed both at boards considering and overseeing partnerships, and managers responsible for procuring and managing them

The NHS needs effective partnerships

Since our first report, Partnerships for Healthy Outcomes, the NHS has continued to face serious challenges. The pressure to reduce costs and improve productivity remains unrelenting. Collaboration and creativity in the interests of both patients and taxpayers is at a premium. New service models will have to be procured and must embrace the best skills, knowledge and capacity that are available within and beyond the NHS.

In August 2013, the Department of Health and NHS England published their long-awaited report Better Procurement, Better Value, Better Care. This was a useful addition to the procurer's armoury, but it was also a missed opportunity, concentrating almost entirely on the procurement of products and largely ignoring the more complex area of clinical and support services.

Traditional contractual relationships based on fixed specifications of inputs and outputs are unlikely to generate the kind of innovative breakthroughs or productivity leaps that the NHS needs.

This second report offers practical tips and examples of good practice aimed at those contemplating multi-provider partnerships to deliver NHS services, whatever sector they are from. For me, the two most important messages are that first, potential partners need to spend time talking before commitments are made; second, commercial skills must be instilled in management, through both executives and non-executive directors.

In producing this report, we consulted more than 500 people from the NHS, private and third sector through regional events, individual discussions and in-depth interviews, plus a new survey that captured the views of more than 280 senior leaders across sectors. I am grateful to all who gave evidence.

I would also like to thank the members of the panel, whose contributions were invaluable, as well as ZPB, who undertook the research, organised the panel and produced the report. Sodexo again provided resources for the compilation and production of the report together with their valuable experience of the market place.

Whether you are a board member or a manager, in the NHS, private or third sector, I hope this report helps turn interest in partnerships into action. I am convinced that the effective procurement and operation of multi-provider services will significantly improve the range, capacity and quality of the services to patients while at the same time providing good value to the taxpayer.

Thank you for reading this report, and if you have any comments or queries please make contact with me on william@zpb-associates.com.

Sir William Wells

November 2013

executive summary

"We will see more partnerships develop, but it's really important to understand why one is entering a partnership, the shared vision and the amount of time it takes to get the deal right and maintain vitality of the partnership."

Chief Operating Officer, NHS Acute Trust

Our key findings are on page 3

The tips on page 4 will help NHS, private and third sector bodies sustain successful partnerships

Headline messages

Organisations in all sectors must recognise and seize the potential of partnerships

For complex, high spend and strategically important services, cross-sector partnerships offer greater potential for innovative breakthroughs in productivity and quality than traditional contractual relationships.

Successful partnerships are based on defining common goals, making long-term commitments and sharing both risk and reward.

Commissioners must stimulate and support partnerships

Commissioners have a critically important role to play in encouraging and even requiring partnerships between providers by focusing on longer-term, outcome-based contracts. They can also help providers navigate a sometimes unhelpful political environment. Commissioning Support Units and Academic Health Science Networks can also offer active support to partnerships.

The recent Department of Health procurement review was a missed opportunity to promote the value of cross-sector partnerships

The procurement system is broken, and Better Procurement, Better Value, Better Care goes some way to addressing this problem. However, procuring partnerships is different to procuring surgical gloves, drugs or agency staff. For this reason, our panel found it disappointing that the recent procurement review focused almost exclusively on the procurement of goods rather than on more innovative approaches to partnering for the delivery of services.

Commercial leadership at board and department level is important to success

Commercial skills instilled at board level, among executives, managers, procurement teams and non-executive directors, helps to ensure that you get the best deal for your organisation when going through procurement and setting up a partnership. Commercially orientated teams will be capable of leading major negotiations or discussions with suppliers, managing business-like relationships and monitoring risks coherently.

RECOMMENDATIONS FOR PUBLIC, PRIVATE AND THIRD SECTOR PARTNERS

1 Be strategic. You need to **share a long-term vision** and an intent to effect significant change in the interest of patients

2 If you are contemplating a partnership, **get talking to potential partners early**, before formal procurement starts – both to shape the service and to test how you might work together

3 Understand each other and **avoid making assumptions.** Take time to appreciate each other's particular culture and pressures, as well as how decisions are taken and by whom

4 Be open about both risk and reward, and **support each other to address concerns or challenges** from stakeholders and shareholders. Have aligned PR plans and be alert not only to commercial risk but also political, clinical and reputational risk

5 Create – or look for – service specifications that primarily **focus on outcomes** and procurement processes that include consideration of values and culture. Define measures of success

6 It is sensible to **agree exit strategies** in the event that partnerships do not work out. This happens and demands rapid action. But also pay attention to metaphorical 'do not enter' signs like unrealistic timescales, lack of focus on sustainability or misalignment between desired outcomes and pricing

7 Be honest about capability and competency, and **explore opportunities to draw in SMEs** to partnerships and build diversity into the supply chain

8 Secure ongoing board support and **keep decision making connected with delivery** through regular communication. Partnerships should be agreed by the board rather than created as an 'executive experiment'

9 Remember that **trust** and the **ability to have frank discussions are the hallmarks of good partnerships**. Avoid relying on one or two key individuals to drive the partnership forward

10 **Share the successes** and lessons from your partnership, including financial and commercial figures

getting started

"We need to be less hung up on whether the solution is an in-house or out-sourced service. We need to think about the best outcome for the patient and our bottom line."

Finance director, Acute Foundation Trust

- Read about the case for partnership and how we define partnership on page 6 and 7
- What should you consider before you enter a partnership? Find out on page 8
- Stephen Hughes, public service lawyer, shares his expertise on managing risk on page 10
- Page 12 focuses on how commissioners can help partnerships
- The Turning Point/ Camden and Islington NHS FT case study on page 14 highlights the importance of careful project management, open consultation and constant board engagement

The case for partnerships

Pooled resources deliver better outcomes

Partnership is a term that is often used in the NHS to describe rather vague arrangements. The focus of this report is on formal cross-sector partnerships designed to deliver complex and strategic services. These may be initiated and procured by NHS organisations or formed in response to opportunities created by commissioners.

The case for NHS, private and third sector providers working in partnership to deliver clinical and non-clinical services is driven by the need for significant innovation and value.

survey finding

Only 1% of NHS and 2% of other sector leaders in our survey believed there are no advantages to partnership working

Generating value

Partnerships can reduce cost and increase revenue, not least because they are long term in nature. They can also leverage purchasing power and generate economies of scale. Private and third sector partners can benefit from access to NHS knowledge, markets and networks while NHS partners can access particular skills and technologies, commercial acumen and capital for investment, technology or infrastructure.

It is still difficult to uncover real examples of savings made and outcomes achieved from partnerships. This is in part because results take time to materialise. However, there also seems to be a reluctance to reveal results, perhaps through fear of how they may be perceived. Our panel hopes that NHS trusts and their partners will start to be more open about both achievements and challenges.

Innovation to benefit patients

Good partnerships will seek to rethink existing 'bricks and mortar' solutions and improve services at every step of the patient journey. More than a third of all respondents to our survey identified the greatest advantage of partnerships as 'allowing for new approaches to service delivery'. Other advantages cited include reinvigorating existing service delivery and allowing for learning and knowledge sharing.

Moreover, 54 per cent of NHS and 64 per cent of private/third sector leaders believe that the greatest potential for partnership lies in delivering clinical services. Despite some negative PFI experiences, capital projects were the second most favoured area among NHS (18 per cent) and private sector (eight per cent) respondents.

"We don't have access to capital. On most boards or in other organisations, you need to be able to raise money if you want to develop something. Partnerships with the private sector are one way of doing this."
Chair, NHS service provider

What is a partnership?

A partnership is a formal arrangement where common goals are defined, long-term commitments are made and risk and reward are shared between both parties.

Partnerships are not outsourcing agreements or a short-term expedient to transfer risk, nor are they a way to describe privatisation.

Partnerships are worth considering where:

- Off-the-shelf solutions do not exist
- Expertise and resources are needed to supplement existing in-house capability
- Fresh thinking and new approaches are required
- The costs of contracting are high for both the NHS organisation and any partner

What characterises a successful partnership?

In a partnership, both parties:

1. Are driven to effect change and solve defined problems
2. Have a shared purpose, vision and ethics
3. Share a long-term perspective
4. Trust one another and are open about risk
5. Collaborate, co-design and co-own the service
6. Share skills and knowledge
7. Sustain mutual resource commitment
8. Focus on outcomes, rather than process, inputs and outputs
9. Are transparent and flexible, to cope with changing circumstances over time
10. Instil strong relationships at all levels between the partner organisations

"The idea that the private sector is great and the public sector isn't is naive and simplistic. They need to learn from each other and play to one another's strengths."

Managing director, Academic Health Science Centre

Deciding to partner

Laying the groundwork before you commit

Organisations considering a partnership need a long-term vision, an intent to effect strategic change and a willingness to share both risk and reward.

Our survey showed that NHS and private sector leaders strongly agree that partnerships require real commitment, both economically and culturally, and that partnerships are more personal than contracts. Relationships are central to their success.

NHS leaders who responded to our survey felt that short-termism and a lack of commitment to long-term planning are the most common obstacles to partnerships. Private sector leaders tend to agree, but most identify the greatest obstacle as tenders that specify processes rather than outcomes. Almost one-fifth of both NHS (18 per cent) and private sector (19 per cent) respondents acknowledge that cultural fit is a sticking point. Encouragingly, few from either sector think that inherent competition between partners acts as a barrier to partnership working.

"Agreeing shared goals and values in advance is seen by both NHS and private/third sector leaders as the most important factor underpinning successful long-term partnerships."
Survey finding

TIPS FOR THE NHS

- **Think long term and be open to new ways of working**
  Define your ambitions, both for patients and your organisation, over five to ten years. Analyse key services and where partnerships could fit into your broader sourcing strategy. Think broadly about possible options to meet your goals and the value of long-term contracts in key areas. SMEs are a significant source of innovation: think about how you can involve them or require potential partners to involve them in a consortia.

- **Start talking to help you define what you want**
  It is a common misconception that any pre-procurement discussions will automatically rule a supplier out of any subsequent procurement and open the public body up to accusations of unfairness. Pre-market engagement is allowed and indeed encouraged under Cabinet Office guidelines and the new draft public procurement directive[1]. Competitive dialogue and soft market testing is useful for complex contracts where technical solutions are difficult to define or where development of the best solution is wanted. Seek out experts in the market and engage in open dialogue to learn about the solutions available to you; it is overly cautious to avoid informal discussions.

survey finding

54% of NHS and 64% of private/third sector leaders believe that the greatest potential for partnership lies in delivering clinical services

1 http://www.nhsconfed.org/Publications/Documents/EU_public_procurement_briefing_Sept2013.pdf

- **Discuss your appetite for risk – and your attitude to 'gain'**
  Think through the different kinds of risks at play: clinical, political, business and financial, operational. The NHS is typically shy of business and financial risk and focuses much more on clinical risk. Plan how you could share and mitigate risk with potential partners. Equally, plan for surpluses and think about how they will be shared between partners. Don't make a taboo out of the potential for a private sector partner to share in the gains. Setting up a partnership can open you up to scrutiny, fairly or unfairly; plan how you will manage external communications and PR.

- **Instil commercial skills from board to departmental level**
  Day-to-day relationships and delivery for partnerships will be at operational not board level. Introduce commercial teams that sit across procurement and the frontline; who can take a high-level strategic view as well as a detailed implementation perspective. Build capabilities to lead major negotiations or discussions with suppliers, manage ongoing relationships and monitor risks coherently. Consider organising short secondments to or from private or third sector organisations for key team members.

"To be true partners you have to have an understanding of each other's requirements and objectives."
Chief executive, social enterprise

TIPS FOR THE PRIVATE AND THIRD SECTORS

- **Participate in early structured discussions**
  Discussing and exploring desired outcomes and delivery models prior to formal tendering procedures is an effective way to shape NHS thinking. Don't treat such discussions as a sales pitch. Be prepared to listen and to contribute ideas with no strings attached. Concentrate on your core competency and consider if any other partners will enhance what you can offer the NHS, particularly SMEs.

- **Understand the NHS**
  Think about the challenges facing NHS organisations, in terms of the policy and regulatory landscape, the financial and political pressures and the needs of patient populations. Commercial risk is just one factor; you must also understand clinical, reputational and political risk in decision making. Be alert to pending changes to legislation.

- **Think beyond the business case**
  You need to help your NHS partner make the link to improving patient care and overall cost-effectiveness. You need to think about stakeholders rather than shareholders.

- **Engage at the right level**
  Work out who makes the decisions about partnership arrangements, and understand that it will take time. In our survey, 68 per cent of NHS leaders said their board makes the final decision to set up a partnership. Only 26 per cent of private and third sector leaders think this is the case. Instead, they are more likely to think the CEO is empowered to decide.

survey finding

68% of NHS leaders state that their board takes the final decision to set up a partnership – but private and third sector leaders often think the chief executive takes the final decision

Understanding risk

The risks of erring on the side of caution

Our series of interviews revealed a common view that NHS organisations are generally skilled at managing clinical and political risk, but often less confident managing business and financial risks. In fact, business risks tend to be conceptualised principally as reputational risks. This way of thinking is problematic given that commercial success is often founded on a degree of failure.

We also heard that making a decision to go into partnership is seen as career-making or career-breaking for NHS chief executives.

Interaction between organisational and personal risks should not be underestimated.

Mitigating risk in partnership procurement processes

There is a collective misconception that partnership contracting is high-risk. Yet the primary behaviour in the NHS is to err on the side of caution.

The same theory applies to managing all types of risk: if you have the right safeguards in place, your exposure to risk will decrease. For partnership contracting, failing to prepare properly creates the most problems in the early stages. By resourcing and skilling your team sufficiently and considering the technical and behavioural points discussed in this report you can overcome the most common issues that I encounter.

At the pre-procurement phase, people rush to market without proper planning, resulting in a lack of consultation in the early stages and diffused support from key stakeholders. The procurement process itself throws up many obstacles, but again these can be bypassed through adequate planning and open dialogue. The most common behavioural issues I encounter during this phase include a lack of transparency, unstructured competitive dialogue, delay in addressing issues as they arise and ineffective decision making.

Technical faults often occur. People choose the wrong procurement procedure and stick with it, timetables lapse, too many bidders are put through to the final stage, evaluation criteria and tenders are unclear, and requirements are changed during the procurement.

Stephen Hughes, Partner and Head of Health, Bevan Brittan

"The most common behavioural issues I encounter during this phase include a lack of transparency, unstructured competitive dialogue, delay in addressing issues as they arise and ineffective decision making."

"The slightest hint of failure in the NHS, and you lose your job. It's a culture of survival. Public perception of risk is what NHS managers are particularly worried about."

Director, management consultancy

Sources of support for partnerships

Academic Health Science Networks (AHSNs) as enablers of partnership working

AHSNs will work with industry partners that share the objectives of health and wealth gain for the communities we serve. We will articulate these goals in a way that is meaningful and through a process of co-production with industry and NHS organisations. To industry partners, the NHS can look fragmented and lacking in common focus. Industry can look the same to NHS organisations.

AHSNs will bring capacity and capability that helps partners to navigate complex landscapes and enable coalitions to form around common interest. AHSNs will be the places to go for private sector or NHS organisations to help reduce transaction costs and gain pace and scale as they attempt to solve problems or deploy innovations.

We will create headroom, space and time in which private and NHS organisations can work together to solve common problems. AHSNs will manage any conflicts of interest that might occur, for example, by engaging industry associations rather than just companies.

AHSNs have a clear mandate and business plans to deliver this agenda. We will seek to break down barriers and build trust between organisations and sectors. We will not be driven by income growth or asset value for the AHSN. We are driven by value to the populations and communities we serve.

Raj Jain, Managing Director, Greater Manchester AHSN

> 'To industry partners, the NHS can look fragmented and lacking in common focus. Industry can look the same to NHS organisations."

The role of Commissioning Support Units in supporting partnerships

Commissioners must deliver high quality and better outcomes for the patient, and greater value for the taxpayer. NHS England's aim is to make commissioning clinically led, professional and streamlined, served by Commissioning Support Units (CSUs). CSUs are underpinned by growing partnerships with larger commercial, niche and voluntary organisations. To achieve efficiency and quality goals, CCGs must consider different models of contracting.

Partnerships, when leveraged in a strategic, intelligent fashion, can bring a myriad of benefits to a developing or established market on the supply and demand sides. CSUs are able to offer help and advice in a variety of service areas, from the transactional to the transformational, including business support, business intelligence, support for service redesign and procurement management.

CSUs are well placed to support partnership working. They can provide access to 211 CCGs and a £70bn market. They have local knowledge of key priorities and needs and know local decision makers. CSUs have the required expertise in procurement and can cost-effectively obtain legal advice. They can also create opportunities and support new entrants such as SMEs.

Professor John Parkes, Managing Director, Greater East Midlands Commissioning Support Unit

> 'To achieve efficiency and quality goals, CCGs must consider different models of contracting."

Where do commissioners fit in?

Commissioners should stimulate and support partnerships

Much of this report focuses on helping providers negotiate and manage partnerships more effectively. However, commissioners also have a significant role to play.

Commissioners, both in the NHS and local authorities, have the power to encourage and even require providers to create partnerships and to focus them on delivering the services their local communities need. An increasing number of examples of innovative, long-term and outcomes-led thinking are emerging from commissioners. Much of the thinking is focused on ensuring better integration of services and is being encouraged by NHS England.

New approaches to contracting are gaining ground, particularly prime contractor models and alliance contracting.

Prime contractor models allow commissioners to access the expertise of a whole consortium of providers with particular specialisms, while only actually contracting with a single 'prime' organisation for delivery of an entire service or care pathway. The prime may or may not be a main service provider – their key role is to ensure integration of services, manage subcontractors and deliver results. Payment is outcome-based, and the prime contractor would, in effect, share risk and reward proportionately with its subcontractors.

This model can work well for complex services and helps to align clinical and financial responsibility. It also offers a way of drawing in smaller and more innovative providers who may otherwise be thwarted by procurement rules.

Alliance contracts are another form of outcome-based contract, in which a commissioner issues one contract that binds together several providers. Whereas joint ventures are typically provider-led, alliances are commissioner-led and the commissioner is part of the alliance and shares in the risk. Alliances take collective responsibility of risks, opportunities and responsibilities: each party to the alliance works to the same outcomes, is judged by the same success measures and shares equitably in profits and losses. It is argued that the nature of alliance contracting helps to align interests and create positive and cooperative behaviours. Oxfordshire CCG is one commissioner that is exploring new approaches to outcomes-based commissioning.

> "There is a change under way in commissioning – it is becoming more collaborative. A brilliant commissioner facilitates and brings people together."
> **Chief executive, social enterprise**

Partnerships and outcomes-based commissioning

To date, a commissioner's role in promoting partnerships between the NHS and private sector has been limited to small services through Any Qualified Provider and independent treatment centres. Traditional healthcare commissioning has focused on processes and reward for activity: numbers of appointments, attendances, operations and procedures, whether they are good for patients or not.

At Oxfordshire CCG around a third of our commissioning spend is accounted for by three areas: maternity, mental health (anxiety, depression and psychosis) and care of the elderly (including dementia). We challenged ourselves to look at different models to promote integrated care and to focus on improving outcomes. Capitated and Outcome-Based Incentivised Contracting (COBIC) is a method of contracting for outcomes, covering all relevant care for a specified group of people.

The budget is based on the needs of that given population and includes financial rewards for achieving specified outcome measures. Providers must collaborate and problem solve in partnership if they are to deliver these outcomes and make the efficiency savings necessary to stay within the allocated budget.

One-year commissioning cycles inhibit strategic large-scale change. The COBIC approach moves thinking to the longer term. New contracts under COBIC are set for three or more years to enable workforce planning and service change. This model helps convert money into outcomes not activity; incentives are more aligned to maximise the benefit.

The process is complex, and there was initial resistance to change. We had to ensure that we communicated clearly and constantly to all partners about the changes. This helped mitigate the potential for problems during implementation.

Stephen Richards, Chief Executive, Oxfordshire Clinical Commissioning Group

"Capitated and Outcome-Based Incentivised Contracting (COBIC) is a method of contracting for outcomes, covering all relevant care for a specified group of people."

"The best way of building a relationship with the commissioners is actually doing a piece of work together, rather than sitting in a meeting chatting. If you're solving a problem together that does more than anything else to build a relationship."

Chief executive, private sector care provider

A partnership to deliver integrated drug and alcohol services

Turning Point and Camden and Islington NHS Foundation Trust partnered in 2010 to pool resources to deliver key services helping to turn drug and alcohol dependent patients' lives around. The success of the partnership lies in its careful project management, open consultation and constant board engagement.

BACKGROUND

Turning Point's partnership with Camden and Islington NHS Foundation Trust (CANDI) was developed in 2010 to redesign and integrate drug and alcohol services in South Westminster. This meant complete reconfiguration, bringing together services previously offered by multiple suppliers into one integrated model. Turning Point had expertise across the services, but had limited experience of delivering specialist-prescribing services at that time, and sought out a partnership with an NHS trust.

LAYING THE RIGHT FOUNDATIONS FOR SUCCESS

Turning Point engaged in a scoping exercise to select a partner. It met with a number of NHS organisations to discuss governance arrangements and the vision for substance misuse treatment. Following the decision to work with CANDI, directors met to share and discuss values, review the prospective service specification, and identify key staff to drive forward the collaboration.

The key objective of the partnership was to establish a flexible, responsive service, with minimal disruption for transferring clients. This meant embedding a single, accountable and measurable system for substance misuse support. A joint Service Board oversaw implementation and ongoing delivery. This involved the clinical lead, operations manager, senior directors and an implementation project manager.

Terms of reference were drawn up to establish a safe and innovative service. The Service Board became a key forum for reviewing clinical governance and continuous improvement.

IMPLEMENTING THE PARTNERSHIP: MOVING FROM CONTRACT TO DELIVERY

The implementation took four months of TUPE consultation, two months of training and three months of walk-throughs, all running concurrently. Service delivery was equitably assigned according to specialisms and in line with pre-tender agreements. This was underpinned by a formal contract, signed after the award and designed to mirror the main contract with local commissioners.

"The way we worked together from the start was the key to creating a successful partnership in South Westminster, with open and honest executive discussions before any modelling work commenced. The effort put into that preparation and the clarity of bid leadership roles built the platform for success."

John Mallalieu, Director, Turning Point

CANDI led on provision of clinical leadership, specialist addiction psychiatry, psychology and nursing staff. Turning Point's role was to deliver operational management, psychosocial interventions, group sessions, specialist family and housing support and aftercare.

The partnership hosted a series of walk-through workshops, involving all staff. This reviewed the new service through the eyes of service users and their families and enabled systems, processes and specific interventions to be developed. This helped to engage all partners in the process.

A dedicated project manager, who had accountability to lead across both organisations, oversaw this work. The project manager became a key single point of contact for managers from each organisation, as well as local commissioners.

OVERCOMING CHALLENGES

Particular challenges for the partnership included deciding where the responsibilities lay during the TUPE transfer; ensuring effective communication; and enabling information sharing. One of the biggest challenges was the need to re-write policies and procedures for the partnership, which proved time consuming and costly. Other operational challenges were also successfully addressed: bridging the culture between a medical and recovery model; the different pace of working in the two organisations; the different aptitudes for change and innovation; and issues over where line management responsibilities sit.

The establishment of the Service Board to provide a vehicle for sharing information and concerns helped to overcome these problems, along with honesty, flexibility, hands-on management, and an appointed project manager.

LEARNING FROM THE CHALLENGES AND SUCCESSES

This partnership has provided Turning Point with a template of how to work with other NHS organisations. Key learning from the partnership emphasises the need for early and continuous communication, a dedicated project manager, planning and reviewing the service from the eyes of the client, open dialogue between organisations, and good personal relations between key staff.

The partnership now has more people in treatment than ever before. The venture has linked psychosocial interventions with prescribing and education, training and employment support to ensure people are progressing through treatment and achieving recovery.

Turning Point and the trust have excellent close working relationships and daily meetings involve all key staff, from recovery workers to specialist psychiatrists. The partnership has ensured a safe and continuous service. The venture has developed a far more flexible workforce, with nurses now providing recovery support.

"Two years after the partnership began the service continues to innovate, successfully reaching some of the most socially excluded people in London and helping them to turn their lives around."

Lord Victor Adebowale, Chief Executive, Turning Point and NHS England Non-Executive Director

procuring for partnerships

Page 17 looks at how our work fits with the government's procurement review

Read tips on how to run an efficient and effective procurement process on page 17 and 18

Alan Farnsworth, procurement expert at UCL partners, discusses how to lead world-class procurement on page 19

The Southwest Pathology Services case study on page 22 highlights soft market testing and a focus on outcomes and innovation as critical success factors

"The legal and procurement process needs to be clarified and simplified."

Chief executive, social enterprise

Getting procurement right

The procurement review: a missed opportunity

The NHS must get procurement right to get the outcomes it needs and to satisfy expectations of fairness and transparency. But procuring partnerships is more complex than procuring surgical gloves, drugs or agency staff.

The procurement review Better Procurement, Better Value, Better Care, published in August 2013[2], addressed the issue of procurement reform. However, our panel found it disappointing that the review focused almost exclusively on the procurement of goods rather than more innovative approaches to partnering for the delivery of services.

This report aims to address two key gaps identified by the review:

- Inadequate sharing of case studies and best practice.
- The predominance of framework agreements and transactional procurements over the pursuit of more strategic 'breakthrough' procurements that can deliver significantly greater value, efficiencies, benefits and outcomes.

survey finding

26% of NHS leaders and 34% of other sector leaders feel that the partner selection process is the most common obstacle to setting up a partnership

TIPS FOR THE NHS

- **Engage your procurement team early in the process**
  Engaging procurement teams early helps them think about the process strategically, rather than as a cost reduction exercise. Initial discussions at executive level between potential partners do not always translate to the service specification; things can get lost in translation by the time they reach procurement.
- **Keep the board engaged throughout**
  Utilise the commercial skills of non-executives and finance directors to provide strategic oversight of specifications and tenders from the outset, rather than leaving them to scrutinise the outcome.
- **Build your specification around your desired outcomes, rather than the process**
  Share your desired outcomes, and let potential partners/bidders work out the process. NHS contracts can too often dictate the measurement of processes over outcomes, but a process can be perfect yet still fail to create the desired outcomes.

[2] **Better Procurement, Better Value, Better Care**, Department of Health, 5 August 2013.
https://www.gov.uk/government/publications/improving-procurement-in-the-nhs

- **Relationships are built informally, and are grounded in openness and honesty, not KPIs**
  Use the procurement process to explore values and culture, and build these into your evaluation criteria when selecting a partner. A lack of trust means the NHS can sometimes ask for measurements and data in tenders that don't answer the fundamental questions of "How will we work together?".

TIPS FOR THE PRIVATE AND THIRD SECTOR

- **Spend time discussing the specifics. You will be held accountable against these**
  Open dialogue to discuss contract specifics is your opportunity to shape the agenda. If you think something seems unreasonable, raise your concern early. Don't hope to re-negotiate after signing. Consider whether the private sector should be doing the work at all. Is it just an unacceptable transfer of risk?
- **Prove your business integrity**
  Don't oversell your competencies. Be clear about what you can do and where you might need support. Negative outcomes are quickly communicated between trusts. Be open about profit. Talk to your clients about mark-up and margin (often confused by public sector teams).
- **Be ready and meet deadlines – but don't expect a quick decision**
  Asking for extensions to deadlines should be avoided. Ensure those responsible for written submissions are alert to deadlines and factor in internal approvals at the start of the procurement. Be clear about who will ultimately award the contract and how you will be notified of key decisions. The NHS is a consensual business model involving many stakeholders, making quick decisions difficult.
- **Consortia bids: be clear on who is leading**
  Arrange pre-dialogue meetings in advance so that the NHS can be confident in the people leading the consortia. If you are asked to be an integrator between NHS organisations, make sure that the organisations are co-operative to avoid getting stuck in trust rivalry.

survey finding
28% of NHS
and 30% of private/third sector respondents say that expediting the procurement process would be most helpful when setting up partnerships

"Investing in an efficient, strategic procurement capability has not been a priority for many NHS boards, often due to the absence of functional leadership at a senior level and effective board representation."
Better Procurement, Better Value, Better Care, Department of Health and NHS England, August 2013

A strategic approach to procurement

Why your procurement team is important to delivering partnership contracts

For too long NHS organisations have lacked a single senior commercial focus on what they buy, from whom they buy it and on what terms. It is not uncommon for several trust directorates to be responsible for purchasing goods and services with no clear overall commercial strategy. It is difficult for boards to form a strategic view on categories of expenditure and assess activities that may warrant a partnership arrangement.

Partnerships are likely to be strategic, longer term and of significant value. They will exist in environments where competitive market forces are less likely to deliver quality patient outcomes and financial value over the term. To reap the benefits, the NHS has to change the way it manages input costs.

A string of new procurement models and initiatives led from the centre have been tried. Junior procurement staff typically cover transactions and lower value contracting, while framework agreements have been organised regionally or nationally. Recently, more enlightened trusts have combined commercial resources in a shared service model, controlled and directly managed by partner trusts (in Bristol and North Central London, for example). This model has distinct advantages:

- Concentration of commercial knowledge, experience and leverage to consider alternative business models
- Ability to benchmark on value and price
- Specialisation of commercial function
- Partner trusts retain control and priorities
- Standardisation and rationalisation

This approach helps to clarify where a business 'partnership' may be appropriate. The advantage is the potential of securing the business of several trusts under a single contract. For management, cost to serve is likely to deliver mutual benefit to all partners.

Alan Farnsworth, Procurement Director, UCL Partners

"To reap the benefits, the NHS has to change the way it manages input costs."

"Parties need a pre-nuptial agreement – an explicitly planned exit strategy to mitigate risk."

Finance director, NHS Acute Trust

When partnerships and procurements go wrong…

Partnerships can and do come to an end. For example, the policy or economic environment can change and reasonable analyses and projections can prove over-optimistic. Planning an exit strategy must be an integral part of the partnership process, ideally with the old IBM mantra of 'fail fast' in mind. Good partners will have collaborated on PR and media plans to deal with a parting of ways.

While ending a partnership is normal, it is less understandable when procurements are withdrawn after a lengthy process, conclude without a clear outcome, or result in service upheavals and/or provider withdrawal after contract award.

These kinds of failures are very costly in both financial and reputational terms, as suggested by the coverage of NHS111[3], the Worcester 3MillionLives pathfinder tender[4] and the abandoned plans for joint pathology services in the West Midlands[5] among others.

But they also generate important lessons. Our panel would suggest that procurers and potential partners should pay attention to a number of metaphorical 'do not enter' signs:

- Misalignment between pricing and the articulation of benefits and desired outcomes
- Unrealistic timescales either in the procurement process or in the expectations of service delivery and the realisation of benefits
- Lack of real engagement prior to formal procurement
- Lack of focus on the sustainability of the service and how it may evolve over time
- Specifications that seek to simply replicate an existing service, or specifications that disregard the strengths or value of that existing service
- Lack of engagement from key stakeholders

> "The private sector is growing increasingly wary of entering lengthy and expensive procurements, where there is increasing concern that no contract will actually be let at the end, because the NHS organisation has not done the basic preparatory work: articulating the outcomes that they expect, gaining internal consensus to these, and market sounding with potential partners to understand how the partnership can be structured."
>
> **Chief executive, private service provider**

[3] www.publications.parliament.uk/pa/cm201314/cmselect/cmhealth/171/171vw25.htm

[4] www.ehi.co.uk/news/EHI/8929/3ml-pathfinder-pulls-telehealth-tender

[5] www.hsj.co.uk/news/exclusive-ccgs-abandon-flagship-regional-pathology-reorganisation/5062400.article#.Um6xU5SFYXw

Reconfiguring pathology services through a joint venture

Two trusts in Somerset established a joint venture with a private company to provide new pathology services to the region. The partnership pooled the resources from each party to deliver key outcomes: quicker turnaround of patient results, hi-tech laboratories and financial savings.

BACKGROUND

In 2009, Taunton and Somerset NHS Foundation Trust and Yeovil District Hospital NHS Foundation Trust identified a need for financial and quality improvement in their pathology departments. The trusts wanted to act on Lord Carter's recommendations[6], which identified an opportunity for efficiency savings through regional consolidation of pathology services.

To reach the desired outcome of a modern, high-quality service, with a quicker turnaround of results, they needed investment of more than £5 million. Reconfiguring services with trust in-house capability carried a considerable financial and operational risk; outsourcing the service would diminish control. Instead, the trusts sought a specialist partner in pathology, to invest in delivering a world-class service for the local population.

FINDING A PARTNER: FROM SOFT MARKET TESTING TO CONTRACTING

1 **Soft market testing** The trusts began desk research and informal talks with private companies. This helped them to understand the fundamentals of reconfiguring local pathology and articulate what would be required from a partner. The trusts were better able to understand the different elements the market had to offer to solve the problem.

2. **Defining the specification** The trusts could then specify clearly the requirements from a private supplier (investment, technology and expert knowledge) and what they could deliver in-house (complementary expert knowledge, staff and some infrastructure).

3 **Engaging stakeholders** The trusts engaged with stakeholders within and between their organisations to ensure the specification covered all requirements.

"This innovative partnership links us with the very latest technology in pathology, further improving the accuracy and swiftness of diagnoses and decision making and helping us secure the very best outcomes."

Paul Mears, CEO, Yeovil District Hospital NHS Foundation Trust

[6] **Report of the Review of NHS Pathology Services in England; An Independent Review for the Department of Health**, Chaired by Lord Carter of Coles, 6 August 2006. http://www.pathologists.org.uk/publications-page/Carter%20Report-The%20Report.pdf

4 **Issuing a tender and the partner selection process** The groundwork enabled the trusts to issue a clear, defined and specific tender. The trusts began competitive dialogue to learn how they could work with individual organisations in a joint venture. The trusts needed to understand how the relationship might develop in practice.

5 **Naming the preferred bidder and agreeing the business case** In August 2011, Integrated Pathology Partnerships (iPP) was named as the preferred bidder. The trusts and iPP ring-fenced staff to allow them to focus solely on the joint venture. The parties held open discussions to tackle any 'privatisation' myths head-on and to understand each other's drivers.

6 **Agreeing governance arrangements** In February 2012, Taunton and Somerset NHS Foundation Trust, Yeovil District Hospital NHS Foundation Trust and iPP entered into a joint venture to establish Southwest Pathology Services (SPS). The trusts own 67 per cent of the shareholding, and iPP 33 per cent. The SPS board is comprised of five members, including three voting NHS representatives. The board began by setting realistic targets, measurable through a set of operational and clinical KPIs. This initial activity laid the foundations for day-to-day management of the service.

THE BENEFITS OF POOLING RESOURCES

SPS pools the skills, knowledge and resources from each partner organisation. Working in partnership allows the NHS to keep abreast of latest innovations; the financial investment from iPP means that the SPS service has the latest equipment and technology. iPP leverages considerable purchasing power and is able to negotiate favourable prices for hi-tech laboratory equipment, by virtue of buying laboratory equipment for more than 300 laboratories across Europe.

THE OUTCOME: A REFURBISHED, STATE-OF-THE ART LABORATORY BENEFITING PATIENTS

SPS now delivers a service where most non-urgent and specialist testing is processed in a state-of-the-art lab, while all emergency testing remains on-site. The highly automated 'hub' lab is set to serve a population of 500,000 and more than 100 GP practices.

SPS wants to encourage new partners into the joint venture, to allow other trusts to benefit from the quality service. As a customer, other trusts benefit from the technological innovations; as a shareholder, trusts can use the profit that SPS generates to invest in other patient services. The more volume that goes through these laboratories, the lower the unit cost, helping achieve significant economies of scale.

"This joint venture is a fantastic opportunity for NHS healthcare providers to work alongside a private sector partner in an innovative way."

Jo Cubbon, CEO, Taunton and Somerset NHS Foundation Trust

"This joint venture combines the ethos and culture of the NHS with the pathology expertise and resources of iPP. Together we will drive value for money and deliver market-leading pathology innovation."

Simon Scrivens, Chairman iPP

delivering success in partnership

"Managing a contract itself is quite a serious undertaking. Partnerships are like any other relationship – you get out of them what you put into them otherwise the partnership will not work."

Chief executive, NHS Foundation Trust

The secrets to maintaing a relationship can be found on page 24

The Care UK and Sussex Partnership NHS FT case study on page 26 highlights the power of strong and sustained relationships between partners

Delivering success in partnership

The secrets to maintaining the relationship once the ink is dry

A successful partnership is contingent on longevity by its very definition. To ensure the relationship is sustained, parties have to maintain interest and energy once the contract is signed. Above all, the partnership has to deliver tangible results.

"When a public sector body is establishing a partnership with the private sector, an enormous amount of effort and resource goes into the procurement, the subsequent negotiations and the preparation of the final contractual document. Having put pen to paper, there's a feeling of 'Well, we've done the job. Now we can all sit back and get on with our day jobs'. You spend time arguing and negotiating KPIs and then nobody measures them!"

CEO, NHS/private sector joint venture

'Softer' behavioural points and personal relationships are central to good partnerships. When asked about the challenges involved in maintaining a partnership, the most frequent response of both NHS and private and third sector leaders (16 per cent and 22 per cent) was "sustaining a shared understanding of the partnership". The second most frequent response from private/third sector leaders was "keeping senior NHS leaders engaged".

TIPS FOR THE NHS

- **The leadership team must remain engaged and stay focused on the purpose of the partnership**
  A partnership will not survive if decision making is disconnected from delivery, so don't just delegate the relationship after the negotiating and contracting. The board has a role to play in encouraging a culture of co-operation to help remove implementation obstacles. A programme of ongoing communication is essential with your partner, board and affected staff. It is good practice to conduct quarterly management meetings involving all parties and a board-wide review of partnerships every year.
- **Apply the same standards to all partners**
  Be transparent and unbiased with all partners, especially if working with several, including other NHS organisations. While there may be suspicion toward the private sector, there may also be competition with the other NHS organisation; don't let these particulars affect the partnership and the bigger picture.

- **Adapt to changes and be flexible**
  If circumstances change, don't be afraid to review plans, KPIs or processes. Adaptation is crucial to survival. If both sides agree to a change, it is possible to vary the contract. If trust has been established early on, re-negotiation should be straightforward.
- **Share best practice examples and learning points**
  There still exists a sense of 'not invented here' or 'it won't work here, we are different' in parts of the NHS. Help to tackle these myths and encourage other NHS organisations by being vocal about your experiences. Draw out the benefits that are being achieved for patients as well as for the partners. If the partnership is working well in one area, consider expanding it to others.
- **Accept that you will not be able to transfer cultures**
  Discuss how to work around cultures through informal meetings. Don't try to force one culture on to another. See the partnership as a meeting between the two; a 'third way'.

TIPS FOR THE PRIVATE AND THIRD SECTOR

- **Keep your senior team engaged with the NHS board and the delivery team**
  Set up quarterly meetings to ensure that all parties are still focused on the partnership and the relationship holds strong. Maintain informal relationships in the interim. Make sure the relationship is not constrained to CEOs. Embed the partnership by integrating relationships at all levels.
- **Don't try to impose your culture. Adapt to work with two different cultures**
  Don't assume that you can impose your way of working. Adapt to the NHS. Learn the language, such as 'surplus not profit'. Such flexibilities will show co-operation and understanding. Hire ex-NHS staff to help bridge the cultural gap.
- **Be sensitive to the in-year issues boards face**
  Much of board time in the NHS is orientated to resolving in-year issues, significantly more than in commercial company boards. For example, winter pressures are a major challenge every year, often with new guidance. It is difficult for NHS organisations to avoid getting caught up in this.
- **If something is not going to plan, speak up**
  As a partner, gain and risk is shared. If something is not going according to the original estimations, discuss these sooner rather than later. Partnership is based on trust. Your reputation will suffer more than it would in a transactional exchange.
- **Help NHS partners share best practice**
  NHS organisations are often poor at sharing best practice. Utilise your PR and marketing teams to help your NHS partner promote your joint success. Look at the bigger picture and continue to offer ideas and innovations. Share any intelligence relevant to your partner, even if not directly relevant to the partnership arrangement.

Co-operating to redesign mental health services

Care UK and Sussex Partnership NHS Foundation Trust capitalised on a pre-existing relationship by creating a joint venture to redesign mental health services in the region. The partnership was characterised by the strong informal relationships maintained by both parties, helping them to work together effectively and overcome obstacles.

CAPITALISING ON A PRE-EXISTING RELATIONSHIP

Care UK and Sussex Partnership NHS Foundation Trust had a long-standing, strong relationship developed through their common membership of the NHS Confederation's Mental Health Network. Care UK approached Sussex Partnership to discuss the potential to redesign mental health services. Both Sussex Partnership and Care UK agreed on a single aim: to establish new services that would help people in secure institutional settings to achieve safe independence.

INVESTING TIME IN THE GROUNDWORK

Before entering into formal arrangements, Sussex Partnership and Care UK invested in laying the groundwork for delivery. The partners consulted widely with those involved in delivering frontline services. They brought together a careful combination of clinical and commercial experience to develop an industry-leading model of care. Ensuring commercial representation meant that both parties were getting a fair deal, and engaging clinicians early helped to minimise possible resistance later down the line.

PLAYING TO EACH PARTY'S STRENGTH

Common values helped to start discussions about working in partnership; each organisation was single-mindedly driven by the interest of the residents. The partners took a long-term view and discussed how to divide the work and assets based on core strengths. Care UK had experience of establishing subsidiary companies and therefore led on corporate developments and governance. Sussex Partnership led on clinical governance and stakeholder relationships. Sussex Partnership agreed to supply psychiatry, psychology and occupational therapy services as well as clinical governance support. Care UK agreed to supply all forms of corporate support as well as day-to-day operational management of the facility.

"As with all partnerships, relationships are critical. Both parties rapidly established simple, fast and honest communication channels. Transparency meant we could communicate our common values and strategic objectives and hold a frank discussion about sharing risk and opportunity."

Jim Easton, Managing Director, Healthcare, Care UK

THE FORMAL CONTRACTING PROCESS: DEVELOPING THE PARTNERSHIP WITHIN A TIGHT LEGAL FRAMEWORK

Both organisations signed a Heads of Terms agreement to ratify the intention for the commercial agreement. Parties signed a non-disclosure and exclusivity agreement and exchanged letters to commit to planning.

Independent financial advice was obtained to ensure the right balance of shareholder equity and loans in the joint venture. Sussex Partnership owned a site that was appropriate for this development, and this became part of its capital contribution to the joint venture. It invested the remainder in cash to achieve 50 per cent ownership.

In 2012 the formal joint venture, Recovery and Rehabilitation Partnership Ltd (RRP), was incorporated. Care UK and Sussex Partnership NHS Foundation Trust signed a shareholder agreement and parent company guarantee from Care UK, agreed the articles of association and service provision contracts, issued a development licence for the site owned by Sussex Partnership, and agreed a 125-year lease for the site.

While these legal processes were taking place, the two partners invested effort to uphold the relationship to nullify any chance of animosity developing during this delicate phase. Both boards of directors received regular updates and full business cases for approval.

BUILDING FOR THE FUTURE

Currently, the partnership is building a jointly developed, financed and owned hospital in Sussex. It will have high quality accommodation for 24 people, to help them safely gain independence. Eight places will be designated for inpatients and provide a high dependency locked service, and 16 places will be 'flatlets' where residents have their own front door and key.

The facility will be registered as a hospital and marks a turning point in the way mental health hospitals are designed to promote recovery. All patients in the unit will receive 24/7 support from a multi-disciplinary team.

In spring 2013 a second hospital in Gosport was acquired by RRP Ltd. The partnership has expanded the service into Hampshire and increased the availability of NHS provision for this kind of recovery-focused care. Sussex Partnership and Care UK are continuing to look at further opportunities both in rehabilitation services and other areas of mental health care.

"Balancing clinical and commercial thinking was key. A joint focus on the experiences of the people we serve came before talk of any commercial aspects. Independent high quality legal, financial and estates advice was also critical in giving us the confidence to proceed."

Lisa Rodrigues CBE, Chief Executive, Sussex Partnership NHS Foundation Trust

appendices: survey methodology, glossary and resources

Survey methodology

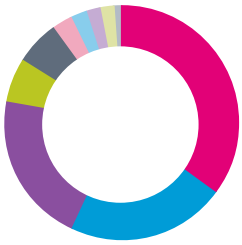
To help build the evidence base for the report, add depth to the reference panel's discussions and inform the recommendations, ZPB Associates undertook a survey of NHS, private and third sector leaders. The survey was conducted between 21 May and 13 June 2013, using a self-completion online questionnaire, and was distributed to 1500 people including:

- Acute trusts: CEOs, chairs, finance directors, chief operating officers, facilities managers and procurement professionals
- Mental health trusts: CEOs and chairs
- Clinical Commissioning Groups: clinical leads and chairs
- Commissioning Support Units: managing directors
- Academic Health Science Networks: managing directors
- Members of the Cambridge Health Network (CHN)

286 responses were received, comprising:

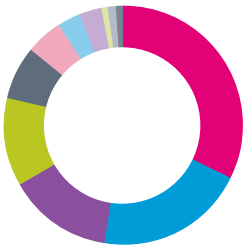
- 151 private and third sector representatives
- 135 NHS sector respondents

NHS RESPONDENTS BY ORGANISATION TYPE



NHS Acute (Foundation Trust)	34.6%
Clinical Commissioning Group (CCG)	22.3%
NHS Acute (non-Foundation Trust)	20.8%
NHS Mental Health (Foundation Trust)	6.2%
Government body (DH, NHS England, etc)	6.2%
Academic Health Science Network (AHSN)	3.1%
NHS Mental Health Trust (non-Foundation Trust)	2.3%
Commissioning Support Unit (CSU)	2.3%
Academic Health Science Centre (AHSC)	1.5%
NHS Community Trust	0.8%

NHS RESPONDENTS BY JOB ROLE

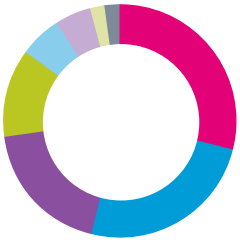


Chair	31.8%
Chief Executive	19.7%
Finance Director	14.4%
Other Director-level post	12.1%
Non-Executive Director	6.8%
Chief Operating Officer	4.5%
Head of Procurement / Procurement Manager	3.0%
AHSN Project Lead	3.0%
Director of Estates and Facilities	1.5%
CCG Lead	1.5%
CSU Managing Director	1.5%

OTHER SECTOR RESPONDENTS BY ORGANISATION TYPE

Private healthcare provider	19.3%
Management consultancy (firm or independent)	15.6%
Third sector, charity or social enterprise	15.6%
IT / technology company	14.1%
Private service provider	8.1%
Representative or membership organisation	8.1%
Private equity firm	4.4%
University	4.4%
Insurer	3.0%
Law firm	3.0%
Think tank	3.0%
Pharmaceutical company	1.5%

OTHER SECTOR RESPONDENTS BY JOB ROLE



Chief Executive	28.5%
Associate / Divisional / Department Director	25.4%
Managing Director	18.5%
Partner	12.3%
Chair	6.2%
Non-Executive Director	5.4%
Chief Operating Officer	2.3%
Finance Director	1.5%

Glossary

Alliance contracting
A single contract binding several providers, where all parties assume collective ownership of the risk, work to same outcomes and are judged by the same success measures.

Capitated outcome-based incentivised contract (COBIC)
A method of contracting for outcomes (as opposed to process) that covers all relevant care for a specified group.

Competitive dialogue
A procedure which permits discussion of different options with the aim of developing suitable solutions to meet requirements.

Framework agreements
An umbrella agreement that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts can be made.

Joint venture
A legal entity employing its own staff, run separately with its own name and brand. Economic integration means there is joint ownership of equity.

Mark-up
The profit made on a sale relative to the cost price.

Margin
The profit relative to the selling price.

Prime contracting
A consortium arrangement where the client has a contract with a single organisation (the prime) who in turn manages subcontractors to deliver specific parts of the service.

Service specification
A document that contains a description of what an organisation wants from a service.

Shared service model
Consolidates business operations that are used by seperate organisations (e.g. HR or procurement), or multiple parts of the same organisation (e.g. administrative functions).

Soft market testing
A process of seeking input from the market as to the most suitable way to scope and package a service.

Sourcing strategy
A systematic approach to matching the business needs of an organisation with the supplier market.

Additional resources

For additional resources, including a further reading list, a guide to analysing your procurement portfolio and a one page myth-buster, please visit:

uk.sodexo.com/uken/services/on-site/healthcare

What the private and third sector can do to work better with the NHS

Some believe that the private sector is the shining example of how to do business, while the public sector is inefficient and naive. Believing this myth undermines the very definition of partnership and reinforces the idea of the unbridgeable public-private cultural divide.

Each party has strengths and weaknesses. You need to critically assess the capabilities of both parties and work out how these can fit together to deliver an outstanding service.

It may be that your potential client has come up with the right solution, but they need you to execute it. Or it may be that the public sector organisation doesn't have the right solution and needs to pick your brain.

When you come to discuss how you will deliver, be sensitive to the different organisational drivers, but don't over-promise just to get your foot in the door. A good way to see things from the public sector perspective is to bring people on to your team who have worked in the NHS.

Challenge the idea that a contract needs 500 KPIs. Understand how your client might be measured and focus on these areas. But most importantly, remember that it is public money that you are working with, so you must be prepared to be open and transparent.

Simon Scrivens, Managing Director, Sodexo Healthcare