



## Higher National Unit specification: general information

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

**Unit code:** H38Y 35

**Superclass:** PA

**Publication date:** February 2013

**Source:** Scottish Qualifications Authority

**Version:** 02

### Unit purpose

This Unit provides a focus on social care policies and legislation that will impact the way care services are procured from external service providers. The Unit is also about candidates understanding the legal environment within which the procurement of such services operates. The Unit will also cover the strategic planning process and the relationship between strategic commissioning and procurement in the context of the delivery of external service care provision.

On completion of the Unit the candidate should be able to:

- 1 Demonstrate an understanding of social care/health policies that influences strategic commissioning and the procurement of care services in Scotland.
- 2 Demonstrate an understanding of the procurement policy and legal environment within which the procurement of care services operates.
- 3 Understand the process for strategic commissioning of care services.

### Recommended prior knowledge and skills

While entry is at the discretion of the centre, it is recommended that candidates have appropriate experience of working within and are currently employed in the procurement and care environment. Candidates should also have a general awareness of national and local policies and strategies relating to the delivery of health and care services in Scotland.

Knowledge of the structure and range of public sector organisations involved in the delivery of health and care services in Scotland is recommended.

## **General information (cont)**

It is also recommended that candidates should have good communication skills both written and oral at SCQF level 6 or equivalent, in a related discipline. Alternatively, candidates may be considered through the completion of a pre-course interview or employer written reference in the absence of certified learning.

## **Credit points and level**

0.5 Higher National Unit credit at SCQF level 8: (4 SCQF credit points at SCQF level 8\*)

*\*SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

## **Core Skills**

Opportunities to develop aspects of Core Skills are highlighted in the support notes of this Unit specification.

There is no automatic certification of Core Skills or Core Skill components in this Unit.

## **Context for delivery**

If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

This Unit is mandatory and is delivered as part of the Group Award, leading to the PDA in Commissioning Procurement and Contracting for Care Services.

## Higher National Unit specification: statement of standards

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

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The sections of the Unit stating the Outcomes, Knowledge and/or Skills, and Evidence Requirements are mandatory.

### Outcome 1

Demonstrate an understanding of social care/health policies that influences strategic commissioning and the procurement of care services in Scotland.

#### Knowledge and/or Skills

- ◆ The range of organisations that have responsibility for the commissioning of health/care services
- ◆ Private and third sector market for delivery of health and care services
- ◆ Scottish Government role in health and care policy/strategy development
- ◆ Local authority role in health and care policy/strategy development
- ◆ Relevant policies and strategies that will shape health and care service provision current at time of Unit delivery
- ◆ The role of organisations or forums representing service providers

#### Evidence Requirements

Candidates will need to provide evidence to demonstrate their Knowledge and/or Skills by showing that they can:

- ◆ explain the range of organisations that have responsibility for health and care service provision in Scotland.
- ◆ examine the role of the private/third sector in the delivery of care services in Scotland.
- ◆ explain the role played by the Scottish Government in health and care policy/strategy development.
- ◆ explain the role played by local authorities in health and care policy/strategy development.
- ◆ describe key health/care policies, current at the time of Unit delivery, that impact on the procurement of care services and how they go to shape the development of procurement strategies/plans for care service delivery
- ◆ explain the role of organisations or forums representing service providers

## Higher National Unit specification: statement of standards (cont)

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

### Outcome 2

Demonstrate an understanding of the procurement policy and legal environment within which the procurement of care services operates.

#### Knowledge and/or Skills

- ◆ The Scottish public sector procurement landscape including policy making
- ◆ Structure and organisation of procurement in care services
- ◆ Role of Audit Scotland
- ◆ EU Procurement Regulations
- ◆ Scottish Government role in producing legislation relating to care services
- ◆ Local authority role in implementing legislation relating to social care
- ◆ UK legislation affecting the sale of goods and services

#### Evidence Requirements

Candidates will need to provide evidence to demonstrate their Knowledge and/or Skills by showing that they can:

- ◆ examine the public sector procurement landscape and policy making in Scotland.
- ◆ describe two different organisational structures for the procurement of care services.
- ◆ describe the role of Audit Scotland in monitoring procurement compliance and performance.
- ◆ examine the objectives of EU Procurement Legislation.
- ◆ explain the role played by the Scottish Government producing legislation relating to care services.
- ◆ examine the role local authorities have in implementing social care legislation
- ◆ compare the legislation of procurement of good and the procurement of good and services.

## **Higher National Unit specification: statement of standards (cont)**

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

### **Outcome 3**

Understand the process for strategic commissioning of care services.

#### **Knowledge and/or Skills**

- ◆ Strategic commissioning
- ◆ Commissioning cycle
- ◆ Relationship between commissioning and procurement
- ◆ Commissioning of care services
- ◆ Joint commissioning of care services

#### **Evidence Requirements**

Candidates will need to provide evidence to demonstrate their Knowledge and/or Skills by showing that they can:

- ◆ define strategic commissioning in the context of care services.
- ◆ describe the commissioning cycle in the context of care services.
- ◆ analyse the relationship between commissioning and procurement.
- ◆ describe the process for developing commissioning strategies.
- ◆ describe the impact of joint commissioning in areas where combined delivery of care services has taken place.

## **Higher National Unit specification: support notes**

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 20 hours.

### **Guidance on the content and context for this Unit**

This Unit forms part of the PDA in Commissioning, Procurement and Contracting for Care Services and has been designed to support the implementation of the Scottish Government's Guidance on the Procurement of Care and Support Services. This particular Unit offers learning on appropriate health/care and procurement policy/legislation that impacts on the delivery of care service provision.

#### **Social Care Policy and Legislation**

There is a wide range of social care policy and legalisation, developed at a national level, which influences the strategic commissioning process. This in turn will affect procurement planning for the award of care contracts to external service providers.

EU procurement rules outline the procurement procedures to be followed under a new light touch regime which applies to contracts under a lifetime value of 750000 euro. Above this euro limit the contract must be advertised in OJEU and the light-touch provisions in the Public Contracts (Scotland) Regulations 2015 apply.

Candidates need to be able to demonstrate an appropriate application of procurement policy and legislation in the development of procurement plans throughout the procurement process for care services.

#### **Other relevant Policies and Regulations**

There are other policies and regulations that must be taken into account throughout the procurement process for care services.

Candidates need to be able to assess the impact of the above policies and legislation as it affects the relevant stages/phases/cycles of the procurement process. Candidates need to ensure that necessary provisions are in place to protect their organisation against risk and the potential for legal challenge.

#### **Strategic Commissioning leading into Commissioning**

The Social Work Inspection Agency (SWIA) Guide to Strategic Commissioning defines strategic commissioning as the term used for all the activities involved in assessing and forecasting needs, agreeing desired outcomes, considering options, planning the nature, range and quality of future services, and working in partnership to put these in place.

Strategic commissioning should provide a clear rationale for service development and procurement activity.

## Higher National Unit specification: support notes (cont)

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

Candidates need to demonstrate an understanding of the commissioning process and its relationship to the procurement of care services. It is also essential that candidates are able to interpret what aspects of both strategic commissioning and commissioning are required in the analysis and planning stages of a procurement exercise.

This Unit underpins the legislative and regulatory framework currently operating in Scotland. Candidates should develop this underpinning knowledge throughout the whole PDA and it is recommended that the PDA is undertaken in sequence, ie Unit 1 through to 5.

### Outcome 1

The theme of this Outcome is to develop a broad understanding of social care/health policies and legislation that affects /influences strategic commissioning and the procurement of care services in Scotland.

The content and delivery of this Outcome should focus on the plethora of health and social care policies, strategies, legislation and guidance available to procurement professionals.

Candidates need to develop an analytical skill that can identify and interpret those specific policies and pieces of legislation, as outlined within the scope of this particular Outcome including what is detailed in the References at the end of this Unit descriptor. With all of this being taken into account and complied with in procurement planning.

An understanding of the various organisations who are involved in the delivery of care services is a key learning point for candidates, together with recognition of the influence service providers have in the development and implementation of Scottish Government policy on health and care provision.

Candidates should go on to explore the potential impact of developing policy and legislation current at the time of writing this Unit, but not yet fully established.

### Outcome 2

The emphasis on this Outcome is on delivering an understanding of the procurement environment and procurement policy/legislation within which contracting for care services operates. It represents a robust coverage of the issues as highlighted here.

Candidates need to understand the public sector procurement landscape in Scotland as it applies to the procurement of category A, B and C contracts and the role the Scottish Procurement and Commercial Directorate, and Centres of Procurement Expertise, play in contract delivery.

Candidates have to be aware of ministerial responsibility for procurement in the Scottish public sector and learn about the key features of the Procurement Reform Programme, including governance.

## Higher National Unit specification: support notes (cont)

### Unit title: The Policy, Legal and Commissioning Context for Care Services

Candidates need to understand what is meant by the term 'governance' and to then consider governance arrangements relating to the management of procurement in the public sector. The role of Audit Scotland in monitoring compliance to public sector governance must be understood by candidates.

The most important piece of legislation that affects public sector procurement are European Union Procurement Directives, implemented through Scottish legislation and regulations.

Candidates must be able to use EU Procurement Directive rules and apply them appropriately to the procurement of care and support services

### Outcome 3

In order to deliver effective and successful contracts for care services, candidates must have an understanding of strategic commissioning and how it influences procurement planning. This Outcome focuses on the process for strategic commissioning and the relationship between commissioning and the procurement of care services.

Candidates should be able to define strategic commissioning and learn about the strategic planning process/cycle in the context of the delivery of care services.

An awareness of the process for developing national commissioning strategies and their adoption by Health Boards and Local Authorities is required of candidates.

Candidates should know how commissioning is structured, organised and delivered within health boards and local authorities and other public sectors such as the justice system/prison service.

The joint commissioning of health and social care will be a key learning focus for this Outcome.

The Unit also covers strategic commissioning involving a wide range of activities that include:

- ◆ Agreeing strategic outcomes and priorities
- ◆ Understanding and forecasting needs, and reviewing these regularly
- ◆ Analysing the factors which impact on the market for service provision and demand at a strategic level
- ◆ Appraise all options for service delivery
- ◆ Taking a long term view of which services and wider support will deliver the best outcomes
- ◆ Taking strategic decisions about how needs will be best met in terms of models of intervention, care and support
- ◆ Balancing prevention, early intervention and more intensive support
- ◆ Developing sound financial frameworks and financial management systems
- ◆ Developing positive relationships with providers



## **Higher National Unit specification: support notes (cont)**

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

### **Guidance on the delivery of this Unit**

If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award, to which it contributes.

It is strongly recommended that this Unit is undertaken first. It should also be undertaken prior to the commencement of the mandatory SVQ Unit H5RH 04 (HSC440) Ensure compliance with legal, regulatory, ethical and social requirements:

HSC440: Ensure compliance with legal, regulatory, ethical and social responsibilities.

It is recommended that delivery will be a mixture of face to face supplemented with distance learning giving a blended approach.

### **Guidance on the assessment of this Unit**

An understanding of both theory, and its relation to practice, are required for all Learning Outcomes.

Assessment must therefore include both the requirement to discuss issues, and the opportunity to relate these to current practices adopted in the management of the supply chain. Where candidates are already working in the relevant voluntary, private or public sector service delivery role, they should make reference to real work situations. If this is not feasible, then hypothetical examples can be used. Assessment for this Unit should be integrated for all its Learning Outcomes.

Candidates should produce a reflective account of no more than 2,000 words +/- 10% to cover all the Evidence Requirements in each of the Outcomes for this Unit.

Evidence from this Outcome will provide some evidence for the mandatory SVQ Unit Reference H5RH 04 (HSC440) Ensure compliance with legal, regulatory, ethical and social requirements.

### **Online and Distance Learning**

The emphasis for delivery of this Unit should be on tuition that includes options for distance learning, delivery/support by video conferencing, e-learning and classroom learning within SQA approved centres.

To meet the needs of the commissioning, procurement and contracting workforce this Professional Development Award should be offered via a range of delivery options including a part-time flexible basis of learning.

## Higher National Unit specification: support notes (cont)

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

### Opportunities for developing Core Skills

You will be given the opportunity to develop your Core Skills in the following areas although these will not be certificated:

**Communication:** Written communications will be developed through candidates producing written work in their assessment; oral communication will be developed through discussion, debate and evidence of engagement with other internal stakeholders in the preparation of their Reflective Account for the assessment of this Unit.

**Working with Others:** Will be developed as a natural consequence of working in the field of procurement as candidates to be effective will be required to work collaboratively with colleagues from their own function as well as other key functions within the organisation. This is further enhanced with the need to engage with other third parties within the supply chain and external to their organisation, in the preparation and research for the assignment and second stage of the assessment, namely the completion of the mandatory SVQ Unit.

**Information and Communication Technology (ICT):** Candidates will develop their *ICT* skills through research and the presentation of written assignments.

### Disabled candidates and/or those with additional support needs

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering whether any reasonable adjustments may be required. Further advice can be found on our website [www.sqa.org.uk/assessmentarrangements](http://www.sqa.org.uk/assessmentarrangements)

## History of changes to Unit

Version	Description of change	Date
2	Support notes updated to reflect changes in EU legislation	July 2016

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## General information for candidates

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

This Unit provides learning on the relevant policy and legal context for the procurement of health and care services as set out in Government Guidance. Public sector organisations should ensure that local policy and procedures reflect the principles, policy and legislative considerations set out therein.

You need to be aware of the impact national policies and strategies for health and social care has on strategic commissioning and procurement planning. The critical role EU Procurement Rules in public sector procurement procedures must be understood.

A broad understanding of legislation associated with Human Rights, Data Protection, Equality and Employee Protection Rights is also required of candidates.

The Unit also covers strategic commissioning involving a wide range of activities that include:

- ◆ Agreeing strategic outcomes and priorities
- ◆ Understanding and forecasting needs, and reviewing these regularly
- ◆ Analysing the factors which impact on the market for service provision and demand at a strategic level
- ◆ Appraise all options for service delivery
- ◆ Taking a long term view of which services and wider support will deliver the best outcomes
- ◆ Taking strategic decisions about how needs will be best met in terms of models of intervention, care and support
- ◆ Balancing prevention, early intervention and more intensive support
- ◆ Developing sound financial frameworks and financial management systems
- ◆ Developing positive relationships with providers

You will need to understand the relationship between the commissioning planning process and procurement planning.

It is important that you monitor proposals for the integration of health and social care in Scotland and assess the impact the personalisation of health and social care services will have on the procurement process.

This Unit is necessary to lay the foundations for subsequent learning in Units 2, 3, 4 and 5 of the Professional Development Award. The policies and legislation taught in Unit 1 should be reinforced in learning associated with Units 2, 3, 4 and 5 at the point of impact. Outputs from strategic commissioning, that affects the analysis, planning, doing and reviewing stages of the procurement process for care and support services, should be referenced to in subsequent Units of this award where appropriate.

## General information for candidates (cont)

**Unit title:** The Policy, Legal and Commissioning Context for Care Services

Learning in this Unit should provide you with an understanding of the public sector procurement landscape. You should be clear about the classifications that apply to Category A, B and C commodities and the role the Scottish Procurement and Commercial Director and Centres of Procurement Expertise play in the development of public sector framework contracts and implementing public sector procurement policy.

Candidates should also be aware of the roles and responsibilities of any group leading on Public Sector Procurement Reform.

You should also have knowledge of Procurement Capability Assessments and the role they play in improving the capacity and ability of public sector organisations. The role Audit Scotland has in monitoring procurement compliance and governance should be understood by you.

In undertaking this Unit you will be given the opportunity to develop the Core Skills of *Communication, Working with Others* and *Information and Communication Technology (ICT)*, although there is no automatic certification of Core Skills or Core Skills components.

### References

#### Recommended Reading (applicable at time of writing this Unit):

Refer to the Scottish Government Procurement Directorate and Health Directorate for relevant applicable legislation and policy at <http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform>

#### Legislation associated with this Unit (applicable at the writing this Unit)

Social Work (Scotland Act) 1968  
Human Rights Act 1998  
Data Protection Act 1998  
Disability and Equalities Act 2010  
Local Government in Scotland Act 2003  
The Regulation of Care (Scotland) Act 2001  
Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006  
Public Services Reform (Scotland) Act 2010  
The Public Contracts (Scotland) Regulations 2012.