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Public service commissioning: origins, influences, and characteristics

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ABSTRACT

The term "commissioning" has been widely used in recent years in referring to the authorization and funding of public services, particularly in the UK and Australia. In some cases, the term has been used to refer to procurement, while in other cases, it appears to be similar to strategic planning. This article explores public service commissioning by tracing the common uses of the term, its different meanings in different services and jurisdictions, and some of the differences between commissioning and other approaches to managing the policy-delivery interface.

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1. Introduction

It has long been recognized that the relationship between those charged with the formulation of policy (and the allocation of funding) and those responsible for the delivery of public services is problematic and, over the years, practitioners and academics alike have paid a great deal of attention to improving these relationships.

“Policy implementation” remains the dominant way of approaching this interface between thinking and doing. It provides a high-level framework for describing the relationship between policy development and service delivery in a modern democratic society, but this highly linear approach has limited utility in helping to manage the real-world complexities of these relationships (Sandfort and Moulton 2015).

Despite the recent rediscovery of performance targets and measurement as instruments of management control, they remain controversial and their track record can be described as mixed, at best. The two great exemplars of recent decades – Compstat (NYPD in the 1990s), and the Prime Minister’s Delivery Unit (in the Blair government) – have critics as well as supporters (Barber et al. 2011; Eterno and Silverman 2010).

One line of criticism hinges on the distortionary impact of performance incentives, particularly highly-specific targets imposed from above (Eterno and Silverman 2010). Another focuses on the different kinds of knowledge possessed by central planners and front-line practitioners (Berlin 2013; Hayek 1945; Scott 1998). Others emphasize the
different concepts of management deployed by those involved in policy formulation and those who are primarily concerned with day-to-day delivery (Behn 1988). Finally, a small but important literature approaches the policy-delivery interface from the perspective of “street-level bureaucrats” working directly with service beneficiaries (Lipsky 1980).

Budgetary instruments such as program and performance budgeting, zero-based budgeting, and payment-by-results have also come back into fashion, although attempts at using financial levers in the exercise of management control date back to the municipal reform movement of the early 20th century and payment-by-results to the mid-19th century (Midgley 2016; Schick 1966). They have not been particularly effective. As Aaron Wildavsky described the results of zero-based budgeting, “Some butterflies were caught; no elephants stopped” (Schick 2007; Wildavsky and Hammond 1965).

Over the past three decades, an alternative approach, referred to as “commissioning”, has developed across the English-speaking world, which does not rely exclusively on policy or budgetary levers, and pays more attention to the challenges of front-line delivery. It first emerged in the UK and was influenced, in part, by public service contracting, although it is widely argued that the concept applies as much to publicly-delivered public services.

Nevertheless, the close association with government outsourcing has persisted, with one 2008 survey finding that more than half of the UK public servants surveyed thought procurement and commissioning were the same thing (Murray 2009). On the other hand, some commissioning frameworks bear a close resemblance to the well-known strategic planning cycle, with no explanation of what the language of commissioning might add (South Australian Department of Health and Ageing 2013).

Some writers have sought to clarify the distinctions between commissioning and procurement (Murray 1009, 2011; The King’s Fund and the University of Melbourne; 2016). This article takes that analysis further by exploring the origins of the term, some of the influences on the concept as it has emerged in the UK and Australia, and some characteristics of this approach, which appear to distinguish it from policy implementation or strategic planning.

2. Origins

To begin with the common usage of the term: the OED defines the verb “commission” as “to entrust or delegate (power or authority) to a person”. As a noun, it is “the authority committed or entrusted to a person; esp. delegated authority to act in a particular capacity…”

Thus, “commissioning” is used when a client engages an artist to create a work for a particular purpose or place: the artist is entrusted with significant discretion in the way they respond to the brief from the client. The verb “commission” is also used when an independent expert is engaged to undertake a defined piece of research and analysis. Royal commissions are constituted with formal “terms of reference”, but within those constraints, the commissioner enjoys complete independence regarding the findings and recommendations. In some situations, the concept of authorization is paramount, so that a commercial agent or a military officer may be commissioned in the sense of being granted the power to undertake defined tasks or duties on behalf of a principal or superior.
What these different usages have in common is the concept of engagement with or delegation to a third party to undertake a defined task, for which purpose the agent is entrusted with some of the authority and resources of the principal or client.

3. Influences

Given these longstanding uses of the term, the association with public service contracting is understandable. What is distinctive about the application of the concept to public services in the UK and Australia, is how “commissioning” has come to be applied more broadly than mere outsourcing. The origins of this shift can be found in a series of influential reports published in the UK throughout the 1980s and early 1990s.

One thread has been traced to a landmark speech in 1984 by Norman Fowler, then UK Health Secretary, who argued that governments needed to shift their focus from direct provision to the facilitation and funding of delivery. According to Fowler, local authorities should take a strategic view of all available sources of care rather than focusing on the limited number of services which they directly controlled (Bamford 2001, p. 6).

This speech is considered a precursor to the concept of “enabling agency”, suggested by Sir Roy Griffiths in a 1988 report on community care. He was responding to a UK Audit Commission report that was critical of fragmentation and poor coordination between health and social care authorities in the provision of community care (The Audit Commission for Local Authorities in London and Wales 1986). Griffiths argued that the social services departments of local authorities should focus on being “enabling agencies” rather than seeing themselves primarily as providers (Griffiths 1988; Langan 1990). This carried within it the seeds of a locality-based approach to service planning, which developed over time into place-based commissioning.

However, the concept was quickly taken in a somewhat different direction when the idea of the “purchaser-provider split” was developed in the 1989 NHS White Paper, “Working for Patients”. This became government policy in 1991 as GP-fundholding (also known as the NHS internal market) (Secretaries of State for Health, Wales, Northern Ireland and Scotland 1989). The term “commissioning” was not used in this document, but it gradually came to be applied to the policy, possibly because the responsibilities of GP fund-holders were seen as somewhat more complicated than mere purchasing.

By 1995, when the Department of Health issued policy guidelines on “joint commissioning” of health and social care, the term had been fully embraced. Commissioning was described as “a strategic activity of assessing needs, resources and current services, and developing a strategy of how to make the best use of available resources to meet needs” (UK Department of Health 1995). Nothing in this suggested that the commissioner was obliged to outsource to private or not-for-profit providers, but there was a recognition that the UK health and social care system was already a mixed economy and that it was in need of much better coordination.

A third and somewhat different influence was the 1987 “Next Steps” report, published by the Prime Minister’s Efficiency Unit. This focused on the supply side of
government, recommending the creation of “executive agencies” for the delivery of public services, arising out of the realization that:

... although the main business of some 95% of the Civil Service was to deliver services, operational efficiency attracted only a low priority among senior people... (Goldsworthy 1991, p. 4)

“Next Steps” argued for greater separation of the delivery functions of government from the policy-making roles, the formalization of the delivery functions into identifiable “executive agencies”, with significant devolution of authority to frontline managers for results and resources, along with increased accountability (Jenkins et al. 1987).

By 1994, 99 executive agencies had been established, representing 65% of civil servants. While the program never reached the 75% that had originally been imagined, the fundamental concepts underlying “Next Steps” had been widely embraced across UK government (Panchamia and Thomas 2014).

A fourth line of influence is reflected in the work of the North American economists, Vincent and Elinor Ostrom, in the 1970s (Ostrom and Ostrom 1965, 1977; Ostrom, Tiebout, Warren 1961). They argued that while the public service sector might not be a market, it was still useful to think of it as an economy, in much the same way as the centrally-planned economies of Eastern Europe were being studied at the time.

They noticed a diverse range of institutional arrangements across different public services (such as policing, education, and water supply), which was similar to the variety of structures that economists had observed across different private sector industries. The Ostroms and their colleagues emphasized the differences between the supply and the demand functions of this economy (with the demand side populated by collective consumption units because of the public good dimensions of these services) and the possibility of different economies of scale and scope on both sides. They also noted that, in many cases, the public service sector was already a mixed economy, which was not being, and could not effectively be, managed through command and control.

Yet another contribution to this broader concept of commissioning lay in Michael Lipsky’s work on “street-level bureaucracy” in the late 1970s and early 1980s. Lipsky argued that:

... bureaucrat accountability is virtually impossible to achieve among lower-level workers who exercise high degrees of discretion, at least where qualitative aspects of the work are involved (Lipsky 1980).

The subsequent research on street-level bureaucracy has observed that front-line workers are not strongly motivated by the policy and budgetary agendas of senior government executives. They have difficulty in making sense of the cascade of new policies pouring down from above, they are inclined to conspire with service beneficiaries against what they perceive as “the system”, and they never have sufficient resources to meet demand (Riccucci 2005; Zacka 2017).

The roots of this extended concept of public service commissioning, then, lay in three particular insights:

- That most public services were delivered by a diversity of providers, public, private, and not-for-profit, so that command-and-control was often of limited utility in the engagement with delivery agents;
• That, in focusing so heavily on production, governments had underinvested in the demand side – the design and development of coherent and integrated delivery systems, which could be easily accessed by service beneficiaries; and

• That the process of entrustment – the relationship between policymakers and the managers of frontline services, the governance arrangements through which services were delivered, and the system of accountability for results – was immature and needed to be developed.

4. Definitions and descriptions

Taking into account the everyday meaning of commissioning, and the ways in which the concept was developed through the 1980s and 1990s, the apparent differences between the various interpretations of the term are not so great. They arise, not so much from different understandings of the concept, but from the different challenges faced by different governments, departments, and agencies at different times.

One way of making sense of these different approaches is to view them along two different dimensions – horizontal and vertical.

4.1. Horizontal concerns

The UK Department of Health 1995 policy on joint commissioning described commissioning as “a strategic activity of assessing needs, resources and current services, and developing a strategy of how to make the best use of available resources to meet needs” (UK Department of Health 1995). This systemic approach to commissioning has persisted in the health and social care sectors, where one of the primary concerns today is how to ensure that services are coherent so that they better meet the needs of clients with complex needs.

Commissioning assumes that it is possible to produce greater integration and coherence for the service beneficiary, without necessarily having to amalgamate different services: joined-up commissioning rather than joined-up delivery. The concept of the enabling agency built on this core insight.

The UK Department of Communities and Local Government (DCLG) continued to pursue the concept of the enabling local authority (whilst also emphasizing the importance of effective engagement between commissioners and providers). In its 2006 White Paper, for example, the department emphasized the separation of commissioning from service provision, “enabling the local authority and the LSP [local service partnership] to be the champion of citizen and service improvement”, and providing opportunities for joint commissioning. This document acknowledged that local services were a mixed economy, and argued that a commissioning approach required:

… a thorough understanding of what local people need and want as well as a knowledge of supply markets and the range of providers and potential providers who might be engaged in delivery, with local authorities playing a variety of roles – broker, facilitator, procurer, market regulator and provider (Department for Communities and Local Government 2006).
As the public service sector has increasingly come to be viewed as a mixed economy, and as private and not-for-profit providers have been ever more deeply engaged in the delivery of public services, greater emphasis has been placed on the importance of the design and stewardship of systems, another horizontal dimension of the commissioning approach (Hallsworth 2011).

It should be noted, however, that the DCLG commissioning cycle also encompassed vertical elements (“sourcing” and “performance management”), and while the NHS defines commissioning as “getting the best possible health outcomes for the local population”, there is recognition of the importance of engagement and accountability for outcomes (NHS Clinical Commissioners website 2017).

4.2. Vertical concerns

The concept of entrustment implies a vertical dimension to commissioning – the processes through which policy and funding are handed off to delivery, and the instruments through which delivery agents are subsequently held to account for results and resources.

This is one of the reasons why commissioning has continued to be strongly associated with procurement in the UK – although as this oft-quoted passage from the Chartered Institute of Procurement and Supply demonstrates, it has also been seen as much more strategic than mere procurement:

Commissioning is the process of assessing and identifying the needs and then developing the policy and service required to meet these needs effectively. This enables procurement to purchase services timely and efficiently whilst meeting the required quality standards cost-effectively (CIPS website 2017).

A number of prominent government reports in Australia have focused more directly on commissioning as entrustment. For example, the National Commission of Audit, a strategic review commissioned by the national government in 2014, noted that:

The process of commissioning involves identifying and prioritising outcomes, and designing measurable performance objectives that will inform government whether outcomes are being met and whether they are being delivered in an effective and efficient manner …

One advantage of a commissioning approach is it better ensures services are fit for purpose and that they are delivered in a timely and cost-effective way. It can be a tool for challenging policy makers to ensure they have clarified the outcomes that programmes and policies are meant to achieve (National Commission of Audit 2014).

In 2016, the New South Wales state government released a formal policy on “commissioning and contestability”, which incorporated significant elements of entrustment as well as system stewardship:

Commissioning is an approach to considering the outcomes that need to be achieved, and designing, implementing and managing a system to deliver these outcomes in the most effective way. It leverages the strengths of the public sector and where appropriate, involves working with the customer, and private and non-government organisations to achieve better outcomes.
Commissioning is concerned with creating a closer link between policy and delivery, performance regimes and resourcing (time, funding and people) to deliver outcomes. It provides the opportunity to unlock value in service delivery systems beyond traditional models and government contributions (NSW Treasury 2016).

4.3. Horizontal and vertical

The New Zealand government has been inclined to combine strategic planning, enablement and entrustment. A report on “effective social services”, published in 2015 by the Productivity Commission, a government think-tank, noted that:

Commissioning organisations need to make informed, deliberate choices about diverse issues including objectives, needs, cost-effectiveness, funding, pricing, risk management, quality, eligibility, performance management, information flows, provider-market sustainability, and interactions with other services (New Zealand Productivity Commission 2015).

And in conversations amongst government officials, which followed the release of this report, there was recognition that New Zealand already had a number of agencies, which occupied this intermediate role between policy/funding and delivery – the concern was that there was no clear understanding of what these agencies should be doing in order to commission social outcomes more effectively.¹

For some governments, then, the principal challenge has been how to ensure better integration of services, with joint commissioning seen as a possible solution in a world where services are unavoidably fragmented. Others have been concerned with more effective performance management – finding better ways of engaging with service providers to ensure that they deliver identified social outcomes within the constraints of available resources. In other cases, commissioning has consisted of a more strategic engagement with external or inter-governmental suppliers, including the design and ongoing management of the systems through which these services are delivered. What is common to these challenges is a concern with better organization and management of the space between policy/funding and delivery.

5. Significant contributions

Some aspects of commissioning, such as strategic planning and needs analysis, differ little from traditional approaches, and there is no real evidence (thus far) that it has contributed anything new to these disciplines. In other respects, however, commissioning seems to differ significantly.

5.1. Efficient boundaries

Commissioning seems to answer the question, “Who shall be entrusted with delivery?” (or “To whom shall authority be delegated?”) differently from traditional policy and budgetary approaches, and differently from “Next Steps.”

In seeking to align authority and accountability, commissioning seems to prioritize that level of the service chain where decisions about the delivery of results and the allocation of resources are best able to be managed together. Greater emphasis has
been placed on front-line delivery units (or “firms”) – prisons, hospitals, and schools – rather than the principal departments of state, Crown corporations or statutory authorities. The focus has been more on effective management rather than the administrative convenience of policy and budget officers.

Small to medium-sized firms cannot easily be managed from the center of government, and it is only when policymakers feel confident about working at the system-level that delegation or entrustment at this level can be imagined. The realization that it was possible to pursue joined-up commissioning without demanding joined-up delivery was probably significant in this regard.

This focus of the “firm” as the primary unit of delivery has perhaps been most evident in the extensive program of public service contracting, which has taken place in the UK in recent decades, but it can also be observed in the devolution agendas of Australian state governments over the past decade or so, in school education, health care and prison management, and in the choice-based markets developed more recently for technical and further education, aged care, and disability support.

A commissioning approach seems to have more to say in the management of devolved delivery systems of this kind.

5.2. System design and stewardship

As noted above, the recognition that most public services are provided through a mixed economy has also been central to the development of the commissioning approach. To some extent, this was the result of several decades of privatization and outsourcing in the UK and Australia, but that is only part of the explanation.

Throughout Europe, a variety of critical public services (such as education and healthcare) were originally created by the churches, and in some jurisdictions such as Ireland, they continue to play a significant role. Non-governmental organizations still retain significant stakes in the delivery of public services, such as lighthouses and seamarks in Britain, fire, and emergency services in Denmark, hospital services in Germany, social insurance in France. Across the English-speaking world, not-for-profit providers played a major role in the rapid expansion of social support services throughout the 1960s and 1970s.

But even where non-state actors are not involved, the public service sector is often populated by a variety of different providers from national, provincial, and local governments, from a range of different departments and agencies. In the delivery of social services, system-level management through command-and-control is rarely an option.

To some extent, this systems-level approach to public service delivery was built into commissioning from the very outset, with interest in the possibility of “enabling authorities”, but it acquired a new meaning from the early 2000s, when the Blair government began to actively explore concepts of market engagement and market design (Frontier Economics 2010; Office of Fair Trading 2009; Office of Government Commerce 2003).

In the past few years, there has been growing recognition that public service markets are not the same as commodity markets and it is wrong to assume that they can operate according to the rules of perfect competition. The sudden collapse in January
2018 of Carillion, a large construction and public service provider, and the obvious financial fragility of several other large public service companies, served as a reminder that, when it comes to public services, government cannot shift the ultimate risk of delivery (Wright, Gosden, and Fisher 2018). In many cases, the delivery systems for social services resemble a corporate supply chain rather than a market (Sturgess 2017).

For these reasons, it has been argued that commissioners must be acutely interested in both the design and stewardship of the markets or systems through which these services are delivered. It is not enough to undertake a needs analysis – a commissioning approach demands that policymakers and planners also understand the supply side and accept some responsibility for its ongoing performance.

A striking example of this is the UK Care Act 2014, which created a legislative responsibility for market oversight, including the assessment of the financial sustainability of care providers, and the imposition of a temporary duty on local authorities in case of provider failure. This led to the development of guidance documents on market sustainability and toolkits to assist in market-shaping, although there are concerns that local authorities have not known how to respond to the challenges involved in managing this market (CordisBright 2015; Institute of Public Care 2017).

5.3. Joint commissioning

Three decades after the need for better integration of health and social care was recognized, policymakers are still grappling with what joint commissioning means in principle, and there is even greater uncertainty about what it means in practice (Dickinson et al. 2013).

In some cases, joint commissioning has been pursued through individual brokers or the establishment of “virtual teams brought together around the needs of particular children”. In other cases, the focus of integration has been on place. The UK Care Act 2014 creates a statutory obligation on local authorities to exercise their functions “with a view to ensuring the integration of care and support provision with health provision and health-related provision…”, along with the establishment of information and advisory services.

The separation of commissioning from provision has also opened up the scope for cross-jurisdictional commissioning, with small groups of local authorities, not all of them geographically contiguous, collectively procuring services from one another or from external providers.

None of these attempts at joined-up commissioning has yet proved to be an outstanding success, which demonstrates how difficult it is in a modern society to integrate the diversity of complex human services, based on different policy paradigms, staffed by professionals with different backgrounds, and delivered by agencies reporting to different governments and ministers with competing priorities.

5.4. Commissioning for outcomes

There is an inevitable tension between the delegation of authority (which is fundamental to the process of entrustment) and ensuring that delivery agents meet the
agreed social outcomes and that they do so in an efficient and effective way. One of
the ways in which commissioners have sought to resolve this tension is through the
specification of outcomes or high-level outputs, rather than mandating activities and
prescribing detailed inputs.

While few would disagree with the fundamental principle, outcome commissioning
has proved to be challenging in practice, and there is now a growing recognition that
in some cases, it will be more appropriate to commission for capability than to
attempt to specify, measure, and reward the delivery of outcomes.

However, the renewed focus on outcomes has contributed to a recognition of the
need for a more mature engagement between policy/funding and delivery. It is impos-
sible to hold delivery agents to account if the outcomes are vague or contradictory,
if they are not prioritized, or if they are frequently changed. Nor is it possible to
effectively hold them to account for the delivery of results if they have not been
provided with adequate resources.

In this regard, commissioners may be thought of as custodians of the dialogue
between policy/funding and delivery, with responsibility for ensuring that significant
issues are identified; that there is an honest conversation about results and resources;
that both sides understand and agree what success and failure look like; that there is
a “meeting of the minds”; that the risk of delivery is effectively transferred to the
managers of the service units; and that there are effective accountability and appropri-
ate consequences for success and failure.

It has become clear that in a significant number of public service contracts in the
UK in recent years, there has not been an honest conversation about results and
resources, with providers committing themselves to undeliverable results and uneco-
nomic prices. Honest conversations about results and resources are even more diffi-
cult with publicly-delivered public services. An extensive program of work has been
underway for several years in the Australian state of New South Wales, recommis-
sioning the management of prison services based on close engagement between
system stewards and front-line managers, staff, and unions. This program was incom-
plete at the time of writing, and it is still unclear whether the early benefits will
be sustained.

5.5. Diversity in delivery

Another of the defining features of commissioning in the UK has been the deliberate
pursuit of greater diversity in delivery models. For several decades, this was largely
confined to the engagement of more private firms through outsourcing. The emer-
gence of public–private partnerships in the late 1980s – which involved the integra-
tion of service design into facility design and construction, along with private finance
– was an important innovation, although it was more successful in some countries
and some services than in others (Smith 2007).

There was significant experimentation with alternative supplier models in the later
years of the Labour government, including social enterprises, “public service mutuals”,
professional partnerships (such as “social work practices”), public-private joint ven-
tures and social impact bonds.⁴
With the election of a Conservative government in 2010, consolidation occurred around some of these models, particularly public service mutuals and social impact bonds, and several new models emerged, particularly in contracted services – public service integrators (which emerged in the welfare-to-work market), management insertion (used by the Ministry of Defense in two large support service contracts) and managed service providers (also used by the MoD and at least one police force). These innovative new models, which have had a mixed record, involve a much more complicated boundary between public and private than it appears in traditional outsourcing contracts.\textsuperscript{5}

One of the anticipated consequences of commissioning for outcomes and the delegation of greater authority to the managers of front-line services was an increase in experimentation with new service models and the development of better approaches to delivery. The public sector tends to innovate in serial – launching a new initiative, implementing this new approach, evaluating whether it has made a difference, and adapting policy as appropriate. The private sector tends to innovate in parallel – trying a variety of different approaches, borrowing insights from competitors, and adapting as it goes. In part, the pursuit of greater diversity in delivery models has been a move toward innovation in parallel.

### 6. Conclusion

The public service economy is an extraordinarily complex system, or system of systems, and its operation cannot be left to the Invisible Hand with a little light-handed regulation to correct for market failure. But neither can it be understood as a vast industrial corporation, capable of being managed through time and motion studies.

A variety of different approaches have been adopted over the decades, in seeking to design and manage the interface between policy/funding and delivery – with only limited success. And such is the concern of central agencies to improve this space between thinking and doing, that some of the discredited models of the past are currently in the process of being resurrected.

Commissioning seems to offer a fresh approach to this challenge, although it is too early to say when it will stop any elephants. Disciplined research into commissioning is still in its infancy, and despite the establishment of “commissioning academies” in the UK and Canada, and various executive education courses in Australia, a great deal remains to be learned about the contents of the commissioning toolbox, whether these instruments make a difference and under what conditions.

This article has attempted to make a small contribution to that process by seeking to make sense of the concept and beginning to unpack some of the elements that seem to distinguish commissioning from other approaches.

### Notes

1. Public sector commissioning ‘chew session’, 29 August 2016, which the author attended.
2. The Care Act, ss.5, 48 & 53.
3. The Care Act 2014, ss.3 & 4.
4. In general, see Office for Public Management (2010). Public-private, and public-private-not-for-profit joint ventures are not well documented. An outstanding example of a UK social enterprise is Greenwich Leisure Ltd – Mark Sesnan (2001); Richard Simmons (2007). On public service mutuals – H.M. Government (2010); Julian Le Grand (2012). On “social work practices” – Department for Education and Skills (2006); Julian Le Grand (2007). On social impact bonds – Social Finance (2009).

5. These models have not been formally studied yet.

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