Response from the North East Social Enterprise Partnership to the Green Paper 'Modernising Commissioning: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery'

General comments

The sector as a whole is uncomfortable that Civil Society Organisations (CSOs) are being viewed as the 'Cinderella sector' as their overheads and running costs are traditionally much lower than private companies, and that encouraging CSOs to tender for public service delivery contracts is simply a means to deliver services more cheaply than existing delivery models. Additionally, members have expressed concern that the measures in this Green Paper will not necessarily increase the numbers of CSOs winning public service delivery contracts but may lead instead to greater numbers of contracts being won by large scale, well established CSOs.

CSOs are generally welcoming of the opportunity to become more involved in service design, but there are concerns regarding the availability of resources to allow them to do this. Historically, involvement in service design has been very resource intensive, and many CSOs find that this is burdensome.

NESEP members have also expressed concern that the Big Society Bank may not provide the means to allow smaller organisations to become contracting organisations. Members would like to see the Big Society Bank provide finance on a grant/loan basis to support the start-up of contracts and to share risk, and to ensure that its processes are streamlined and efficient to allow for the tight timescales often faced by CSOs.

Consultation Questions

1) In which areas public service areas could Government create new opportunities for civil society organisations to deliver?

The Government could create opportunities in the following areas:

- Social care
- Healthy living
- Childcare
- Leisure

In the North East we have a number of social enterprises already demonstrating considerable success in these fields, which could be used as 'role models' to encourage other budding social enterprises and social entrepreneurs.

2) How could Government make existing public service markets more accessible to civil society organisations?

There are a number of barriers in place which impede the involvement of civil society organisations in public service delivery.

PPQ

It is a common experience of CSOs that they are eliminated at PPQ stage as the financial risk assessments used are not appropriate either to the size of the contract, to charities, who are not required to keep high levels of reserves, or to start up enterprises. Additional concerns regarding financial barriers were voiced regarding payment by results, which a number of small and medium CSOs felt potentially

excluded them from public service markets due to the high level of financial risk posed.

Experience in the North East has also shown that the use of a standardised PPQ actually made public sector contracts less accessible to CSOs as it is substantially longer than the individual local authority PPQs, and thus more resource intensive and onerous to complete.

TUPE

TUPE forms another significant barrier to CSOs, and was raised as a significant concern by a number of NESEP members. In a number of recent cases in the North East the TUPE requirement has exceeded that of the EU directive, which constitutes a huge barrier to CSOs, many of whom do not have the resources to take on TUPE obligations. This becomes a particular issue with regard to the externalisation of services, where CSOs may be required to take on the liabilities of employment contract terms which way exceed those of their existing staff and which they do not have the resources to meet.

Payment By Results

Payment by results is a major concern for CSOs considering entering the public service market, particularly as sub-contracted service deliverers. Under sub-contracting arrangements – the only means by which many smaller CSOs can engage in contracted public service delivery – the risk is disproportionately with the small, subcontracted delivery organisation, rather than with the large main contractor. Additionally, subcontracting arrangements mean that CSOs are often distanced from the negotiation of contract terms, which in turn serves to further increase risk levels posed.

Further Barriers

Further barriers include the short timescales that are often applied to tender exercises, which are often problematic for CSOs, as the size of contracts mean that CSOs often need to form themselves into consortia to be able to bid. It would be helpful for commissioners to give greater consideration to the size of contracts and timescales when tendering for services. In line with this, members also expressed a desire for Merlin to be extended beyond Central Government

3) How could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?

It is important to note here that the evidence in the North East shows that most commissioning is not done by 'commissioners' but by other staff following and interpreting guidelines. NESEP member welcomed the directive that 25% of contracts should be delivered by social enterprises and SMEs, but with no clear indication on how this should be brought about, members were concerned that the lack of co-ordination currently demonstrated across local authorities would lead to difficulties in implementation. A number of members suggested that this could be addressed by introducing some incentivisation for local authorities to meet this target.

Aligned with this, members also felt that commissioners should be compulsorily required to consider, evaluate, and award, contracts on the basis of social and economic/environmental benefit on at least an equal percentage scoring with price, and to include community/social benefit clauses in all public sector contracts at tender stage. Such clauses should reflect the general duty of 'well being' placed on authorities and address social as well as economic and environmental issues.

4) How could civil society organisations support greater citizen and community involvement in all areas of commissioning?

NESEP members in the main welcomed the opportunity to become more involved in service design, expressing the view that allowing communities to identify what services they want to preserve or develop, and how these services should be delivered was a better model in terms of effectiveness. However, many expressed concern at the level of resource that this requires. In the North East, examples of tenant involvement in service design and monitoring on housing estates have tended to fail as the tenants have no resources to support this.

In terms of developing service design specifications, NESEP members suggested the wider use of community-led appraisals, using the following tools:

- Participatory approval
- Barricliff Model
- Views Master