

Public health and social care

The Health and Social Care Act 2012 and the Care Act 2014 have introduced new rules and responsibilities for local authorities in delivering healthcare to their communities. The UK has an ageing population at a time when authorities are being expected to deliver more for less, while balancing the need to improve healthcare prevention and reduce health inequalities.

Raising local authorities' role in public health and social care increases responsibilities around supply chain and contract management, safeguarding and clinical competence. There are also financial implications, due to the likely increase in demand for healthcare services.

Local authority risk managers are experienced in managing traditional risks but those imposed by the new legislation are very different. Crucially, there is the need to embed new functions and responsibilities within the established risk management structure and wider corporate governance framework.

What the research tells us

A 2014 survey conducted by Ipsos MORI on behalf of Zurich Municipal showed that, while some of the impacts of organisational transformation are still to be felt, local authority risk managers believed that issues such as public health and safeguarding should remain areas of key focus in the coming years. There were also general concerns about dealing with third parties in terms of risk management, service resilience and potential reputational damage.

Risk consequences

The introduction of the Care Act puts the onus upon the Local Authority for the commissioning of health related services and ensuring they are delivered. This may therefore give rise to a number of liability issues, potentially around the quality of care and associated damage to the local authority's reputation.

If a provider fails, the local authority is responsible for maintaining continuity of the service(s) affected. Contract management and ensuring supply chain resilience are key elements that local authorities need to carefully analyse and act upon. Any perceived cost advantages of using smaller providers must be offset against the potentially greater financial resilience of larger organisations.

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We're looking to see if we get it cheaper elsewhere so we're dealing more with third parties and partners. We don't always make sure that the risk management is what we would expect if it was a council-run service...”

Local government risk manager's comments

What the Care Act says

Local authorities must make sure that people who live in their areas:

- Receive services that prevent their care needs from becoming more serious, or delay the impact of their needs
- Can get the information and advice they need to make good decisions about care and support
- Have a range of providers offering a choice of high quality, appropriate services in their local area.

Local authorities must identify the support and resources already available locally, and help people to access them, as well as considering whether their approaches to buying and arranging services support and promote the wellbeing of people receiving those services.

The Act also imposes clear legal responsibilities on local authorities where a care provider fails, giving them a temporary duty to ensure that the needs of people continue to be met if their care provider becomes unable to continue providing care because of business failure, no matter what type of care they are receiving.



Medical monitoring

There may also be risks related to medical monitoring. If those performing services such as screening offer diagnoses or clinical advice, they may incur medical negligence liabilities which may not be covered by the local authority's insurance policy. Also relevant here is the Royal College of Nurses' removal of liability cover for registered nurses.

The NHS and other medical service providers have structured processes for dealing with complaints, and systems designed to monitor and review quality outcomes. Local authorities' public health departments are competent in carrying out clinical governance activities, but do not always have formal procedures relating to clinical governance that allow for the escalation of concerns to a higher level, and reporting into the local authority's corporate governance structure. This is primarily due to the nature of clinical governance which is not necessarily widely understood in its new local authority environment, meaning that finding a home for it within the existing structure can be challenging.

Authorities' new responsibilities are also likely to increase the amount of sensitive information held on individuals. The need to share data with providers increases the risk of security breaches with liability and reputational implications.

How much do you know?

Key questions

- Do you have full insight into what your providers are doing?
- Do your contracts include robust business continuity plans and policies, as well as Key Performance Indicators (KPIs) relating to quality of services?
- Do you review the content/quality of the providers' business continuity plans?
- Do your providers' business continuity plans dovetail with your own resilience arrangements? And do your own arrangements cover the eventuality of a provider failing or losing its registration?
- Do you have a system for monitoring and having sight of your providers' risk management?
- Are healthcare staff trained to understand the difference between facilitating and diagnosing – and where liabilities may arise?
- Do you have a formal policy for handling complaints concerning healthcare provision from members of the community?
- How does clinical governance fit into your organisation's corporate governance structure?

Potential strategies

Contract management

Contracts should clearly outline objectives and be outcome driven, for example preventing illness or improving children's social care. Quality requirements should be based on national guidelines and best practice, and healthcare providers should supply relevant and timely information on their performance to allow for robust monitoring.

As part of the contract management process, it is important to have a formal system for dealing with complaints and other issues, with public health and social care departments regularly meeting, recording relevant information and, where necessary, feeding this into the governance of the local authority.

Supply chain

Having an overarching visibility of the supply chain and its interdependencies is valuable in targeting and prioritising suppliers. Completing a mapping process enables local authorities to identify which providers are potentially the highest risk from a service resilience perspective. Bearing in mind the constraints of reducing resources, local authorities can then focus on the areas that need it most.

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If we have outsourced something, or something does go outside and there's a failure, it's not that body that's going to get the blame for it, it's going to be ourselves. We are concerned that our reputation is only as good as our weakest link; when you do outsource you are extending that risk to organisations you don't have control over.”

Local government risk manager's comments

Resilience

From the outset of the contract the local authority must be satisfied that the provider has robust resilience in place. Designing and implementing an effective business continuity plan is too time-consuming to be left until the contract is in place. Therefore, as part of the tendering process, it is good practice to:

- Require a copy of a provider's business continuity plans
- Benchmark this against those of other organisations competing for the tender
- Ensure they consider the typical threats of the service being provided, as well as defining clear instructions and actions should one of these threats materialise.

This is a pivotal part of the procurement process and on-going contract management. It forms a key control within local authorities' own resilience arrangements.

Zurich Municipal's view

Understanding public health and social care supply chains is essential, with the focus on ensuring resilience and maintaining continuity of services. Local authorities also need robust mechanisms to identify any warning signs that a provider may be failing, either financially or in terms of quality of care.

For example, the Care Quality Commission has the authority to close down a provider if an inspection shows that they are not meeting requisite standards of cleanliness or care, leaving the local authority with the immediate need to provide a suitable alternative. It is paramount that local authorities adopt a collaborative approach towards public health and social care and ensure that these are integrated within their organisations.

Contact us

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Further reading

The new public health role of local authorities, Department of Health

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213009/Public-health-role-of-local-authorities-factsheet.pdf

Care Act 2014 Part 1: factsheets, Department of Health

<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>

Care Act clause analysis, Local Government Association

http://www.local.gov.uk/care-support-reform/-/journal_content/56/10180/5761381/ARTICLE

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