Rapid Assurance Review: Commercial Management

Whaikaha | Ministry of Disabled People

May 2024



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Rapid Assurance Review: Commercial Management

1. Context

Whaikaha | Ministry of Disabled People (Whaikaha) was established on 1 July 2022 as a departmental agency within the Ministry of Social Development (MSD). Whaikaha has a dual mandate to deliver and transform Disability Support Services (DSS) while driving improved outcomes for disabled people by leading cross-government strategic policy advice.

Through the health system reforms enacted through the Pae Ora (Healthy Futures) Act 2022, Whaikaha took on responsibility for commissioning of DSS and the Enabling Good Lives (EGL) portfolio from the Ministry of Health (MoH) and MSD, and the Office for Disability Issues from MSD.

On Whaikaha's establishment, the National Disability Support Services Appropriation was transferred from Vote Health to Vote Social Development and a Multi-Category Appropriation was established. The MSD Chief Executive is the Appropriations Administrator for non-departmental expenditure.

Whaikaha is operating a demand-driven service with year-on-year increases in the number of people being supported, while operating with a flat nominal amount (appropriation) that does not change automatically to reflect increases in the volume of people supported or inflationary pressures. It faces compounding challenges due to its unique operating environment (compared to the previous DSS function in MoH), from challenges faced during establishment and from high community expectations from the new agency. However, there are limited levers available to address the risks and external drivers of cost pressures.

Whaikaha has a non-departmental expenditure funding of $2.2 billion per annum, where it provides support to approximately 50,000 disabled people and their families | whānau and provides Equipment and Modification Services (EMS) for approximately 100,000 people.

Whaikaha does this through approximately 271 staff, and commissioning 476 local, regional, and national service providers with 800 contracts and 30 service lines. Approximately 95% of Whaikaha's non-departmental expenditure is allocated to and through Needs Assessment Service Centres (NASCs).

Link Consulting was engaged to complete a rapid assurance review (the Review) of commercial management practices in the Commissioning, Design and Delivery Group (Group). Whaikaha sought assurance that commercial management is being completed in accordance with its policies and procedures, and in line with good practice in the health and social services sector.

In commissioning the Review, Link Consulting acknowledges that Whaikaha is aware there are numerous unresolved contract management issues and challenges in commissioning $2.2bn of disability support services. Whaikaha sought to ensure that its contract management practices are robust, provide public value, and reduce legal and financial risk for Whaikaha. They want to ensure that contract management and associated assurance processes are effective and foster a culture of learning and continuous improvement.

Therefore, the findings and recommendations from this Review will be key to informing existing and incoming leaders for the evolving development of the Group, as it establishes and improves a fit for purpose commissioning approach and operational delivery mechanisms.

The following are considered important context for the Review:

- Prior to Whaikaha's establishment, disability support services were commissioned through MoH. Whaikaha was established during a period of significant change, as MoH transferred contracts to new agencies. It included moving to a different responsible agency (MSD) with a different policy framework. MSD now provides Whaikaha with shared corporate services.
- Social sector commissioning is recognised as complex, spanning multiple agencies including MSD, Accident Compensation Corporation (ACC) and Health NZ/Te Whatu Ora and the Ministry of Education. Disability support services are also recognised as having had significant and longstanding challenges and concerns, including shortfalls in resourcing, capacity and the

skills needed to support the required services, services that have not been reviewed or recommissioned for some time (in some cases decades), and systems fragility. This is in part why Whaikaha was established; it is acknowledged that what was transitioned over to Whaikaha was an imperfect starting point.

- While some staff transferred from MoH and MSD, capacity and capability have had to grow rapidly. The organisation structure was only finalised in August 2023. Understandably key roles have taken time to recruit. Many people have been in acting management roles or have been backfilled.
- As Whaikaha was established, the internal processes it is responsible for also changed. For example, Whaikaha now manages its own complaints processes and responses to Official Information Act (OIA) requests, which were previously managed by shared teams within MoH.
- The key priority for establishment was service continuity with no disruption to services and providers continuing to be paid. Contracts were largely transitioned under existing terms and systems. Systems were transitioned for continuity, rather than being optimised. Time constraints exacerbated several transition challenges; in some cases, access to systems and/or information is limited and/or has reduced and/or become more difficult.
- The disability sector has had a longstanding expectation that changes in approach are carefully considered. Several initiatives have been unable to effect change e.g., a single residential pricing tool.
- Health New Zealand continues to provide access to information repositories and contract agreements management, claims, and payment systems and processes in the system that Health New Zealand currently uses.
- This Review is undertaken in addition to other reviews recently completed, including by the Ombudsman (2021), the Department of the Prime Minister and Cabinet (2023), and a review of the IDEA contract, Kate Sheppard Chambers (Final Report dated 15 October 2023).

2. Scope of the Review

The Review was completed as a rapid, point in time assurance review, or 'health check'.

The following areas were in scope for the Review:

- Contract and relationship management practices, including engagement with providers.
- Approaches to issue resolution, anticipated overspend or under-delivery of services.
- Management and governance frameworks to ensure effective and informed decision making.
- Reporting and monitoring processes for contracts and agreements, including associated metrics, and whether disciplines are transferrable to or from other parts of the organisation.
- Roles and responsibilities of Portfolio Managers, Regional Leads, SMEs, and other relevant staff, including position descriptions how contracts are allocated to Portfolio Managers.
- Challenges and opportunities with assurance processes provided by MSD and Whaikaha.
- Contract management support systems including access to tools, resources, and data.
- Impact of and interdependencies on Te Whatu Ora systems and processes.

The following areas were out of scope for the review:

- Quality and safety of services (broadly).
- Provider capability and capacity.
- Individual staff capability and capacity.
- Procurement approach and process for approvals.
- Delegations and authorities.

We interviewed 31 people, including staff in a range of roles and 3 suppliers, the latter expressly selected as they had some of the biggest challenges with payments, invoice rejections, and interactions with the system (including Whaikaha and NASC). The interviewees are listed at Appendix A.

We reviewed a range of documents, including policy, procedures, contracts, and reports. The documents reviewed, and summary comments from our analysis, are set out in Appendix C.

We acknowledge this is only a subset of internal kaimahi and external providers; there will no doubt be documents and different perspectives that exist that we did not see that might provide a greater appreciation for some issues identified or views expressed. For example, we had little discussion related to Enabling Good Lives sites, which we know to be a significant Whaikaha initiative.

Where we note that we did not see documents, this does not necessarily mean that they do not exist; only that we have not seen them, and therefore cannot comment further on their existence or adequacy.

Regarding the areas stated as out of scope in the section above, during our review it became apparent that some areas are intrinsically connected to the matters that are in scope.

Where this is the case, we have commented on our observations and the connections, not on the detail. For example, we discuss the apparent absence or lack of awareness of financial delegations, not the detail or appropriateness of any specific delegations.

Information from interviews and the document review was assessed against a tailored maturity assessment for good practice commercial management processes and controls, drawn from MBIE's Procurement Capability Index (PCI), MBIE's Social Services Competency Framework.

The detailed maturity assessment, the rating scale and its findings are set out in Appendix B.

3. Key Observations

CONTRACT MANAGEMENT

- Basic contract administration is in place – contracts advisors appear to be doing a good job, but transactional and reactive.
- Health of contract management practice is very low. Pockets of adequate performance evident, but mostly our report highlights weak or failing processes.
- Lack of clarity and consistency in process of contract allocation.
- Multitude of varied pricing structures.
- Lack of controls and guardrails, particularly as funding has become increasingly flexible with Individualised Funding.

PEOPLE

- People are willing and want the system to work.
- New hires in senior roles are positive and promising.
- Position descriptions reviewed for Portfolio Managers look adequate / consistent with good industry practice.
- Lack of clarity in roles and responsibilities, including overlap in duties and people are spread too thin.
- Portfolio Managers are also Subject Matter Experts and/or are pulled in to participate as project team members.

CONTRACTUAL AGREEMENTS

- Contracts, even if current (and at least some are not), have not been reviewed or updated in years; some regarded as out of date or no longer fit for purpose.
- External perception that Whaikaha staff don't understand the contracts and service lines; either overworked or are not accountable and don't follow up issues.
- Lack of clarity around roles and responsibilities, within an environment that has out of date or sub-optimal processes, alongside ineffective systems and poor access to information.
- Multiple large contracts coming to end of life.

SYSTEM LANDSCAPE

- Lack of adequate systems, or access to systems, to enable staff to perform roles effectively.
- Lack of, or lack of awareness of, up to date and relevant policies, procedures. We note some are in development (process mapping; risk frameworks).
- Inconsistency in decisions, nebulous escalation processes, and very slow issue resolution.
- High level of frustration by providers, who are caught up in processes beyond their control, with great financial risk and stress.
- Invoicing, payment, and filing issues add substantial administrative overhead to Whaikaha and providers.

4. Other observations

Official Information Act Requests

The number of OIA requests has increased significantly since Whaikaha was established.

As noted above, some staff suffered loss of or reduced access to information as systems were being transferred to Whaikaha during the transition. We are advised that this included records of past decisions made, emails and files.

As information is difficult to find, the team doing OIAs currently rely on contacting Portfolio Managers who have access to at least some of the previous content. We understand that recently some access to past folders has been provided; however it remains true that more easily accessible information would reduce the reliance on and workload of the Portfolio Managers.

Multiple staff described frustration with the process of saving documents due to the length of time taken and the recurrent rejection of the system to save documents.

A portal or central data repository for privacy information with well-defined and well-controlled access would reduce internal email correspondence and reduce risk to the organisation.

NASC Assessments

NASC assessment processes cause issues for Whaikaha and providers. NASC assess needs and plan from a service catalogue using out of date tools. Data entry issues by NASC can mean that providers are paid incorrectly as services are not set up correctly in the system, or the needs of the client are greater than what NASC initially assessed.

We were advised in our interviews that some NASCs may not fully understand what Individualised Funding should be used for, and that it is not necessarily the right option for everyone. Parameters are needed around the funding to allow for flexibility of use. Anecdotally, it was suggested that is appears some clients use funding for a ‘good life’ vs ’good outcome’ (job, home, participate in community).

We were also advised by providers that when a client’s funding stops, there have been occasions where the provider is not told. This has led to the provider continuing to provide services, not knowing that they should not, then invoicing, with the invoices subsequently being rejected, and leaving the provider with no way to recover the cost of services already provided. Our view is that this is not a fair and reasonable position to expect for the provider to assume these costs in this instance.

5. Conclusions

Whaikaha have passionate staff and providers who are clearly committed to achieving as much as they can for disabled people and their whānau. We thank everyone involved for their candour and comments.

First, overall we agree with Whaikaha's initial briefing that numerous issues are impacting commercial management practices.

Against the maturity model, our review concludes that commercial management practices in Whaikaha is ranked as **'Failing'.** Practices are operating below a minimum standard and are deteriorating.

Key issues include:

- **Absence of clear objectives, organisational direction and planning** to inform how disability support services should be commissioned or managed, which inhibits effective commercial management and planning to a short- or medium-term horizon.
- Position descriptions reviewed appear appropriate but have gaps. There are i**ssues with clarity of roles and responsibilities, with breadth and allocation of duties.** The Portfolio Manager role is stated as "…to negotiate and manage contracts for services delivering disability support within commissioning frameworks". The position description does not include the following:
    - Management of around 2000 critical incident investigations, and 1000 incidents of abuse and neglect per annum; and
    - Resolving complaints and collating data for OIAs, that have each increased significantly since Whaikaha's establishment and were previously centrally managed by MoH.
- Interviews indicate that **over 50% of people's time is drawn away from a commercial management focus** as they are increasingly involved in operational issue resolution and /or advocacy for specific cases. There was a range of views as to which is the right focus.
- Feedback from staff and providers is that **priorities, decisions and parameters change regularly, and advice is inconsistent**. Examples include changing to a regional team approach following a previous review (Putting People First), and previous position at MoH that disability support services should not be recommissioned in the way other government services are.
- **Out of date or sub-optimal processes, systems and lack of access to information and systems** directly (and increasingly) impact people's ability to provide effective commercial management.
- **Policy or procedures updates are needed** to urgently mitigate critical risks and issues:
    - Exposure to liabilities related to outstanding payments to service providers.
    - Improve separation of duties, to strengthen controls and reduce exposure to breaches of policy and delegations (including the personal liability for individuals).
    - Policies (or policy updates) are needed to strengthen staff protection in the field.

We conclude that Whaikaha's commercial management practices are not adequately organised, supported, or enabled to meet the needs of staff or providers. Collectively, the identified issues are resulting in confusion and frustration, a growing lack of confidence and accountability, and ultimately lack of progress.

We are concerned for the confidence Whaikaha can have in its practices and expect issues to grow and progress to slow further if left unchecked.

As commissioning, managing and monitoring providers is a key Whaikaha function, and given the quantum of NDE and the apparent risks and issues, we consider change is critical and urgent.

We note that appear to be three key aspects to Whaikaha's commercial management services, between which there is a natural tension as well as a need for appropriate separation and/or controls:

- **Outsourcing:** involving the commissioning of services,
- **Service Delivery:** involving providing services directly (and potentially acting as a competitor to those who services are commissioned to), and
- **Monitoring and Assurance:** resolving complaints and OIAs submitted to Whaikaha (effectively the organisation 'marking its own homework' and possibly leading to actual, potential or perceived lack of independence).

Multiple interviewees described being involved across several of these activities currently. As such, we anticipate a key activity should involve Whaikaha deciding what its role is in each of the three aspects (and if necessary, adjusting the operating model or structure to affect the necessary changes) and then effectively communicating changes to staff, and building policies, procedures, and practices to support the changes.

While improvements will be able to be made within the Group, Whaikaha needs to identify how this also impacts or can leverage wider organisational effectiveness across Whaikaha and/or with its supporting agencies, e.g., not having effective access to systems and data from Te Whatu Ora's Sector Operations, and/or access to legal services from MSD. Some areas of improvement have already been identified, and a systems approach to improvement and development is desirable.

Broader system improvement initiatives will require Whaikaha to identify what its needs are, and how its needs are recognised in the system improvement projects being undertaken by Te Whatu Ora, given the current reliance on those operational support systems.

It is critical to acknowledge that, as stated earlier, what was handed over to Whaikaha was an imperfect starting point and was at least in part why Whaikaha was established. Several key roles have recently been appointed, including a Director Commissioning, a Director Deputy Chief Executive Commissioning, Design & Delivery, a Group Manager System Design and an Operational Policy team.

We are advised that, to address known issues that have been re-confirmed in this Review, several initiatives are underway, including development of a Whaikaha commissioning board, reestablishment of training and induction specifically for Portfolio Managers, and development and rollout of policies and frameworks, including a risk framework.

As this is a point in time review that assesses where Whaikaha is at today, we have not assessed the likely impact of these new roles and initiatives but do believe they are each positive and encouraging. We anticipate that a follow-up review in 6 or 12 months should be able to directly trace improvements.

Our maturity review assessment and its findings are set out at Appendix B.

6. Recommendations

Approach to recommendations

Based on the assessment that Whaikaha is currently assessed as operating below a minimum standard, the table below represents our recommendations to begin a programme of improvement.

We consider that addressing the below interrelated areas of improvement should enable a maturity shift from **Failing (Red)** to **Functioning (Amber)** within a 12-month period.

Recommendations are categorised by criticality, based on the following definitions:

- **CRITICAL (do now): critical and urgent.** To increase the likelihood of a successful outcome, or avoid a critical failure, it is essential that the action is taken immediately.
- **ESSENTIAL (do by December 2024):** critical but not urgent. Action should be taken in the near future to increase the likelihood of a successful outcome.
- **GOOD PRACTICE (consider):** the organisation or service would benefit from uptake of the recommendation.

Recommendations

Urgency	Commentary
CRITICAL (do now – critical and urgent)	1. Outstanding provider invoices must be resolved as a matter of urgency. Providers are unfairly and unreasonably caught up in system issues creating financial and administrative burden for all parties. High risk. 2. Develop and introduce financial delegations and controls for staff empowerment and role clarity. High risk. 3. Restore access to existing Te Whatu Ora systems for relevant staff to allow for greater visibility of necessary information required for contract management. This may be a short-term solution but allows time to robustly consider Te Whatu Ora's Health Sector Agreements and Payments (HSAAP) or Finance Procurement Information Management (FPIM) initiatives as they progress, rather than procure an off the shelf product. 4. Develop and introduce governance structures for commercial management.
ESSENTIAL (do by December 2024)	1. Updated policies and process frameworks need to be established. 2. Develop and introduce a clearly defined, end to end roles and responsibility matrix, including separation of duties for Portfolio Managers, Contract Advisors, complaints, quality, subject matter experts and product managers. 3. Process mapping completed. 4. Gain visibility and (where deemed required) oversight of existing critical / high profile procurements and contracts. 5. Complete high-level reviews on each of Priority 1 supply arrangements. 6. Develop and introduce clear lines for issues escalation and resolution. 7. Regular strategic engagement at ELT level with Te Whatu Ora and MSD regarding requirements, risks, and issues.
GOOD PRACTICE (do by June 2025)	1. Develop and introduce training and knowledge management for staff. 2. Work with Te Whatu Ora Sector Ops to streamline processes to enable more efficient transfer of information and issue resolution. 3. Review of performance targets, service levels, and/or quality measures in provider agreements. 4. Root cause and proactive incident prevention. 5. Consider appetite for accelerated separation from MSD and move to Whaikaha being a standalone organisation.

We consider that:

- A formal change project / programme should be established to implement the Critical and Essential priorities, leading into structured continuous improvement to deliver the Good Practice changes required.
- Structured oversight by leaders will also be important to ensure the project remains on track over time and commercial management performance progressively improves.

Suggested Implementation Principles

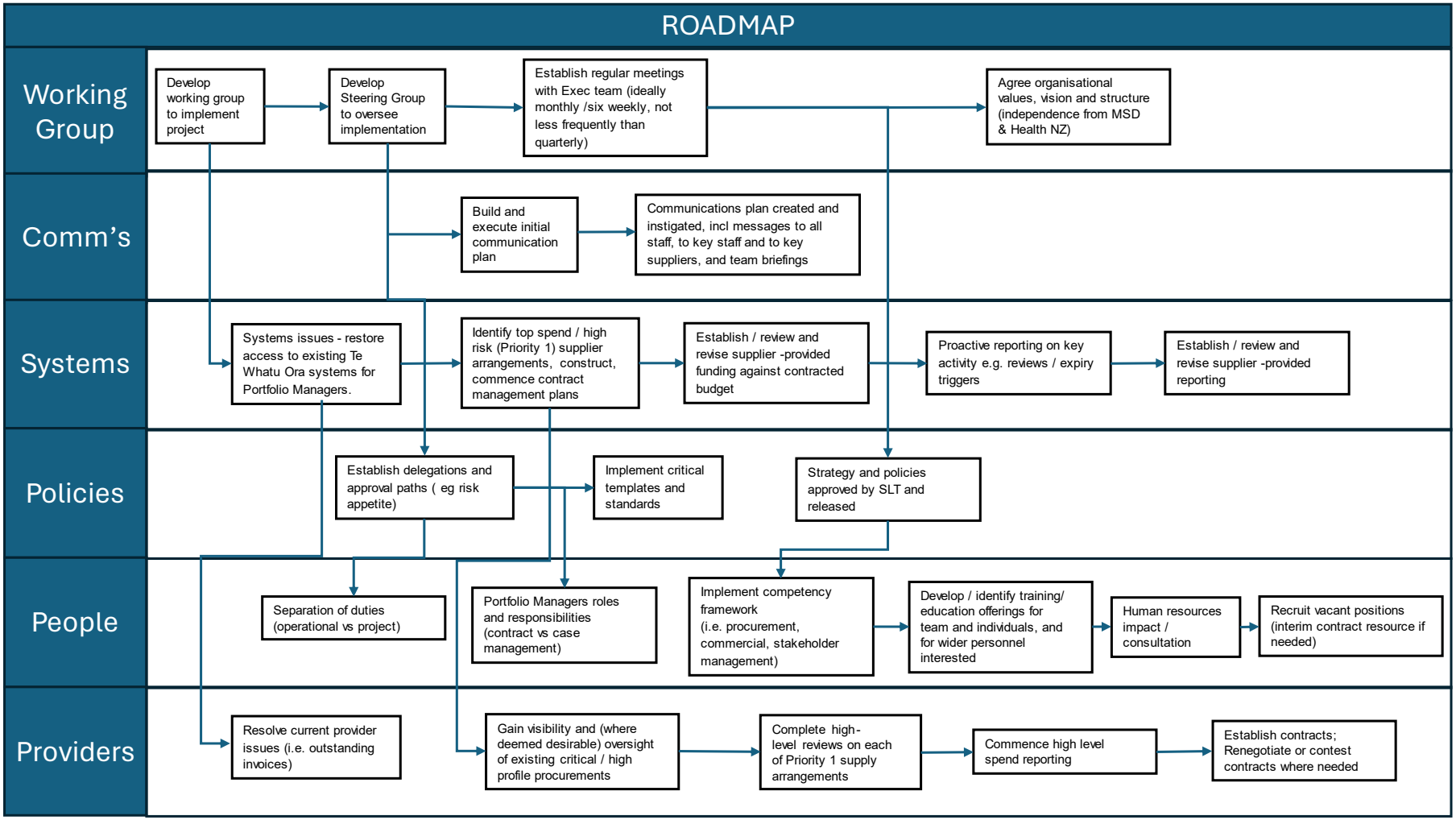


- Continue (and accelerate) current momentum.
- Continue a no-fault, non-judgmental approach to current state, an “amnesty” on no contract, poor contract, and/or poor management processes.
- Work with, and align to, MSD and Te Whatu Ora where relevant. However, work towards (and potentially accelerate) independence.
- Balance developing the Group (team, tools, knowledge) with being immediately available for current business initiatives.
- Continue to prioritise what customers need most.
- Advocates, champions and enablers; not fanatics, handbrakes or rubber stamps.

Roadmap

An indicative roadmap overleaf sets out a possible high-level work programme with key tasks and timeframes to progress the project / programme.

These are focussed on the identified Critical and Essential priorities which should be the focus.


ROADMAP
Working Group
Develop working group to implement project
Develop Steering Group to oversee implementation
Establish regular meetings with Exec team (ideally monthly /six weekly, not less frequently than quarterly)
Agree organisational values, vision and structure (independence from MSD & Health NZ)
Comm's
Build and execute initial communication plan
Communications plan created and instigated, incl messages to all staff, to key staff and to key suppliers, and team briefings
Systems
Systems issues - restore access to existing Te Whatu Ora systems for Portfolio Managers.
Identify top spend / high risk (Priority 1) supplier arrangements, construct, commence contract management plans
Establish / review and revise supplier -provided funding against contracted budget
Proactive reporting on key activity e.g. reviews / expiry triggers
Establish / review and revise supplier -provided reporting
Policies
Establish delegations and approval paths (eg risk appetite)
Implement critical templates and standards
Strategy and policies approved by SLT and released
People
Separation of duties (operational vs project)
Portfolio Managers roles and responsibilities (contract vs case management)
Implement competency framework (i.e. procurement, commercial, stakeholder management)
Develop / identify training/ education offerings for team and individuals, and for wider personnel interested
Human resources impact / consultation
Recruit vacant positions (interim contract resource if needed)
Providers
Resolve current provider issues (i.e. outstanding invoices)
Gain visibility and (where deemed desirable) oversight of existing critical / high profile procurements
Complete high-level reviews on each of Priority 1 supply arrangements
Commence high level spend reporting
Establish contracts; Renegotiate or contest contracts where needed

Appendix A: Interviews completed

We interviewed 31 key internal and external stakeholders (as outlined below) to understand the current contract management process within Whaikaha, the roles and responsibilities of key stakeholders, and the environment that they work in currently.

Some interviewees had only been with (or interacting with) Whaikaha for weeks; others for decades and had been part of the Ministry of Health Disability Support Services prior to Whaikaha being established.

We wish to thank everyone for their involvement, candour and insights. It was clear that everyone we spoke to is committed to Whaikaha achieving as much as it can for disabled people and their whānau.

- Paula Tesoriero, Chief Executive
- Amanda Bleckmann, Deputy CEO, Commissioning, Design and Delivery
- Hayley Evans, Deputy CEO, Corporate Services
- Carmela Petagna, Director, Office of Deputy Chief Executive, Commissioning, Design and Delivery
- Dr Frances Hughes RN, DNurs, CNZM, Chief Clinical Advisor, Commissioning, Design and Delivery
- Marama Parore, Chief Advisor Māori
- Alex Dixon, Manager, Monitoring and Analysis
- Joe Meech, Senior Relationship Manager – Shared Services
- Rachael Burt, Group Manager Operations / Enabling Good Lives
- Rachael Daysh, Group Manager, System Design
- Trish Davis, Group Manager – Quality and Data Insights
- Doug Funnel, Regional Manager
- Viv Ruth, Regional Manager
- Martin Anderson, Regional Manager
- Sarah Payne, Regional Manager
- Paul Harvey, Senior Portfolio Manager
- Sarah Morgan, Portfolio Manager
- Becky Lasenby, Portfolio Manager
- Helen Hayes, Portfolio Manager
- Jake Mills, Portfolio Manager
- Kristyn Healey, Portfolio Manager
- Nicky Aldridge-Masters, Portfolio Manager
- Peggy Aerts, Portfolio Manager
- Tracy Smith, Contracts Advisor
- Roy Chan, Data and Insights
- Mathew Tavendale, Group Manager Planning & Delivery Portfolio, Resourcing & Commercial, Te Whatu Ora
- Pip Stewart, Brackenridge (Provider)
- Sean Stowers, CEO Spectrum Foundation (Provider)
- Marija Jelesic-Janic, COO Spectrum Foundation (Provider)
- Marsha Marshall, CEO Manawanui (Provider)
- Suzie Dunlop, COO Manawanui (Provider)

Appendix B: Commercial Management Maturity Assessment

Approach

Our review used a tailored version of MBIE's Procurement Capability Index, focussed on commercial management.

The PCI measures an organisation's procurement maturity (including commercial management) and has been used over the last decade across public sector agencies. We have also considered elements of MBIE's Social Services Procurement Competency Framework.

Our tailored version focusses on the commercial management aspects. Scoring is based on the following five-point scale:

Icon	Status	Description
	Strong	Consistently operates proactively at a high level and in line with good practice in the subject area. Regarded as a leader or exemplar.
	Well placed	Generally operates proactively at a high level in the subject area.
	Functioning	Generally operates at a reasonable level in the subject area. Some areas of weakness that require action in due course to avoid risks or issues becoming evident or escalating.
	Weak	Operates below the required standard in the subject area. Prompt action is needed to address issues to avoid risks or issues becoming evident or escalating.
	Failing	Operates below a minimum standard in the subject area. Critical risks or issues are imminent or evident.

Summary Assessment

The following table providing an easy-reference high level summary of the detailed evidence-based maturity assessment (the latter can be found below this table).

Review Area	Commentary	Health
1. **Strategic planning for commercial outcomes**	A strategic plan is in development. Commercial outcomes do not currently appear to be defined in the organisation. Category management and strategic provider relationship management not visibly occurring in any meaningful way. Whaikaha is not currently operating under a legislative framework, creating a significant enterprise risk exposure (rather than specifically a commercial risk). In its establishment, there has been greater expectation that Whaikaha will partner better with the community and will move to personal budgets.	
2. Commercial strategy alignment with key result areas	There is no enterprise-wide commercial strategy and no defined targets to effectively drive or monitor service performance or value for money, or to inform how disability support services should be commissioned or managed, inhibiting effective commercial management and planning in the short- or medium-term. We saw little evidence of commercial strategies that would enable Whaikaha to better meet its obligations regarding Te Tiriti o Waitangi, or the needs of disabled persons and their whānau.	
3. Commercial Leadership to drive outcomes	There is a good mix of longstanding staff and recent appointments in relevant leadership roles. While positive, it is too early to gauge impact of the new appointments and traction of the new team. Frequency and nature of escalation to, or engagement of, senior leaders is higher than is desirable.	
4. Commercial engagement with stakeholders	Understanding of commercial drivers is mixed and is not used effectively to drive performance or decision-making. Value is not being added as part of business-as-usual practice. Engagement with stakeholders occurs but is reactive and heavily focused on operational issues.	
5. Governance / organisation of the commercial management function	Commercial governance structures do not appear to be routinely in place. Responsibilities, accountabilities, and pathways are not clear to staff. Approval of renewals does not appear to adequately consider provider performance, contestability or changes to contracts or specifications. Parameters or 'guardrails' for allocation of expenditure and contract do not appear to adequately be in place. There is poor awareness or evidence that delegations are understood and complied with, and we saw examples where separation of duties is not consistent with good practice. A Procurement Board and a risk framework are being introduced but are not yet fully in place. Overall consideration of risk appears weak.	
6. Alignment with policy and processes	A commercial management policy does not exist. Procurement policy is ex MSD and considered not fit for purpose for Whaikaha. Some standard operating procedures exist but are either from MSD or legacy from the Ministry of Health. Most have not been updated in many years and are considered out of date. Progress is underway but it is too soon for evidence of improvement. Where standard Government templates are used, they are not used in an optimal manner, either increasing administration or reducing effectiveness. An Operational Policy team is now established. We anticipate a Commercial Management Policy will be considered as part of their work programme.	

Review Area	Commentary	Health
7. Sourcing and collaboration	Strategic sourcing and category management are not occurring in any meaningful way. Almost all contracts roll over without contestability with little to no consideration of previous performance, changes needed to ensure contracts reflect the services being provided or service improvement. The process and templates being used for bulk renewals are not fit for purpose and rely heavily on an opt out that we assess is being applied too broadly. While use of Outcome Agreements is positive, the construction and content do not capture meaningful information or drive measurable service performance.	
8. Provider relationship management	Provider relationship management is not routinely or consistently applied due to other duties taking priority, Diverting attention from commercial management, staff are increasingly involved in or being drawn into activities more akin to operational service delivery, case management and / or advocacy. This included increased involvement in dealing with OIAs and complaints etc that were previously centralised at MoH. Activity is reported to be largely reactive and unstructured. Whaikaha needs to make a clear decision and communicate whether this split model is Whaikaha's intention and/or mandated. Contract administration is operating at a functional level but poor systems, poor access to information and delays in approvals limit progress, and still result in variations being signed later than the expiry of current contracts. Noting their focus on sites and the way they operate, Providers describe Whaikaha as well meaning, but report that interaction and feedback is irregular, ambiguous, inconsistent and at times, non-existent.	
9. Management of people and skills development	Whaikaha has had to grow rapidly since establishment. No workforce strategy was sighted; Position Descriptions reviewed are in line with industry examples. Duties appear to be inconsistently allocated and too broad in places. Appropriate separation of duties appears compromised in places. Processes for allocation of contracts appear informal and inconsistent. Induction is not tailored to Whaikaha and does not include specific focus on commercial management. We saw no evidence of ongoing training or development. Work to address this is underway.	
10. Knowledge and performance management	Delivering value for money, savings or benefits is not occurring or being tracked in a meaningful way. Evidence of knowledge and performance management is limited. Reporting formats have remained static for 10+ years. Some feedback considered some service specifications are out of date and not fit for purpose. Some reporting is not reviewed by Portfolio Managers, and some providers are being paid while performance issues remain unresolved.	
11. Use of technology processes and tools	Access to systems used for contract management, payments and reporting are a major frustration and have deteriorated since Whaikaha's establishment. There are numerous critical service and commercial risks; some are now or are emerging as issues. There are significant ongoing challenges related to payment systems are impacting timely completion of variations and monitoring e.g., financial reporting has been unavailable for 18 months. Some good practice is occurring but is heavily constrained by system and process limitations. While prior systems are not perfect, regaining appropriate access may alleviate some issues immediately. We did not see accessible tools or information available for staff (e.g., visually impaired).	

Detailed Maturity Assessment

Review Area	Health

1. Strategic planning for commercial outcomes

a) **Strategic Plans:**



- *Does Whaikaha's Strategic Plan show clear understanding of third party spend based on accurate data, identify market categories and providers critical to delivering its key outcomes and strategies and objectives for managing those providers and markets?*

We are advised that a strategic plan does not yet exist but is in development and due to be in place June/July 2024. Whaikaha's Statement of Intent is largely confined to a section within MSD's Statement of Intent (SOI) and includes no references to third party Providers or spend. Whaikaha is currently working on a standalone SOI and due to be completed later in 2024.

As such, there is no evidential basis for grading higher than **'Failing'** in this area.

We are advised that Whaikaha was not included in the Pae Ora (Healthy Futures) Act and is not currently operating under a legislative framework. It is expected Whaikaha will develop a Disability Systems Bill, but the organisation is currently exposed. This represents significant enterprise risk exposure (rather than a specific commercial risk).

We repeatedly heard that Whaikaha was established with the right intent but has struggled to find itself and get traction in its early days. We note that there has been greater expectation that Whaikaha will partner better with the community and will move to personal budgets.

A common theme of feedback was that there is an absence of clear direction, objectives, organisational parameters, which in turn has led to a lack of clarity of roles. Where people expressed what they understood to be Whaikaha's role or direction, the views suggested roles were not well understood or were confused; different people had contradictory views.

For example, Whaikaha currently performs roles that include policy, commissioning, regulatory functions and delivery. While Whaikaha falls under the remit of MSD; numerous interviewees suggested there is a fundamental misalignment between MSD and Whaikaha; with the former being an entitlement-based agency vs the latter being a needs-based agency.

b) Category Management Planning



- *Is there evidence that Category Management Planning is undertaken for critical, high risk / high value market categories identified in the Strategic Plan, particularly Significant Services Contracts?*
- *Is it well established and embedded within the organisational culture, with Category Management Plans that are well linked with and support the Strategic Plan.*

We did not see or hear that category management is occurring in any meaningful way. There is no evidential basis for grading higher than **'Failing'** in this area.

There is some awareness of what category management entails, at least theoretically. However, most activity described by people involves more reactive management than strategic planning across defined service categories. Where people have category management responsibilities, these are being diluted by other role requirements.

We understand the approach to category management changed to a regional approach after the "Putting People First" review. The new Director Commissioning will provide leadership and advice on what is needed to enable implementation of a commissioning cycle – procurement plans, monitoring, review, etc.

This is discussed further in section 7 below.

c) Strategic Provider Relationship Management Planning



- *Is there evidence that provider relationship management is in place for all the critical, high risk / high value provider, particularly those identified in the Strategic Plan and any Significant Services Contracts?*
  (Note that if the answer to 5.1b) above is no, the answer to this question is also no.)
- *Is there evidence i.e. review meeting minutes, of direct involvement of appropriate Senior Managers in strategic relationship management with critical providers?*

We saw and heard contradictory viewpoints regarding provider relationship management. Some interviewees felt that provider relationships were largely positive, with Portfolio Managers 'going over and above' to help resolve issues. These interviewees believed this was necessary; otherwise, relationships, services, and outcomes would be negatively impacted.

Other interviewees noted that Whaikaha is established as a commissioning agency, and that even if it seems necessary, taking on service delivery responsibilities is overreaching and should be a last resort, if required or allowed at all.

The providers interviewed confirmed that strategic relationship management is not occurring, and that Whaikaha's involvement in service delivery and issue resolution was problematic. We do note that providers' focus is predominantly on the sites and the way they operate.

Frequent change in contacts is reported, along with an influx of new staff who are viewed as not having depth of understanding of the contracts or services contained within them. As a result, relationships are hard to establish, in part due to not knowing who to contact, and once established, could be hard to make a connection or have confidence in advice or responses.

Impacting factors related to training, role responsibility, and access to information and systems are discussed elsewhere in this report.

We were informed that Whaikaha has several Significant Services Contracts (as per MBIE's Significant Services Contract Framework), specifically the Forensic Coordination Service. Due to performance issues by the previous service provider, Whaikaha decided to in-house responsibility for service delivery, while the service is stabilised and re-tendered. This is an example where Whaikaha's role is now blurred i.e. is its purpose commissioning or service delivery. It is not clear how Whaikaha defines the contract as "significant" nor how it reports back on Significant contracts.

Based on the current issues and risks, there is no evidential basis for grading higher than **'Failing'** in this area.

Review Area	Health

2. Commercial strategy alignment with key result areas

a) Commercial Strategy



- *Does Whaikaha have an up-to-date commercial strategy that is demonstrably aligned with its strategic objectives, signed off by the CEO and or Senior Leadership Team. If yes, has it been formally reviewed in the last twelve months, and does the strategy clearly link value for money and savings targets to Whaikaha's performance targets?*

We are advised that an enterprise-wide commercial strategy does not currently exist. We did not see demonstrable targets for value for money or savings, or advice on how disability support services should be commissioned or managed. This inhibits effective commercial management and planning.

We did not see that performance targets set out in service specifications or contracts have been reviewed or refreshed in recent years.

As such there is no evidential basis for grading higher than **'Failing'** in this area.

b) Annual business planning



- *Is there evidence that individual staff objectives within the commercial function are aligned with the commercial strategy, and that the commercial strategy is well understood, accepted and implemented by stakeholders across the organisation?*

We did not see examples of individual staff objectives and an enterprise-wide commercial strategy does not currently exist, so assessing alignment is not possible.

We did not see demonstrable targets for achieving value for money or savings. Where staff discussed their objectives, objectives were said to change regularly (sometimes based on specific demands at any given time), were conflicted or were unclear.

Contract Advisors have and maintain a view of upcoming contracts' expiry; this list is made visible to other personnel including Portfolio Managers. However, we observed contract variations that were signed significantly later than the effective date of the variations. For example, a variation taking effect from 1 June might not be signed until December.

Reasons for date discrepancies were not validated, but multiple interviewees advised variations often take time to get signed and in some cases were not signed until well beyond the end of the (pre-varied) contract term.

Allocation of contracts was initially described as being based on geography of contracts and teams being regionally based; however, we observed that there were wide variances in the number and nature of contracts (and other responsibilities such as being a subject matter expert (SME) or being responsible for a national service) being allocated to individuals.

We saw and heard sufficient evidence to warrant a **'Weak'** rating in this area. Improved planning is expected to have as significant knock-on impact in other areas.

Review Area	Health

c) Delivery of wider government policy initiatives through commercial management e.g. health and safety and /or improved community, regional and economic outcomes?



- *Are clear and demonstrably robust policies in place for delivery of wider government policy initiatives? e.g. Health & Safety, skills development, provider development, environmental impacts and/or improved community, regional and economic outcomes.*
- *Is commercial management used as a tool, when appropriate, to achieve these initiatives and /or to secure wider benefits with tangible, positive outcomes?*

An enterprise-wide commercial strategy does not currently exist, so assessing alignment is not possible.

We saw little evidence of commercial strategies that would enable Whaikaha to better meet its obligations regarding Te Tiriti o Waitangi or to disabled persons and their whānau.

We did not see or hear evidence of influencing providers or working with providers to deliver wider government policy objectives.

We also did not see or hear any focus on ensuring information and tools are available and accessible for people or staff with disabilities.

Feedback from providers is that they are open to assisting and working more closely together with Whaikaha in this regard. The disability sector has had a longstanding expectation that changes in approach are carefully considered and that the sector is involved.

We recognise that Whaikaha's ability to grade well in this area is partly dependent on having other areas performing well. Accordingly, this area may be an objective to be pursued only when a number of other issues and challenges are resolved.

At this time, there is no evidential basis for grading higher than **'Failing'** in this area.

However, we understand that an Operational Policy team has been established and anticipate that a Commercial Management Policy will be considered as part of their work programme.

Review Area	Health

3. Commercial Leadership to drive outcomes

a) Senior Leadership Team engagement and championship



- *Is the Senior Leadership Team routinely engaged with regarding commercial issues?*
- *Is there a nominated Senior Leadership Team champion with responsibility for commercial matters? Is there evidence that commercial performance, risks and issues are a regular agenda item discussed and addressed by the Senior Leadership Team?*
- *Is there strong evidence that the Senior Leadership Team champion is highly visible within Whaikaha, and has a quality assurance role on commercial matters at Senior Leadership Team meetings, with these issues seen as 'business as usual' by Senior Leadership Team members?*

Some senior leaders have been involved for many years, some having worked at the Ministry of Health prior to Whaikaha's establishment and/or having come across as part of the transition.

Good knowledge of processes and historical context exists amongst these staff, noting that system challenges (in part due to or exacerbated by the transition) are said to be impacting the utility of this knowledge over time.

Several leadership and management roles have recently been appointed in the Design, Delivery and Commissioning Group, including the Director, Chief Clinical Advisor, and Group Manager Operations.

Other roles with significant relevance or influence, including the Deputy Chief Executive Corporate Services and Kaihauto Māori are also recent appointments. A new Director of Commissioning commenced while we were completing our report.

We regard these as critical roles in the end-to-end lifecycle for third party providers.

Our assessment is that the establishment of these roles and the calibre of people we interviewed is a positive step for Whaikaha, both in terms of resolving challenges and enabling traction. However, it is too early to gauge the impact of the new roles and their ability to alleviate the work of the longstanding staff.

We did see and hear that senior leadership are engaged regarding commercial issues, particularly when escalated. However, as discussed further below, the channels for, and frequency of, escalation are not clear and are currently overused.

Multiple interviews noted that Senior Leadership needs to support quality contract management (including Health and Safety), and to support there being real consequences for non-performance by providers.

It was not clear that there is a current single champion identifiable as a clear point of accountability, and that there is an apparent lack of clarity (and potentially some overlap) in definition and application of quality management and assurance roles that needs resolution.

Based on the evidence we saw, this area is currently assessed as '**Weak'** but recent changes are considered emerging and promising. We expect that a significant proportion of the responsibility for the programme of changes and improvements will be driven from within the roles named above.

b) Head of Commercial leadership role



- *Is there a Head of Commercial role established and widely recognised within Whaikaha with evidence that the role has influence with or impact on Senior Leadership Team decisions and third party spend in Whaikaha?*
- *Are excellent leadership practices demonstrated as shown by stakeholder surveys or 360 degree feedback? Does the Head of Commercial have a clear and direct line of communication (and regular access) to the Senior Leadership Team?*
- *Is effective leadership demonstrated through delivering excellent results and driving continuous improvement in procurement and commercial performance across Whaikaha?*

As discussed above, a new Director, Commissioning, Design and Delivery role has only recently been appointed. An appointment to a new Director of Commissioning role joined Whaikaha as we were completing our report.

We regard these as critical roles in the end-to-end lifecycle for managing third party providers, and their establishment is a positive step for Whaikaha, both in terms of resolving challenges and enabling traction.

It is too early to gauge the impact of the new roles and their ability to alleviate the work of the longstanding staff.

As a result, based on the evidence we saw, this area is currently assessed as '**Weak'** but recent changes are considered emerging and promising.

We expect that a significant proportion of the thought leadership and responsibility for the programme of changes and improvements will be driven from within the roles named above.

Good practice expectations would include sitting on relevant committees, having material and effective influence over third party spend, and involvement in Whaikaha's annual planning processes.

4. Commercial management function engagement with stakeholders

a) Internal stakeholder engagement



- *Do stakeholders have some understanding of Whaikaha's commercial drivers and are they engaged in an organised manner?*
- *Do they see commercial drivers as an enabling tool for achieving Whaikaha's aims and objectives, and as key to effective decision making?*

We did not see or hear that Whaikaha's commercial drivers were commonly understood, nor routinely used as an enabling tool for achieving objectives or making effective decisions.

Of those we interviewed, senior leaders and some staff demonstrated an understanding of commercial drivers; but other staff in commercial management activities would benefit from training and/or improved clarity.

We did not see an evidential basis for grading higher than **'Weak'** in this area.

b) Commercial management as an enabler of results



- *Does the commercial management function, while needing to follow processes and rules, add value to core business activities for stakeholders and senior staff?*
- *Is commercial management seen by stakeholders as an enabler for achieving objectives, delivering excellent results and contributing to delivery of outcomes?*

We did not see or hear that value is routinely being added through current contract management activities.

Conversely feedback consistently suggests that adding value is regularly challenged through lack of access to quality information, outdated specifications and contracts, and inconsistent administration and issue resolution processes.

We did not see effective systems and processes in place to support good practice commercial management. As such there is no evidential basis for a higher grading than **'Failing'** in this area.

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c) Commercial engagement with other business units



- *Does the commercial management function regularly work with other parts of Whaikaha? Is it involved in routine two-way flow of information?*
- *Does commercial function actively engage with organisation leads at the inception stages of initiatives to ensure assessment of commercial options for delivery? Does commercial work closely with legal to influence major commercial transactions.*
- *Does commercial plan and execute delivery of value for money initiatives across Whaikaha and its wider network in line with the commercial strategy? e.g. do legal, HR and commercial teams work together in partnership to meet strategic and commercial objectives to influence commercial transactions.*

We saw and heard that staff do engage with other parts of Whaikaha.

However, engagement appears to be reactive, largely unstructured and generally based on issue management rather than commercially strategic. Multiple interviews commented that meetings or getting decisions made involved many people with a lack of clear responsibilities and accountabilities.

A consistent theme that there has been insufficient legal support for the commercial team, including for areas where legal support is essential e.g. sleepovers, pay equity, escalated supplier disputes. At the time interviews occurred, we were advised that there are 56 open legal support requests. Where legal support is provided it has come from MSD and is regarded as having different focus and risk appetite to Whaikaha.

The system needs to be more responsive to Māori and have systems and processes that enable equity. The appointment of a Kaihauto Māori is regarded as a positive step, but we did not see or hear evidence that adequate engagement is occurring on a structured or regular basis.

Similarly, we did not see or hear any evidence that legal, HR, and commercial teams engage at a commercial strategic level on a regular or structured basis.

Based on the evidence we saw this area is currently assessed as '**Weak'.**

Review Area	Health

5. Governance and organisation of the commercial management function

a) Governance Structure for the commercial management function



- *Is there an adequate governance structure for the commercial management function? Is the commercial function role clear, well understood with clear accountabilities?*
- *Is the governance structure aligned to business strategy and key outcomes? Do commercial staff understand their role and relationship with other key business units? Do organisation charts verifying the structure and reporting lines for the function?*
- *Does the governance structure support effective decision making, prioritisation and control of spend? Does the commercial management structure meet business needs, with roles and lines of accountability understood and accepted across Whaikaha?*

We did not see or hear evidence that adequate governance structures for commercial management within Whaikaha are routinely in place and understood.

Multiple interviews commented that decision-making involves many people and that responsibilities and accountabilities and unclear. Senior level interviewees reported having to be involved in myriad issues, some of which appear very operational.

There are established management roles and a commercial management structure, but we did not see adequate evidence of clear delineation of roles and lines of accountability. This, and overlapping, conflicting, or too many responsibilities were common themes in interviews.

We did not see an evidential basis for grading higher than **'Failing'** in this area. Recent role appointments are encouraging and positive, but improvement in this area is considered **Critical**.

b) Application of Value For Money principles



- *Are value for money principles well understood and applied in many spend areas?*
- *Is advice sought from the commercial function on major spend (including the allocation and distribution of grants or funding arrangements / relationships)?*

We did not see an evidential basis for grading higher than **'Failing'** in this area.

While some understanding was demonstrated of value for money principles by some internal stakeholders, we did not see or hear evidence of application to spend areas.

Provider Agreements are often renewed without changes, updates, or consequences of previous performance. Provider spend does not appear to be tracked or adequately managed, in part due to limitations of current systems. All providers expressed issues with adequacy of funding, and inconsistent, conflicting, or onerous funding and budgetary processes between Whaikaha, NASCs, and providers.

We were advised that for NASC allocations, Individualised Funding is not necessarily being spent for needs determined by the NASC or service provider, but rather by what the family decides it needs to purchase. However, the 'guardrails' around funding are viewed as limited, inadequate, and/or unclear, making it difficult to ensure, or even to oversee, whether the public funds provided are used within the purpose of the disability support allocation or represent good public value.

Review Area	Health

c) Financial delegations and controls



- *Do staff understand spend risks and controls, and are levels of responsibility and authority clear and assigned?*
- *Are delegated authority and separation of duties controlled and understood? Are they supported by robust systems e.g. P Cards, Purchase Orders?*

A risk framework is not in place and is currently being developed and introduced. This is discussed further in section 11 (b) Use of risk assessment tools.

We did not see or hear evidence that commercial risks (and risks more generally) are actively and routinely considered, or that risk management and controls are well understood. We were advised of recent issues 'in the field' that may have been prevented through better understanding of procedures and guidelines related to, and management of, risks.

The Delegations Policy provided to us for review is for the Ministry of Social Development, but we note that it contains no references to Whaikaha. It is possible these are contained in the supporting Schedule of Delegations; we requested but did not receive this schedule so were unable to review if it does exist.

However, importantly, there is poor awareness or evidence that delegations are understood and complied with. No internal interviewee was able to clearly articulate what delegations were in place or had knowledge of where current delegation documentation was located.

Our document review and interviews both indicated a lack of existence and/or clarity of good practice controls, and surfaced examples of inadequate separation of duties. In one instance, a memo for approval of extension of multiple contracts with significant total and individual contract value involved one person stated as the author, peer reviewer, consulted, and approver of the memo. The memo however, still needed to go through subsequent submission to Group Manager and Deputy Chief Executive Commissioning, Design and Delivery for approval prior to being sent to the Ministry of Social Development Procurement Board. Alignment to delegations was not clearly described or confirmed.

In our Review we were left unclear how or when MSD approval groups were used, and / or whether they were a fit for purpose channel or vehicle for Whaikaha. We recommend consideration is given to confirmation of Whaikaha specific delegations and establishment of a Whaikaha specific commercial governance group, such as a Procurement Board or similar.

We were advised that the number of escalations (for operational issues and financial approvals) has increased since Whaikaha was established, with a view that numbers of each are now too high to be able to be resolved in a timely fashion. At least in part this may be a result of staff not feeling empowered to make decisions, as well as a symptom of the lack of role clarity.

We understand that an Operational Policy team has been established and recommend that addressing the Delegation Policy (including for approval of expenditure and of committing expenditure through supplier contracts) is prioritised as part of their work programme.

We did not see an evidential basis for grading higher than **'Failing'** in this area. Improvement in this area is considered '**Critical'**.

Review Area	Health

6. Alignment with policy and processes

a) Policy linked to agency strategic plans and Government Principles



- *Does Whaikaha's commercial management policy aligns with current Government procurement principles and policy, including delegated authority, regulations, frameworks and the role of the function.*
- *Is the commercial management policy reviewed at least annually to ensure it is well aligned with current Government procurement principles and policy?*
- *Is the commercial management policy linked with the overall business strategy and approved by the Senior Leadership Team? Does Whaikaha actively contribute to the development of Government procurement and/or commercial management policy and is it well aligned with all current government procurement principles and policy?*

We were advised that a commercial management policy does not exist. As such, there is no evidential basis for grading higher than **'Failing'** in this area.

Whaikaha appears to be early in its maturity journey as a standalone organisation; at foundational level. Interviews indicated there is a sense that there will be a direction, but that has not been clearly seen or felt to date.

Foundational policies, frameworks, and controls that we would expect to see as part of good practice are currently missing (i.e., Schedule of Delegations), outdated (i.e., Procurement Policy), or only now being introduced (i.e., Risk Framework). Where MSD policies have been adopted, interviews suggested that differences in focus and risk appetite between MSD and Whaikaha mean that some MSD policies are not considered to be fit for purpose or right sized for Whaikaha.

Some Standard Operating Procedures (SOPs) do exist but those we sighted had not been recently updated, and still refer to MoH and/or to processes and service specifications that some interviewees indicated are out of date. Views were expressed that where SOPs do exist, they are narrow and do not reflect the interactions or dependencies of other parts of the organisation or external parties.

Some initiatives in progress are encouraging but are too early to provide sufficient evidence to grade this area higher.

We understand that an Operational Policy team has been established and anticipate that the policies described above will be considered as part of their work programme. We recommend that addressing the Delegations Policy (including for approval of expenditure and of committing expenditure through supplier contracts) is prioritised.

b) Communication of commercial management policy within the agency



- *Are commercial management policy requirements well communicated across Whaikaha? Are they adopted and used appropriately across Whaikaha and are consistently applied, including being integrated into business practices?*

As discussed elsewhere, a commercial management policy does not exist. As such, there is no evidential basis for grading higher than **'Failing'** in this area.

Interviews indicate that internal communications suffer similar same challenges as other areas i.e., are sporadic, inconsistent, and/or are contradictory in messaging.

c) External communications to ensure policy remains current and aligned with Government directions



- *Does Whaikaha engage regularly with Government Procurement Functional Lead to ensure that its policies and processes meet current good practice?*
- *Does Whaikaha actively engage with the Government Procurement Functional Lead and contribute to development of policies and processes that meet current good practice and that are consistent with broader government aims?*

We did not see or hear any evidence that suggests there is regular engagement with the Government Procurement Functional Lead (who is responsible for the Government Procurement Rules and Social Service contract templates and tools, including the Outcomes Agreement framework).

We did not see or hear that there is any alternate function (whether internal or independent) that provides a similar advisor or quality assurance role.

As such there is no evidential basis for grading higher than **'Failing'** in this area.

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d) Use of standard Government documentation and templates



- *Are standard Government procurement documentation and templates used, even if often highly modified?*
- *Are standard documentation and templates used with limited modification to meet specific needs (including modified industry standard terms and conditions)?*
- *Does Whaikaha contribute to development and improvement of government / industry standard documentation and templates which are then used consistently and effectively throughout the business?*

We did not see extensive use of Government documentation or templates. Where they are used, we did see that attempts have been made to reduce the range of variants used and to standardise where possible. However, our view is that some templates were not correctly used and require tailoring to be fit for purpose.

Examples include:

- **Outcome Agreements:** Our document review did see evidence that Outcomes Agreement have been used, as is now common with social services procurement and commissioning. While some internal stakeholders considered the current Outcomes Agreements and service specifications fit for purpose, this sentiment was not shared by all, and especially not by providers.

  We were informed by staff and providers in interviews that the agreements are poorly constructed, with outdated services specifications and measures that do not enable meaningful reporting or monitoring of service performance.

  Our review of the documentation concurs with this assessment.

  In at least one instance, the provider's contract includes handwritten notes on the signed version noting that services specification is obsolete and does not describe how they function. Other comments included: "don't have specifics on how to engage"; "specifications can be quite loose"; "not fit for purpose", "totally useless", "woolly"; and "yearning for levers to address quality issues".

  In our view, the templates are being used consistently, but need review and modified to be fit for purpose, right sized, and tailored to include correct specifications and meaningful reporting and monitoring requirements.

- **Business Case:** A Better Business Case template was used to discuss and obtain approval on what to do with contracts due to expire imminently. This is discussed further in the Sourcing section below.

  We consider that this template is not fit for purpose or right sized for reviewing expiring contracts and involves an unnecessary level of administration. The burden across multiple expiring contracts in turn leads to a bundling of contracts with similar expiry dates for expediency but results in over-generalised treatment and absence of meaningful information to enable quality decision making.

Based on the evidence we saw, this area is currently assessed as **'Weak'.**

7. Sourcing and collaboration

a) Strategic approach to sourcing and category management



- *Is a strategic approach to sourcing applied across a range of medium to high value purchases with analysis of key spend areas?*
- *Is category management within Whaikaha well-resourced and are strategic approaches to the market used to drive value for money?*
- *Does Whaikaha use complete and current data on third party spend and demand to drive category management?*

We did not hear or see evidence that a strategic approach to sourcing or category management practices is routinely or consistently applied, nor that a large proportion of Whaikaha's spend is categorised by provider / category with a third party spend map covering all major categories.

We did not see evidence that all third party spend is fully categorised and analysed with a system in place to formally categorise at least 80% of third party spend on a regular basis. at least in part.

Instead, models and mechanisms for recording and monitoring providers' allocated budgets, service pricing and actual costs are based on out-of-date models and payments, and exacerbated by issues with systems that make matching invoices and monitoring of services challenging.

We are advised that actual data and spend with providers is not routinely utilised to inform decision making. We understand that financial reporting data has not been available for over 18 months and that the QLIK systems that previously provided such reporting has been decommissioned.

We also heard that a substantial amount of time is spent resolving operational and payment issues, such as rejected invoices, as well as responding to complaints, escalations and Official Information Act requests (OIAs).

This operational / crisis management activity appears to be detracting from time that would otherwise be able to be spent on considered, proactive and strategic sourcing and category management.

We note there is a process for Portfolio Managers to make recommendations about individual contracts, that is approved by the Group Manager Enabling Good Lives, Commissioning, Design and Delivery, then by Deputy Chief Executive and then by the Ministry of Social Development Procurement Board.

However, it appears that rolling renewal of contracts has become a default method, including a bundling of contracts due to expire within the next three months into one memo (referred to as the Omnibus) for contract renewal.

A common theme in interviews was that there is little contestability or procurement for existing or new services.

Noting that procurement approach and approvals are out of scope for our review, we reviewed one Omnibus memo, and identified significant concerns about the application and content of the document and alignment with good practice, as follows:

- The paper covered multiple (~15) contracts with a total spend of over $30m but with some contracts being very low value and some very high value.
- The services were not similar across contracts, other than having similar expiry dates; we consider that a blanket approach is not appropriate.
- Only 2 options were presented; we consider that one of the options: to tender all contracts, was not reasonably viable in the available timeframe, leaving only a single option that involved renewing all contracts.
- No option was considered to contest one or some of the contracts, or to position any contracts for contestability or improvement within the next term.
- No review of the contract or provider performance was evident and other than one administrative change, no changes to the contracts were made, despite providers and staff each having knowledge that specifications were out of date and reporting and monitoring requirements are not suitable. For clarity, we are clear that the expectations from Whaikaha's management is that each Portfolio Manager reviews a provider's performance against their contract and service specification before recommending a variation and extension to contract; however, this is not consistently occurring.
- There is a high reliance on a specific opt out in the Government Procurement Rules (Rule 12.3(k)) to justify renewal. Even taking into account that many services support people in residential services and/or provide personal care and the need to ensure that services are maintained, our view is that these clauses are being inappropriately extended beyond their intended use. The Rules stipulate that "an agency should still conduct its procurement according to the Principles and other procurement good practice guidance. It should also achieve the best public value over the life of the contract…" Put another way, reliance on the opt out for health services is not a replacement for good practice planning, commissioning, and/or contestability.
- As discussed elsewhere, we have unresolved concerns about overlap of roles and appropriate separation of duties related to writing, reviewing and approving the memo, and related to compliance with delegated authorities.

As discussed above we consider this is not a fit for purpose approach for reviewing an expiring contract, and using the Business Case creates an unnecessary level of administration. The burden across multiple expiring contracts leads to resource pressures and to bundling of contracts for expediency, but also resulted in over-generalised treatment and an absence of meaningful options or information to enable quality decision making.

We saw no evidential basis for grading higher than **'Failing'** in this area.

Review Area	Health

b) Annual Procurement Plans



- *Are Annual Procurement Plans published in line with Government Procurement Rules? Are they developed following consultation with business units and managers, rather than being an exercise run by the procurement team?*
- *Is there strong evidence that published Annual Procurement Plans are reasonably accurate when compared with RFx's actually issued?*

We did not see or hear any evidence that Annual Procurement Plans are produced. As such there is no evidential basis for grading higher than **'Failing'** in this area.

This may be an area to build on, particularly as the Commissioning function is established, noting that MBIE has temporarily designated publishing of Annual Procurement Plans as optional, rather than required.

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c) Early engagement with Providers and the market



- *Does early market engagement occur within Whaikaha?*
- *Is the practice of early market engagement well developed and are there regular discussions with providers to set out requirements early in procurement planning?*
- *Is market data used to make strategic and early approaches to the market in all the categories identified in Whaikaha's strategic plan?*

We did not see, and heard little to no evidence of, early engagement with the market. Based on their being little to no sourcing, early engagement may be considered moot, but providers interviewed advised us that opportunities for providing feedback or review of service specifications are infrequent and/or irregular and that there is typically little to no consultation with them on renewals or variations.

Providers advised us that they often simply receive variation notices that funding or allocations have increased by x%; and there is little to no opportunity for feedback or negotiation on the contract terms, service specifications, opportunities for improvement, or pricing. We note that in some cases, Whaikaha uses national service specifications where price uplifts are applied across service lines using a set process or calculation and no negotiation is required. In these cases variations are required in order to pay providers for uplifts. We were advised that complexity and delays in administration and resolution of contract variations and funding mean that variations can arrive well after the contract has expired or revised services have commenced.

This is currently exposing providers to considerable commercial and financial risk.

We did not see or hear evidential basis for grading higher than **'Failing'** in this area. Improvement in this area is considered '**Critical'**.

We did not see or hear that All of Government contracts were being used. However, based on the list of currently available All of Government contracts, including collaborative, syndicated, or cluster contracts, there are no obvious arrangements that could be used for services in the Group.

There may be opportunities to use these arrangements for Corporate or Departmental Expenditure contracts, but consideration of opportunities was out of scope for this review.

Our document review did see evidence that Outcomes Agreement have been used, as is common with social services procurement and commissioning. However, we were advised by staff and providers that the agreements are poorly constructed, with some advising that services specifications are outdated, and measures are not meaningful and do not enable useful reporting or monitoring of service performance. Our review of the documentation concurs with this assessment.

This is discussed further in the "Use of standard Government documentation and templates" section above.

Based on the evidence we saw, this area is currently assessed as **'Weak'.**

Improving the quality of contracts, services, outcomes and/or service levels, reporting and monitoring are all areas that require improvement.

8. Provider relationship management

a) Provider relationship planning and practice



- *Does Provider Relationship Management occur, and applied routinely and consistently with all providers? Do contract management plans exist for key Providers, with the plans formally approved by the relevant line manager / delegation holder?*
- *Is effective Provider Relationship Management in place that includes senior level staff being actively involved in managing relationships with key providers?*
- *Are plans for critical, high risk, high value supply categories formally reviewed for effectiveness and value for money at least annually, particularly for Significant Services Contracts.*

We heard that provider relationship management planning and practice is not routinely or consistently applied. The need for positive change through good provider relationship management, such as improved outcomes, delivery of improvements, economies of scale opportunities, collaboration, is understood and intended but is difficult to achieve due to a range of constraints.

We heard that Portfolio Managers do seek to build relationships with providers, but it is difficult to be actively involved in anticipating and mitigating business risks in critical and key provider relationships. A substantial amount of time (over 50% of the working week) is being diverted to providing information to providers, resolving operational and payment issues, such as rejected invoices, and to responding to complaints, escalations, and OIAs. Increasingly, roles are more akin to case management or advocacy than commercial management.

Impacts on efficiency are exacerbated by unwieldy processes, lack of clarity in roles and decision-making authorities, and poor access to information or processes.

Review Area	Health

Models and mechanisms for recording and monitoring providers' allocated budgets, service pricing, and actual costs are based on out-of-date models and payments, and fraught with systems issues that make tasks such as matching invoices and monitoring services unnecessarily challenging.

Impacts on efficiency are exacerbated by unwieldy processes, lack of clarity in roles and decision-making authorities, and poor access to information or processes. Models and mechanisms for recording and monitoring providers' allocated budgets, service pricing, and actual costs are based on out-of-date models and payments, and fraught with systems issues that make tasks such as matching invoices and monitoring services unnecessarily challenging.

Discussed further below, we heard that staff cannot access the necessary information and tools to enable good contract management. Examples include provider contracts, variations, provider performance management reports and budget information. This lack of accessibility has led to multiple MS Excel documents stored locally to assist staff in performing work, in turn leading to fragmented information.

Process and guidance information that is online is mostly MSD related, and multiple interviewees considered the information available is not fit for purpose.

We did not see or hear evidence to suggest that positive changes are routinely pursued or made; in fact a number of interviewees suggested that relationships have deteriorated since Whaikaha has been established. No interviewee said that work with providers was conducted proactively.

Interviews indicate there is a continuing lack of clarity within Whaikaha staff about roles and responsibilities of a Relationship Manager and a Portfolio Manager.

Based on the evidence we saw, there is good intent that is being disrupted. We assessed this area as **'Weak'.**

b) Contract Management



- *Is contract management well resourced, effective and integrated with business processes? Are there nominated contract managers in place for most contracts, relationship managers in place for critical key relationships and little or no evidence that any relationships are unnecessarily adversarial in nature?*
- *Is the effectiveness of contract management measured and reviewed regularly by senior management?*
- *Is there regular communication with providers and is coordinated provider feedback gathered and used in the measurement and review of contract management?*

We saw and heard that contract management is understood and intended but is difficult to action due to a range of constraints.

We did not see or hear that there is identifiable regular, systematic, and focussed communication with key providers, nor that there is effective management of dependencies in the contracts that Whaikaha is responsible to deliver and without which the provider cannot do their job.

We did not see that Significant Service Contracts are regularly reviewed at SLT level.

Review Area	Health

Nominated contract managers are in place for most contracts. However, some Portfolio Managers were unaware of the contracts allocated to them to manage and/or expressed that they have not had capacity to get across the contracts they are allocated, due to overlapping roles, duties and priorities. We were advised by staff that there are some providers who effectively have no oversight from Whaikaha.

Contract management plans generally do not exist but are now being developed, which is promising. However, we understand templates were issued to staff with no guidance on how to complete them, what information to include and a deadline that was widely considered unachievable. We note that we did not sight or review Contract Management Plan templates or examples as part of this review.

Contract Management Plans should align with the Procurement and/or Commercial Management Policies, noting the latter does not exist at this time.

Contract advisors do have and maintain a view of upcoming expiring contracts; this list is made visible to other personnel including Portfolio Managers. Feedback on the work undertaken by Contract Advisors was consistently positive. They are recognised as efficient and knowledgeable, and as a source for obtaining accurate information (as far as is possible).

We concur with this assessment but note that a significant level of activity appears to be transactional and reactive. Contract administration is being completed but the quality of contract terms, services specifications and reporting and monitoring requirements appear to be sub-standard.

We observed contract variations that were signed significantly later than the effective date of the variations. Reasons for date discrepancies vary or are not always clear, but multiple interviewees advised variations often take time to get approved, in some cases well beyond the end of the contract term.

Based on the evidence we saw, and there being good intent that is being disrupted, this area is currently assessed as **'Weak'.** Review of processes, responsibilities, and capability building in this area would be beneficial.

c) Provider feedback and resulting actions



- *Are relationships with key providers actively managed? Are providers positive about Whaikaha and respect its commercial and procurement functions? Are Whaikaha's dispute resolution processes and contract exit strategies effective?*
- *Are there effective 360 feedback processes and formal surveys for critical and key providers? Are complaints centrally recorded and documented?.*
- *Does Whaikaha take action in partnership with its providers based on provider feedback? Do key providers consider Whaikaha to be a preferred customer?*

Importantly, providers were unanimous that Whaikaha has good, passionate, staff. They have not encountered anyone that is not working for the right reasons. However, Whaikaha does not take a business-focussed approach to contracting providers and in their view seems to be moving to more of an advocacy organisation.

Providers we spoke with advised that communication to them is irregular, ambiguous, inconsistent, and at times, absent. Issues have to be escalated repeatedly within Whaikaha to get a response, and there is a high frequency of slow or no response, and even slower or no resolution.

Review Area	Health

Staff and providers both indicated that escalation pathways are unclear, and responses are inconsistent such that escalations often result in a reversal of previous decisions.

The three providers interviewed perceive that the lack of communication is a combination of staff not being able to confidently answer or not being authorised or able resolve issues. There is a recurring perception that staff avoid the provider and/or are reluctant to put anything in email / writing.

Surveys of end users are in place, that providers undertake as part of performance reporting. There were mixed views on the relevance and usefulness of the survey questions. However, we are advised that staff and providers are concerned that provider reporting is not used, and perhaps not even being read by Whaikaha.

Whaikaha staff expressed that there is a lack of trust from providers in Whaikaha due to inconsistencies and issues experienced. Concerns were expressed that some providers have been around for a long time, and consider themselves as iconic or irreplaceable, and therefore are difficult to manage.

We did not see or hear sufficient evidence to show that provider complaints are treated as opportunities to drive change or improvement, nor that there is a sufficiently strong process for recording and following up on issues until resolved.

Several interviewees expressed concern that having the Portfolio Managers or similar being responsible for resolving complaints and OIAs is not consistent with good practice separation of duties. We concur with this sentiment.

We did not see any evidential basis for grading higher than **'Failing'** in this area.

d) Working with Providers to deliver good Health and Safety outcomes



- *Is there some effort to influence providers and markets for delivery of good Health and Safety practice?*
- *Are Health and Safety issues included in Whaikaha's objectives for provider relationship management, including all providers being encouraged to implement industry best practice approaches to Health and Safety?*
- *Are there successful outcomes from Whaikaha working in partnership with providers to actively drive Health and Safety standards, including having programmes in place to proactively promote good practice and, where appropriate, accreditation to national / international standards.*

We did not see or hear specific evidence of working with providers to deliver good Health and Safety outcomes in this review, nor evidence of clear relevant policies or SOPs. We were informed of some unsafe practices occurring related to staff visiting a provider with known safety concerns without following proper process; note that this information was provided by Whaikaha leaders who were aware and were managing the specific examples.

Information and requirements related to Health and Safety in the agreements we reviewed is at best high level, and potentially does not meet Whaikaha's obligations under legislation.

We did not see or hear evidential basis for grading higher than **'Failing'** in this area.

Review Area	Health

e) Simplifying business for NGOs and SMEs



- *Do contracting processes simplify business for NGO and SME providers, including use of standard Government and Industry terms and conditions for contracts, deliberately maximised to be easier for providers and providers to do business with Whaikaha?*
- *Have streamlined contracting processes been implemented to simplify business for NGO and SME providers, including having plans for use of standard Government and Industry conditions in contracts with minimum changes to terms and conditions?*

Unfortunately, in this area we saw and heard the opposite of the intention; that processes of contracting and providing services to Whaikaha are overly difficult for both staff and providers.

A recurring theme from interviews was that this has gotten worse since Whaikaha was established, as access to previous systems has changed or being lost, and as new staff have joined but without adequate training, guidance, or role clarity.

Some standard Government templates are used e.g., Outcome Agreements, and attempts have been made to reduce the range of variants used and to standardise where possible.

However, our view is that templates have not correctly been used, or not adequately populated or tailored to enable clear service delivery within well-defined parameters.

The disability sector has had a longstanding expectation that changes in approach are carefully considered, which has increased with the establishment of Whaikaha. This does create some complexity and several initiatives (including at MoH) have been unable to effect change e.g., a single pricing tool for residential services

Providers advise that they have had to employ multiple people specifically to navigate Whaikaha and Te Whatu Ora processes and to resolve recurring and persistent issues as a result. Providers have ongoing exposure to substantial commercial and financial issues.

A particular area of concern relates to issues with the processes and systems associated with provider invoicing and payments. The system requiring specific accurate information before payments can be made; if data on a provider invoice doesn't correlate exactly with the Te Whatu Ora system requirements it was rejected.

This currently results in a high number of rejected invoices and non-payments. Issues appear to be extensive for the three providers we interviewed, relating to access, data integrity, processes between Whaikaha, NASCs, and providers, and are impacted by slow-to-resolve factors such as pay equity claims. Given the range of issues identified elsewhere in this report, we infer that there will be other providers who are experiencing similar issues.

Based on what we saw and heard, this area is **'Failing'**. With the issues and impacts falling on providers, resolution activities are assessed as '**Critical'**.

Review Area	Health

9. Management of people and skills development

a) Workforce strategy and resourcing plans



- *Are resourcing plans in place that they cover the majority of commercial management skills (e.g. contract management, category management, provider relationship management, etc.) and are these aligned with HR policies?*
- *Is an agreed strategy in place for resourcing the commercial management function including plans that cover recruitment, encouraging professional qualifications, succession planning and retention of staff?*
- *Does Whaikaha's workforce strategy articulate the principles of building commercial skills to work with providers and provides and is it implemented so that the skilled staff are deployed to deliver maximum impact / benefit to the organisation?*

We did not request, nor did we sight Human Resource policies. We understand recruitment is undertaken using MSD Human Resource policies and processes.

It is recognised that Whaikaha has had to grow substantially and quickly since transferring from MoH. This has also occurred within the context of major change in the sector and across a change in government. Several critical roles in the leadership team have only been filled in recent months.

Interviews did not indicate that a workforce strategy or resourcing plan exists.

Based on what we saw and heard, this area is currently assessed as **'Weak'**.

b) Resourcing and staff turnover



- *Is staff turnover for commercial / procurement levels acceptable, with few cases of short-term appointments and contractors used to fill long term gaps?*
- *Is the number of qualified and competent staff adequate to meet Whaikaha's commercial management needs? Can Whaikaha mostly attract, retain and develop personnel without regularly having to pay premium salaries? Are key/senior resources deployed effectively on high value/high impact activities?*
- *Is use of external resources, e.g. short-term staff and consultants, minimised and appropriate?*

The subset of position descriptions we reviewed are considered consistent with industry examples and appropriate, albeit they do not include specific key performance indicators.

The breadth of skills required is wide, including but not limited to strategic provider relationship management, category management, contract management and administration, operational service delivery resolution, dealing with OIAs and complaints, analysis, relationship management, contract and financial analysis, and overlap of duties was expressed as an issue or concern by many interviewees.

We understand some staff within the Group regularly and routinely work more than their contracted hours. A common theme was that if Portfolio Managers were able to remove some of the "busy work" (such as complaints and OIAs etc) then they would be able to perform their role within the allocated hours.

Review Area	Health

We were advised that numerous staff have left "due to the chaos". Exit interviews are said to have repeatedly noted the lack of clarity about roles.

Providers expressed that their experience is some Whaikaha staff have a poor understanding of contracts and contracted services. They suspect this is in part due to high numbers of new staff following establishment and regular change in contact points, and in part due to inadequate training and low levels of relevant experience.

A recurring concern expressed in interviews related to the types of skillsets being recruited for in new hires. It was expressed that multiple recent hires have come more from a NASC or case management background, without necessarily having the skill set or experience for contract management.

It is critical staff have clarity on their roles and accountabilities and have the right skillsets to perform the functions to which they are assigned. It may be that some current roles need separation e.g., separating out of OIAs and complaints.

In our view, the lack of clarity around roles and responsibilities, within an environment that has challenging processes and poor access to information, that is also perceived as having consistently changing priorities and direction, has resulted in levels of confusion, lack of confidence and accountability, ultimately and to lack of progress.

Left unchecked, staff turnover might be expected to increase and further impact the quality of Whaikaha commercial management.

We assess this area as **'Weak';** resolution activities are considered '**Critical'**.

c) Training and skills development



- *Does Whaikaha induction training for all staff relevant commercial and procurement obligations and practices, including set expectations for managing providers and contracts? Is a strategy for developing procurement staff skills in place implemented?*
- *Do capability development plans exist for developing commercial management skills and practices for staff who manage contracts, grants and provider relationships? Do procurement and commercial specialists involved in managing contracts and/or providers and/or providing advice to business units regularly (e.g annually) undertake some training or refresher training?*
- *Is there a validation process to confirm that staff who manage contracts and provider relationships process the necessary skills to do so in a competent manner? Does strong evidence exist that more than 60% of staff involved in managing contracts, providers and providers have attended formal training or refresher training related to commercial skill sets in the last two years?*

Induction: Staff indicated there is wide variability in induction processes for internal staff. Some staff received no induction but were supported alongside other staff members; others were orientated in machinery of government and fundamentals of public service. Much of induction was online and most is MSD related. We did not hear that induction provides Whaikaha- or commercial management specific content.

Staff commented that it would be useful to have a handbook and online equivalent with resources, so staff can refresh themselves once settled into role.

Review Area	Health

Allocation of contracts: We were initially advised by the Regional Managers that contract allocation to Portfolio Managers is predominantly geographically / regionally driven. However, it quickly became apparent that some Portfolio Managers also have responsibility for national contracts, or accountability for regions within a national contract and/or act as Subject Matter Experts for specific service areas as well. Other exceptions to geographic proximity also became apparent.

Portfolio Managers indicated they were not clear how contract allocation is determined by the leadership team. Some surmised that the leadership team looked at the skill sets of Portfolio Managers, who had pre-existing relationships etc. as well as caseloads / capacity. Some Portfolio Managers expressed concern that there was no proper consultation, process, or transparency of allocation process.

To us, the allocation process appears to be more informal and conducted on an as required basis. We did not see or hear there is a defined process for allocation that considers other factors such as the number, value, complexity, or risk of contracts. We did observe that some interviewees described different allocations and levels of workload, but we cannot make a definitive assessment on whether this is perceived or actual.

Staff Development Plans: No staff development plans were sighted as part of this review. It is not clear whether they exist and if so, whether they are used as a tool for supporting and shaping staff. No mention of ongoing development or training was mentioned in interviews.

Competency: Completion of individual competency assessments was out of scope of our review. However, we did generally observe that some Portfolio Managers appeared to lack understanding or clarity of their role and contract management more broadly, whilst others had understanding and were doing their best in the constraints of their workload and the system.

As discussed elsewhere in this report, there does appear to be a large and significant overlap in duties. We understand Portfolio Managers are approving funding, which we also understand should actually be the role of NASCs.

Portfolio Managers are also allocated the role of subject matter experts, participants in project work, answering questions from Whaikaha's contact centre, issue management (especially with respect to sorting provider invoicing rejections) and OIA requests.

Some Portfolio Managers estimated they can only allocate about 30 – 50% of their time in managing providers / contracts. Our observation was that the activities they described still sounded predominantly tactical and reactive rather than strategic or proactive.

Based on what we saw and heard, this area is currently assessed as **'Failing'**.

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d) Use of external contractors

N/A

- *Is there minimal reliance on use of external resources i.e. short-term staff or contractors, to fill key commercial / procurement advisory roles across Whaikaha?*
- *Are the majority of procurement and commercial contractors and consultants retained through All of Government contract arrangements? Have credentials or experience been validated?*

We were not provided with information regarding external contractors. Therefore, we do not currently have a basis on which to make an assessment.

Review Area	Health

10. Knowledge and performance management

a) Delivery of value for money, savings and benefits



- *Is the commercial function responsible (or at least partly responsible) for delivering objectives related to Whaikaha's key performance targets e.g. service delivery, value for money or savings?*
- *Are systems used to track, measure and control delivery of target benefits, as well as providing cost and market guidance for business planning processes?*

We did not see or hear any notable evidence of delivering objectives related to, or monitoring of value for money, savings or benefits. Instead interviews and documents reviewed indicate that transactional contract administration is undertaken, including payment for services provided along with reactive issue resolution, but there is little evidence of proactive monitoring, accountability for poor performance, or focus on continuous improvement.

We consider that this is due to a range of factors including:

- The structuring of services, reporting and monitoring under the Outcomes Agreements, do not include clearly measurable service levels or targets.
- Policies, procedures, service specifications are largely out of date.
- Systems and systems access is not configured to track and monitor.
- Provider relationship management, contract management and assurance processes is being constrained as other activities distract and dilute Portfolio Managers' capacity.

We note that Whaikaha has been paying some providers without the provider's reports being reviewed, and without performance and/or non-delivery issues being addressed; we do not believe this is fiscally responsible and should be discontinued.

We did not see or hear any evidential basis for grading this area higher than **'Failing'**.

b) Performance management and reporting



- *Is commercial management performance measured, with discussion on an exception basis? Is management information of acceptable quality and easily available, and have performance improvements been delivered?*
- *Is commercial performance measured, regularly discussed and acted upon at a senior level using suitable management information, and key performance indicators? Is management information of sound quality and routinely provided to management? Are continuous performance improvements delivered?*
- *Does a robust commercial performance management framework exist and does the commercial function have clear delegated responsibility for reporting on performance issues? Is performance and management information used to deliver positive business results and demonstrate a return on investment in the commercial function.*
- *Is knowledge management actively applied to improve staff and functional performance and knowledge within the agency and across the wider sector network.*

Review Area	Health

Numerous internal interviewees described reporting as being largely unhelpful.

We were advised that the reporting format has been the same for 10+ years, is not fit for purpose, and does not elicit meaningful or useful information. It remains difficult to demonstrate value for money.

Provider Performance Reports are considered too basic for what are complex contracts and measure the wrong information, which has led providers to become blasé about reporting (in some cases, they have stopped reporting at all). Information provided is considered incomplete and irrelevant, and not consistently responded to by Portfolio Managers. It was reported that many providers are not being held accountable.

Provider reports go to the monitoring / operations team. The Administration team are in the process of uploading reports into SharePoint to make them more accessible.

We understand that reports are not routinely seen or reviewed by the Portfolio Managers, and information or corrections often have to be requested from providers.

The providers interviewed stated that they also consider current reporting as a "waste of time". Their collective experience is that nothing is done with the information provided, and no feedback is received where performance reports are submitted.

Audit reports are expected to be used to assess whether provider is meeting their contractual obligations. Concerns were also expressed that the information sought in audits is not fit for purpose for managing contracts.

There appear to be few instances where providers have been held accountable for poor performance. It is said to be very rare for a provider to be issued a performance/breach notice, or have a contract terminated.

This area gets to the heart of good practice commercial management.

Based on what we saw and heard, we have no evidential basis for grading higher than **'Failing'** in this area.

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c) Knowledge management and sharing expertise



- *Are knowledge, understanding and lessons learned sometimes shared across Whaikaha to raise awareness and drive improvements?*
- *Are there regular examples of knowledge management and educational events with supporting documentation to evidence implementation of good commercial practice within Whaikaha and across its wider network?*
- *Is Whaikaha seen by others as an exemplar and as regularly sharing its expertise through cross government, national and international networks and events?*

We did not see or hear any evidence, or knowledge of, repositories of lessons learned, guidance, or knowledge management. No examples of educational events or similar development opportunities were mentioned in interviews.

In almost all cases, reference documentation has not been updated since Whaikaha has been established and is either drawn from MSD or Ministry of Health documents. As discussed elsewhere in this report, feedback on these documents has been that they are not relevant, not fit for purpose, and/or are out of date.

Based on what we saw and heard, we have no evidential basis for grading higher than **'Failing'** in this area.

Review Area	Health

11. Use of technology processes and tools

a) Use of procurement tools and techniques



- *Is there some application of relevant and appropriate commercial tools and techniques to third party spend? Do most staff know where to find advice and usage guidance about commercial methods approved for use in Whaikaha?*
- *Are relevant and appropriate commercial tools and techniques routinely applied to third party spend across Whaikaha? (e.g. provider positioning, category management disciplines, e-sourcing and e-procurement, etc.)*
- *Are standardised commercial methodologies and best practice advice used in day-to-day service delivery across the whole organisation? Have Whaikaha's commercial processes and procedures been assured independently and accredited to a recognised standard?*

There are critical operational and commercial risks in this area, that continue to escalate and require urgent attention. Based on what we saw and heard, this area is graded **'Failing'**; resolution activities are considered '**Critical'**.

A contract management system exists in Te Whatu Ora for generating and maintaining Whaikaha agreements. However, as Whaikaha was established, migration was completed as a 'lift and shift' only; access to contract management and payments systems has deteriorated.

A small number of Whaikaha staff, primarily Contract Advisors and the Monitoring and Analysis team, still have access to the system as they still have a health identity i.e., a health email account. However most (if not all) Portfolio Managers cannot directly access the system to view the agreements they are responsible for managing, or to view any information related to the agreements and transactions under them. Portfolio Managers have to request information from the Contract Advisors. Aside from being inefficient, this is constraining Portfolio Managers and unnecessarily adding a burden to Contract Advisors.

A provider contracts list is supplied monthly by email to Portfolio Managers by the Monitoring and Analysis team in an Excel format. This file details all contracts, Portfolio Managers, and the service lines within each contract. Some Portfolio Managers were not aware this existed, and it is not clear to what extent it is used by the Portfolio Managers and for what purpose.

Te Whatu Ora's Sector Operations provide support services for agreement generation and invoicing / payment processes. We understand a shared services agreement is agreed at a conceptual level but has not been fully operationalised. We understand Sector Operations cover a large volume of transactions; the vast majority of services are delivered on time.

All parties indicated that work needs to be done to better map Whaikaha's requirements and to define and refine both processes and systems.

Sentiment from Whaikaha staff was that they feel like a 'poor cousin' with its requirements and needs put behind those of Te Whatu Ora or other sub-agencies. For example, when changes are made to Te Whatu Ora systems, Whaikaha are not always informed of changes and the likely impact, and systems are seriously affected when changes are rolled out. It was also noted that despite Government reporting requirements there is a lack of visibility of Kaupapa Māori providers from this information.

Several interviewees suggested Whaikaha should just go and buy its own system off the shelf.

We do not support this view at this time as it would require Whaikaha to have clarity defined business processes and data integrity over its current information. It is clear there is complexity in the contracts and services models that will take time and investment to complete, plus this would effectively cut Whaikaha off from legacy data.

Te Whatu Ora's Sector Operations have suggested that establishing / re-establishing access to systems could potentially be fairly straightforward to resolve, e.g,, by providing digital certificates for applicable staff. While prior systems are not perfect, regaining appropriate access should alleviate some immediate issues. We recommend exploring this as an interim, urgent course of action.

Providers suggested that access to information should be established between the various parties using secure portals, stating that organisations should be sharing information and systems, not duplicating or acting in a vacuum.

Two projects underway in Te Whatu Ora may offer pathways to significantly improved services: Health Sector Agreements and Payments (HSAAP) and Finance Procurement Information Management (FPIM). Both projects are currently behind on delivery dates.

By regaining access to existing systems, Whaikaha could create a window for it to define its processes and requirements and to more robustly assess whether HSAAP and/or FPIM meet its requirement.

In the meantime, we recommend that Whaikaha continues its representation on Te Whatu Ora's governance groups, becoming increasingly vocal and, if and when appropriate, can confirm the desired option.

b) Use of Risk Management tools

- *Is there a risk management framework and are good practice risk management processes used in commercial activity?*
- *Is a contracts database actively in use and up to date to provide a record of all contracts in place across Whaikaha?*
- *For high risk commercial arrangements, is there strong evidence of good risk management practice?*
- *Are well-defined and well-used risk management processes in place that identify and manage commercial and procurement risks? Do all staff involved in managing contracts understand risk management and use clear guidance and tools to select the best approach to commercial management through the provider lifecycle.*

A Risk Manager started in January 2024. Part of their role is to look at Whaikaha's strategic and operational risks, how these will be managed, and how to apply risk-based thinking to contracting. The approach described is consistent with good practice and we believe is encouraging and positive.

In the meantime, we did not see or hear evidence that a risk register is maintained or that regular review of commercial risks is conducted, whether per individual contract, or at a category or enterprise-wide level.

Where risks were raised, our view is that significant risks have not been identified or are not being addressed with requisite urgency. We suspect that because issues have been longstanding, this may have led to some 'numbing' of reality or relativity of risk.

Review Area	Health

Key risks / issues include (but are not limited to):

- Safety of staff visiting providers without following proper process.
- Outcome Agreements include obligations for timely payment by Whaikaha, and providers have pathways to recover any financial losses or additional services provided not covered by the agreement, that suffered are as a direct result of non-timely payment.
- Head Agreements allows for providers to charge interest on late payments. While we understand this has not been enacted by providers, they have the right to do so.
- We understand that payments have been made to providers without executed agreements in place, referred to as Payment in Draft. We have not looked into this in detail but aside from being poor practice we are concerned there may be breaches of the Government Procurement Rules or of legislation e.g., Public Finance Act.
- Suppliers are knowingly being paid without accountability for poor performance.
- Contracts are being renewed without contestability or accountability for performance.
- Breach of delegations and appropriate separation of duties. Noting also that the MSD Delegations Policy, if it is applicable (and noting that it does not reference Whaikaha), provides for personal (individual) liability for breaches of delegations.

We did not see an evidential basis for grading higher than **'Failing'** in this area. Making improvements in this area is considered '**Critical'**. Recent appointments and work underway is encouraging and positive, but it is too early to confirm progress or traction.

c) e-Procurement, advertising of supply opportunities and receipt of provider proposals



- *Are opportunities for third party spend on goods and services over $100,000 advertised on GETS; are all exceptions to open advertising rules documented?*
- *Is a reasonable level of third party spend on goods and services sourced via a system / process that allows for electronic receipt of provider proposals (RFx's)?*

We saw and heard no evidence of competitive procurement processes being undertaken. Interviews consistently advised there is little to no contestability.

A process does exist for renewal of contracts that appears to predominantly use the 'Omnibus" document. As discussed elsewhere in this report there is a high reliance, inappropriately in our assessment, on Government Procurement Rule 12.3(k) to opt-out of using competitive processes because the services being procured are health services.

We believe this materially overreaches the intent of the rule and ignores other requirements to otherwise act in accordance with the Rules and the Government Procurement Principles. This is not a blanket excuse for avoiding all procurement. Further commentary on the Omnibus can be found in Appendix C: Artefacts reviewed.

We saw and heard that this has become a recurring process with rolling exemptions and almost no contestability or changes to contract or service specifications. This was validated in our review of the example contracts provided.

Variations per contract reviewed were numerous (up to 12 variations) but contain limited contextual information, causing potential confusion for internal and external stakeholders.

Annual rate increases, pay equity uplifts are not timely, which leads to additional variations causing difficulty in tracking and rate reconciliation.

Review Area	Health

Poor practice has seen variations being sent out after the start date of agreement. Anecdotally we have also been informed that Whaikaha has approved to pay providers before contract is executed by both parties (pay in draft).

It is not clear whether contract award notices are being published on GETS (including for contract extensions).

We did not see evidential basis for currently assessing this area higher than **'Failing'**. It will be a core area for consideration by the Director Commissioning and we hope to see substantial change in this area as planning and performance monitoring improve.

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d) Provider payment systems and processes



- *Are Procure-to-Pay systems efficient and pay providers within the agreed payment terms?*
- *Are Procure-to-Pay systems are efficient, complete and accurate, with payments to providers that are very seldom delayed beyond standard payment terms?*
- *Has Whaikaha used effective Procure-to-Pay and / or ERP processes to significantly reduce the volume of invoices processed?*

This area is currently assessed as **'Failing'** as there are critical operational and commercial risks related to significant, ongoing, and increasing issues with invoice matching and payments. Improvements in this area are considered '**Critical'**.

Invoicing and payment systems were universally described as not fit for purpose, inflexible, complicated, and confusing. This is resulting in a large number of invoice rejections and delayed payments to providers.

The system requiring specific accurate information before payments can be made; if data on a provider invoice doesn't correlate exactly with the Te Whatu Ora system requirements it was rejected.

Issues appear to be extensive, relating to access, data integrity, processes between Whaikaha, NASCs and providers, and are impacted by slow-to-resolve factors such as pay equity claims.

We are advised that communications when and why invoices are rejected is not consistent or helpful, and that issues raised can go for long times without response or no response. Interviews indicated that the issues are indicative of broken systems and processes and information getting out of alignment.

Our view is that providers are being unfairly and unreasonably caught up in system issues and some have substantial amounts due in arrears due to non-payment by Whaikaha. Some providers have increased administration FTE to manage invoicing issues, increasing administrative costs. These ongoing issues represent a material issue with significant commercial and financial risk for service providers that is also a risk to Whaikaha if the providers' businesses fail.

As outlined in the Risks section above:

- Current Head Agreement terms and conditions allow for providers to charge interest on late payments. While we understand this has not been enacted by providers, they have the right to do so.
- Outcome Agreements include obligations for timely payment by Whaikaha, and providers have pathways to recover any financial losses or additional services provided not covered by the agreement, that suffered are as a direct result of non-timely payment.

Review Area	Health
e) Electronic procurement transaction systems and processes • *Have electronic transactional processes and routes been used to good effect to purchase goods e.g. P-cards or purchase orders for low value, standard purchases?* Information not requested nor provided so unable to assess.	N/A
f) Control and monitoring of non-compliant spend • *Is non-compliant spend controlled and monitored, with actions taken to reduce?* • *Are Whaikaha's procurement, commercial and financial policies followed by all staff involved and are staff trained on the systems and positive audit reports?* As discussed elsewhere, a commercial management policy does not exist. Procurement policy is ex MSD and not considered fit for purpose for Whaikaha. No other financial Policy was provided nor seen in our review. Issues related to the Delegations Policy and schedule (or absence thereof), of observed issues related to separation of duties, and to recommendation and approval of payments or contract variations are discussed elsewhere in this report. We did not see or hear evidence that there are adequate controls or reporting around expenditure and/or performance. We did not see or hear any evidential basis for grading higher than **'Failing'** in this area. Improvements in this area are considered '**Critical'**.	

Appendix C: Artefacts reviewed

We have reviewed the following documentation:

Organisational information

Artefact	Comment
Whaikaha / MSD Statement of Intent https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/corporate/statement-of-intent/2022/what-we-want-to-achieve/whaikaha-ministry-of-disabled-people.html	"Whaikaha has three key functions during the initial stages of its establishment and consolidation: • Ensuring continuity of support for disabled people, tangata whaikaha Māori and whānau while furthering the work on the transformation of disability support services • Facilitating leadership and stewardship of disability issues across government • Maintaining the trust and confidence of disabled people, tangata whaikaha Māori and whānau. In undertaking these functions, Whaikaha will work in partnership with disabled people, tangata whaikaha Māori and whānau. " "Whaikaha will combine a significant service delivery responsibility with the stewardship role of a population Ministry. Whaikaha cannot and should not assume responsibility for disability supports, services and policies that are the responsibilities of other public sector agencies. Its role is to support other government agencies to hear and respond to the needs and perspectives of disabled people, tangata whaikaha Māori and whānau in their work and to provide strategic leadership and co-ordination across government." "MSD's Statement of Intent 2022 – 2026 provides a broad base for Whaikaha to begin to deliver on the goal of disabled people's full participation and inclusion across multiple facets of their lives. The Government recognises Whaikaha will need to develop objectives and performance measures across broad areas of wellbeing and government priorities which are valued by disabled people, tangata whaikaha Māori and whānau. The first 18 months of operation will enable Whaikaha to engage in partnership with disabled people, tangata whaikaha Māori and whānau on its strategic path and on the development of measures of progress with relevant agencies."

Artefact	Comment
Whaikaha website	"…established to work in partnership with the disability community, Māori and Government for a better, more independent future for disabled people and whānau in Aotearoa New Zealand." "The Government designed Whaikaha to do things differently than other ministries. We will partner with the disabled community and Māori and together, guide how we do things and how we operate. Our responsibility in this partnership is to listen to the voice of the disabled community and learn from the process of working together." Strong focus on partnership with and inclusion of disabled people. Initial partnership groups listed. Note pages on journey and whakapapa not updated since 2021. "The purpose of the Commissioning, Delivery and Design group is to: • Continue to support disabled people to live at home and in the community by responding to their prioritised needs through centrally designed services; • Transform how supports are commissioned and provided to disabled people and their whānau so they can live the lives they want. Within Commissioning Design and Delivery are the three Enabling Good Lives sites, Waikato, Mana Whaikaha and Christchurch."
Financial Delegations, Ministry of Social Development	6. DA specific to the delegate, promulgated in writing. 7. Actions without DA may lead to disciplinary action or personal liability. 21. Must have undergone financial delegation training. 25. May not lend money to any party. 28. Multi-year contracts over $100k that are not NDE (or Employment and Work Readiness Assistance Programme) need sign off from MSD CE, DCE or CFO. 29. Contracts over $100k must comply with Government Procurement Rules, and follow the Ministry's Procurement Policy and Commercial Procurement Role Statement [noted: not sighted]. Procurement Board must endorse any opt out or exemptions over $100k. Important: there is no reference to Whaikaha in the delegations. However, assuming equivalency, limits typically topping out at $1m or $2m (Client Service Delivery Manager has $10m). Delegations register not sighted. Unclear who is being assigned DA or by who.

Artefact	Comment
How disability support services are purchased by the Ministry of Health and District Health Board and what performance measures are included in those contracts. Date unknown (estimated as 2016 based on references in document) *Database number: 20160611*	Document ex Disability Support Services, in Service Commissioning unit, Ministry of Health. Providing services for ~32,000 disable people; funds equipment, housing modifications and vehicle modifications for 80,000 disabled people. 1400 contracts across 950 providers (including 300 optometrists for contact lenses). Para 5-8 set out context for purchase of services etc under Procurement Rules, with reference to outcome agreements for terms of 5+4 years. Some basic performance measures set out in Appendices, based on how much, how well and whether service user is better off. Performance said to be monitored by DSS Audit and Evaluation Programme. Unclear who provides this now. Service providers to report six monthly, first reports due June 2016. Consumer forums said to be held six-monthly. Unclear whether these are still occurring or with whom. Disabled representation on evaluation panels.

Commissioning, Design and Delivery Group information

Artefact	Comment
Position Description – Programme Manager, Whaikaha, September 2023	Covers the relevant sections expected, including context, role responsibilities, interactions, delegations. Potentially missing key result areas or measures of success.
20230817 OMNIBUS July-Dec 2023	Using procurement rule 12.3(k), exempts 15 contracts valued at $30.15m from procurement. Extends all but one of the contracts without change. Not clear that signatories have financial authority to approve; endorsement page says will go via Procurement Board once OLAF has signed but not included in recommendations and no place for signature. Have not sighted outcome from OLAF or Procurement Board. 38. Contracts range from $100,000 to over $15m. Latter (for NIDCA) notes contract will end but funding will continue, but without further explanation.

Artefact	Comment
	The value of contracts only covers the periods of extension and not Whole of Life contract costs. Unclear why some contracts are referred to by name e.g., Te Ao Marama, and others by service, e.g. Audit and Evaluation. We understand this is regular process with rolling exemptions and almost no changes to contract or service specifications. This is consistent with our review of the example contracts provided. If this is correct, this dramatically overreaches intent of Procurement Rules exemption. This is not a blanket exemption to avoid all procurement. Unclear why Better Business Case is used. Would appear excessively onerous level of administration for the volume of contracts that are only contracted for short periods of time. Options assessment is binary; Extend all, or Tender all. A logical third option should have been to re-tender (or similar process) some contracts or at least position for retendering. Risks assessment is light and does not draw out many of the risks highlighted in this review, including those related to service specifications, funding, reporting and partnering behaviours. Note Viv Ruth is Responsible, Peer Reviewer, Consulted and Accountable. Not consistent with RACI models.

Correspondence

Artefact	Comment
2024-02-12 Letter to Viv Ruth at Whaikaha, from Spectrum Foundation	Documents Spectrum Foundation's ongoing issues and concerns related to rejection of invoices and substantial payment arrears, also flagging that progress is being made but is slow. Issues identified relate to system issues, inconsistencies and complexity related to delayed and overlapping variations. Administration burdens remain higher than desirable or necessary.

Example agreements

Artefact	Comment
Agreement with Compensation Advisory Services for Needs Assessment and Service Coordination, dated 16 July 2018 Variation 01, dated 2 September 2019 Variation 02, dated 24 February 2022 Variation 03, dated 22 June 2021 Variation 04, dated 9 December 2021 Variation 05, dated 7 June 2022 Variation 06, dated 19 May 2023	Covering page includes handwritten note that the contract is "signed with the understanding the contract specifications are not correct." It is not made clear what is not correct. Two service schedules end 30 June 2021. Rights to extend to 30 June 2023 contained in Section 2. Variation 01 varies price of service. Not clear why. No apparent change in service specs. Variation 02 varies price and extends term to 30 June 2023, effective 1 July 2021. New Schedule B outlines changes. Variation 03 appends services, effective from May 2021 (unclear how aligns with Variation 02 date). Variation 04 varies price. Not clear how aligned with 02 and 03. Variation 05 appends services, effective from 1 April 2022, through to 30 June 2023. Unclear how aligned to previous variations but in A2 does refer to an ended Agreement in 30 June 2021. Variation 6 and extends/varies the term to 1 January 2023 to 30 June 2025, and varies price. Not clear how aligned to previous variations. Not clear Agreement is current or has been varied beyond 30 June 2021. Not clear whether service specifications have been corrected. A5 Payments; confusing re eligibility to claim payments unless a DIAS. Interest may be charged if Whaikaha does not pay within three days of agreed payment date, assuming agreement signed by both parties. A20 Variations: Both parties are obliged to identify and quantify the impact of variation events, and to seek to agree in good faith, service reconfiguration or adjustment to costs. A23 We may remedy your failure: Provides the right to step in. If overused may blur the line between contract management and stepping into case management, and subsequently blur role regulatory and assurance (quality / complaints) functions. Agreement includes: • Levers for withholding payment based on poor performance. • Rights to audit.

Artefact	Comment
	• Obligations on record keeping. • Termination rights including for material breach, or without cause on 12 weeks notice. Note: • Frequency of scheduled audits left open. • Insurance obligations left open. • Complaints procedures refer to Health and Disability Commissioners Code. • Both parties continue to have obligations to provide service (provider) or to pay for continued services (Whaikaha) after termination of the contract. • Silent on liability parameters. • Section C: Information and Reporting Standards includes process and frequency of reporting. Reporting is defined in Service Schedule. Part 2: Service Schedules • Contains price and payment schedule. • Includes continued funding for an FTE to support implementation of EGL. Amount not specified. Not clear whether specific progress reporting is necessary or provided. • Service specifications still refer to Disability Services Directorate. Reference indicates Service Specifications last updated in 2007. • NASC responsible for monitoring service delivery and support services, and report quarterly to the Ministry (assume now Whaikaha). • Issues are to NASC, First escalation is to NASC Level 2, then to Ministry. • Service levels for assessment are defined. • Ongoing survey / monitoring is required but stipulated by principle not question. Not clear where surveys go to. • Quarterly reports are largely narrative based and leave much room for interpretation by providers.

Artefact	Comment
	Appendix 1: Budget management is prescriptive but not clear how monitored. Appendix 2: Payment and Healthpac processes is prescriptive and contains quality standards but not clear how monitored. Appendix 3: Discretionary funding: Agreement required from Whaikaha for services over $1000, ongoing for more than 12 months, or subcontracts over $10,000. Appendix 4: Individualised Funding: Struck out with handwritten note: “So far out of date this needs to be deleted.”
Manawanui Head Agreement, dated 16 December 2013 Manawanui Deed of Novation, dated 19 March 2019 Variation 01, dated 21 July 2020 Variation 02, dated 10 March 2021 Variation 03, dated 16 July 2021 Variation 04, dated 6 September 2021 Variation 05, dated 15 June 2023	Same Head Agreement with same commercial risk profile as above for Compensation Advisory Services Novation effective 1 April 2019 moves agreements from Manawanui in Charge Limited to Manawanui Support Limited, with date of 6 agreement signing spanning the ranging from 6 December 2013 (initial agreement) to 1 July 2018 (variation 05). Agreements based on Enabling Good Lives Purchasing Guidelines, draft of 4 October 2013 Variation 01 signed on 21 July 2020 (agreement had expired) and extends term of novated agreement (ignoring that 5 variations had preceded it under pre-novated contract) from 1 July 2020 through to 30 June 2021. Variation 02 appends a service beginning 29 April 2019 and ending 30 June 2021, despite date of variation being 10 March 2021 (23 months into service). Unclear why signing was delayed. Variation 03 extends the term, beginning 1 July 2021 and ending 30 June 2025. No change to price. Variation 04 varies the price beginning 1 July 2020, despite date of agreement being 6 September 2021. Unclear why signing was delayed. Variation 05 varies the price and appends a service, beginning 1 July 2021, despite date of signing being 15 June 2023. Unclear why signing was delayed.
Outcome Agreement with VisionWest Community Trust, dated 23 October 2015 Variation 01, dated 1 March 2016	Starts 1 November 2015, expires 31 October 2020. Renewal right for further four years. Based on Streamlined Contracting Framework. Buyer may visit provider a minimum of once per year. Otherwise, six monthly reporting. Payment reporting requirements are set out.

Artefact	Comment
	There are requirements for some high-level obligations for both parties but providers are relatively generic. Ministry obligations mainly relate to timely payment and bear some risk. “if the Purchasing Agency fails to pay that [an] invoice within the timeframe specified… the provider can request a Remedy Plan… [which]… can record any financial loss suffered by the provider as a direct result of the … failure to pay on time and will inform good faith discussion about how to compensate the Supplier for those financial losses.” Incentives – blank. Clear clauses around process for variation, renewal (including intent to tender). Reporting required includes some volumetric and some narrative reporting. Variations not reviewed in detail. Variation 1 provides for travel payments. Variation 12 renews the agreement to 31 October 2025 and updates the term and price. Note: No extensions remain. Notice needs to be provided by 31 April 2025 on intention to renew or end.
Outcome Agreement with Age Care Central Limited Variation 8, dated 13 September 2023	Starts 1 September 2016, expires 31 August 2021. Renewal right for further four years. Based on Streamlined Contracting Framework. Includes provision for Buyer Created Tax Invoices, provisions to recoup payments for additional services provided that are not covered by the agreement. Otherwise, similar profile to Outcome Agreement above. Variation 8 renews the agreement to 31 August 2025 and updates the term and price. Note: No extensions remain. Notice to be provided by 28 February 2025 on intent to renew or end.
Your Way Kia Roha Report Dec 2023 Quarter	Note quarterly reporting required, where other contracts require reporting six monthly. Not clear why different. A number of sections indicate no action, including no consumer surveys. Unclear whether complaint level is acceptable or trending up or down.

Artefact	Comment
Your Way Kia Roha Quality file review report: July to September 2023 – Connections Reassessments	Routine audit of reassessments. Audit notes 29 missing file notes out of the 155 files audited and inconsistencies of practice. Report states it was challenging to determine the cause of the overdue reassessment workflow. Unclear whether audit acceptable or trending up or down.
Your Way Kia Roha Quality file review report: August to October 2023 – Maintain and Sustain Review	Routine audit for Connections and Funding Team's Maintain and Sustain (Reviews) stage. Audit notes out of the 176 files audited, there are 56 file notes missing across Aotearoa. It also notes one geographical area where file reviews were conducted without any file notes. Report states issues with differing access to Socrates for differing personal, causing differing information being sent to whānau. Unclear whether audit acceptable or trending up or down.
Your Way Kia Roha Connections and Funding - Survey Results (Dec 2023)	241 disabled people and their family were invited to participate. 49 people completed the survey. Unclear whether survey results are acceptable or trending up or down.
Life Unlimited Lower Hutt Service Coordination Timeliness Report 31 Dec 2023	KPI workbook on Timeliness of Needs Assessment. Provides indication of whether provider is meeting KPIs, and trends over the last six months. 3 of the 5 KPIs are not being met, and trends indicate that this has been occurring for at least the last four months. Also provides an indication of annual funding of current supports and estimated annual additional costs. As at Dec 2023, this provider was forecasting to be $40,000 over budget. Unsure whether this is being managed, or how this will be mitigated. Unsure whether KPIs set by Whaikaha or provider.

More information

To find out more about Link Consulting Group
please contact Jason Stace
P 021 933 354
E jason@linkconsulting.nz

