

Modernising Commissioning Consultation

Response by Carole Phillips on behalf of Voluntary Action North Lincolnshire

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

Sub- Question: What are the implications of payment by results for civil society organisations?

The real implications relate to the areas of service where the VCS uniquely serves those most excluded from mainstream services which include those furthest away from work, people with long-term health conditions or disability and those who exist on the fringes of mainstream society. For these client groups the risk of them relapsing into crisis, crime, and substance abuse is high and their pathway to sustainable recovery is long with many hurdles along the way.

Provision needs to be longer term and resource intensive so initially costly, however the value is well proven as people exit targeted/specialist services having established sustainable development/recovery/employment saving the tax payer substantial sums of money in reduced crime, independent life etc further 'downstream'.

It would be almost impossible for most (particularly local) VCS organisations to sustain these costs until a long-term outcome could be achieved. In addition the danger might be that the organisations do-not take on the high risk candidates, or they exit people from the service prematurely before change had had time to sufficiently embed. This can prejudice the permanency of the outcome, creating the revolving door syndrome, which has been the feature of some of the worklessness programmes (potentially beneficial in terms of generating profit for less morally-driven organisations).

There may also be a problem when organisations need to substantially increase their capacity to take on more or different activities or need to invest substantial capital e.g. Buses to provide rural bus routes.

However, all of this need not prevent an outcomes based approach if contract payment schedules are flexible and designed to support the provider to engage in new activities e.g. phased or front-loaded investment to build capacity. Payments could reflect distance travelled towards longer term outcomes supported by good outcomes measurements as part of the contract management process.

Best value can be achieved in such circumstances by allocating longer-term contracts so in effect the initial investment will be at no additional cost if calculated over a 5- 10 year time span.

Sub- Question: Which public services areas could be opened up to more civil society providers? What are the barriers to more civil society organisations being involved?

There could be a lot more activity by VCS organisations or consortiums of VCS/public/private sector organisations in the delivery of NHS services which would significantly reduce costs and improve performance (e.g. Primary Care Centres particularly in deprived areas). However there is danger in replicating public bureaucracies if the activity is too large.

The barriers are around up-front capital investment, scepticism by the mainstream 'health family' and lack of interest by the majority of GP's.

Other barriers include the time it takes to secure significant capital investment funds. For example, in our area we were looking at the joint development of a Health and Social Care Centre with VCS hub/event centre, which would have seen the joining up of public and voluntary sector services for a very deprived community which suffers from some of the highest health inequalities in the country (top 50 super-output area).

The project was dogged with problems from the outset as the PCT had almost definitely secured development funds from the Strategic Health Authority, however the VCS element was dependent on the site being secured at least in principle and the owners were reluctant to give this security (North Lincolnshire Council) until a variety of things had taken place. The PCT achieved agreement for half the site on the basis they had the money secured in principle and elected members decided not to release anymore of the site!

This development would have had the potential to do something radically different in tackling those inequalities.

In our area very little mainstream activity is outsourced to the VCS and the barriers have been around political cultures and I guess a certain level of protectionism as outsourcing mainstream inevitably means loss of jobs or potentially public sector work conditions e.g. Local Government/NHS pensions.

PCT Commissioners in our area have little understanding of what the sector offers and little appetite to find out, which is evidenced by the very low and mostly historic contracting with the sector and the fact that I have not been able to penetrate their commissioning arrangements/staff to increase understanding despite a number of attempts!

Important opportunities have also been lost with project/programme funds like Extended Schools and SureStart, as there is little outsourcing to the VCS, or anyone else.

However there have been some very good examples of joint **project** activity between VCS, Health, and Local Authority organisations, leading to the transformation of services in the area. One of these is the previously DoH POPPS funded project – FreshStart, which has now been mainstreamed.

Sub- Questions: Should Government explore extending the right to challenge to other local state-run services?

If so, which areas and what benefits could civil society organisations bring to these public service areas?

The right to challenge could be applied to a lot of activity operating at a neighbourhood/locality level. Parish Councils/Neighbourhood Groups could individually or collaboratively commission much of neighbourhood services. Communities could take on the management of amenities e.g. parks/sporting areas, Leisure Centres.

As above primary care could in some areas benefit from VCS led collaborations e.g. People with drug and alcohol problems, health support for young people (particularly males), migrants, people with long-term multiple conditions, people with mental health problems all find primary care difficult (see Who Cares GP access research).

This activity would not be independent of funding from the State and should not be seen as a cheap alternative replacing paid staff with volunteers, however it could represent much better value in tackling some of the issues that the State is less successful at and an important opportunity to add value with volunteer support, both for recipients and the volunteers.

Sub-Questions: Are there types of assets whose viability, when transferred to civil society management or ownership, would be particularly dependent on a continuing income stream from service contracts or public sector tenancies?

What are the main barriers that prevent civil society organisations taking over asset-based services?

If the asset is primarily focussed on an activity which provides a state funded service the sustainability of the asset will in some part remain dependent on contracts e.g. Children Centres.

Large assets may depend on mixed tenancies to ensure a sustainable income. However, a number may well be independent after a supported transfer phase to allow the growth of a market e.g. Theatres, Museums, Leisure facilities.

The main barriers are the failure to support a growth period and the transfer of assets in which the fabric is so run-down it becomes a liability right from the start.

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

Sub-Question: What issues should commissioners take into account in order to increase civil society organisations involvement in existing public service markets?

In this area we have been working with Strategic Procurement and Best Value team to increase the contribution of the VCS in tendering for contracts for a number of years. This work has included:

- Applying the Compact to any tenders that might be delivered by VCS organisations
- Recognition that longer contracts represent better value (usually) for the buyer as well as making the process more attractive to VCS organisations
- VANL in partnership with corporate procurement have delivered/facilitated training on SCMS, PQQ's and Tendering, Meet the Buyer, Market Dialogue sessions, Full Cost Recovery Training and VANL facilitated Tender Alerts to the sector
- Promoting the value of grants as well as procurement for public sector commissioners
- Familiarisation on the VCS as part of new procurement officer induction.

However it has been very difficult for the sector to penetrate commissioning arrangements in order to increase knowledge of what the sector does and how - which can lead to an over-dependence on service designs based on public sector delivery models and despite all the very good partnership work with the strategic procurement team, this is only very slowly penetrating into service areas and very few contracts tendered or commissioned which would be suitable for VCS deliverers.

Sub-Question: What issues should the Civil Society Red Tape Taskforce consider in order to reduce the bureaucratic burden of commissioning?

- Raise the EU thresholds
- Standardise pre-qualification systems to remove the need for multiple PQQ exercises
- Increase the use of "open frameworks" and Dynamic Purchasing Systems to avoid being "locked out" of opportunities for up to 4 years
- Maintain grants as a choice when commissioning VCS organisations.

Sub-Question: How can commissioners achieve a fair balance of risk which would enable civil society organisations to compete for opportunities?

The risks faced by the sector relate to both financial and delivery risks:

Financial risks include the need to invest in capacity (capital and revenue) to take on substantially greater level of activity, or new activity, with very little in the way of operating capital or reserves. It is this up-front investment that allows many smaller

organisations to innovate, supporting the delivery of much more creative and successful service delivery, which ultimately reduces costs in the medium to long-term.

It is also substantially harder to borrow investment funds when 'markets' are unproven and Charitable Trustees must not knowingly make decisions where the risks are sufficient to put the organisation at real risk.

In addition the real cost of a VCS organisation failing to survive as a result of overstretched finances is on the service users, who are the reason the organisation exists and these service users are often the most vulnerable in society.

It is this latter point which also increases the delivery risks, as desired outcomes can be a long way down the support track, and some will drop-out along the way.

So commissioners need to be mindful of these barriers when calculating overall contract value.

Sub- Question: What are the key issues civil society organisations face when dealing with TUPE regulations and what could government do, within existing legislation, to resolve these problems?

TUPE of staff on public sector terms and conditions is a real problem to most local VCS organisations, which rarely have the same pay and conditions. This could result in staff being on very different terms of employment, potentially resulting in legal action against VCS employers for unfairness.

In addition public sector staff are resistant to being TUPED to VCS organisations for the very same reasons.

There is also an issue in some cases where employees may be TUPED who don't have the right motivations or commitments required to transform the service by applying a different delivery model, or the transfer includes too many staff for a different delivery model, so you face re-creating the service provided in the public sector agency, with very little difference factor.

However not being an employment law expert it is very difficult to understand what Government could do within current legislation, other than perhaps encouraging Public Sector Bodies to deal with down-sizing staff teams before the transfer in negotiation with the receiving organisation.

Sub-Questions: What issues should Government consider in order to ensure that civil society organisations are assessed on their ability to achieve the 16 best outcomes for the most competitive price?

It is, as documented in the paper, more common for VCS organisations to be scrutinised on overhead costs and sometimes challenged about what they are for in detail.

In addition VCS organisations are commonly asked to re-pay any surplus funds, despite the fact that these surpluses can be used to develop new activities or add value to service delivery contracts.

For example an organisation in our area uses income from a domiciliary care contract to deliver support and life enhancing activities for Carers which would not attract permanent or semi-permanent income from public funds.

This activity supports Carers to maintain their caring role, supporting individuals to remain in their own homes and families and in many cases saving the State substantial amounts of money.

In contrast private sector providers are purely assessed on cost and value and public sector providers on purely direct costs (usually salary and on-costs), with no recognition of the infrastructure costs which are usually much higher when assessed than VCS providers! Again we have an example where the real costs were compared between public sector delivery and VANL and VANL came out at 4k cheaper on the initial year with the additional investment in recruitment/computer etc and even better savings in the second year.

Sub-Question: What issues should Government consider in the development of the Big Society Bank, in order to enable civil society organisations to take advantage of public service market opportunities?

The primary reason that VCS organisations do not access loans available from organisation like the Charity Bank or Unity Bank (which are already set up for VCS organisations); is the risk of not being able to re-pay any loan. Trustees have a duty to act prudently for the benefit of the Charity, i.e. not knowingly prejudice the organisation's long-term success (ability to deliver charitable objectives).

The Big Society Bank could offer very low cost, flexible, short, medium, or long-term loans which do-not present a risk to VCS organisations or Trustees, if the situation is such that the organisation is unable to re-pay the loan. This would recognise and account for the high risk /low financial reserves environment VCS organisations operate in.

In addition the flexibility to make grants to build infrastructure, research or test markets, or develop plans would also be beneficial.

Sub- Questions: What issues affecting civil society organisations should be considered in relation to the extension of the Merlin Standard across central government?

The Merlin Standards as they stand would seem to effectively deal with the major issues affecting VCS organisations in supply chains and should if fully implemented with sanctions for non-compliance, prevent some of the bad practices that have emerged in learning and work programmes, where the end supplier receives a tiny amount of the funding available, but delivers the outcome.

Sub- Question: What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?

VANL is well used to working in consortia with public and VCS organisations, as lead organisation and partner.

We have never really encountered any particular barriers, however we have never seen the need to set the consortia up as separate organisations in their own right, preferring to simply manage legal relations contractually between lead and partners.

Government could support this by recognising and encouraging consortia bids.

Sub-question: What role and contributions could civil society organisations place, through Local HealthWatch, in informing the local consumer voice about commissioning?

Not really sure what this question is asking? HealthWatch should in common with LINKs engage the VCS to gather intelligence about consumer needs, which then are fed into commissioning, as VCS organisations are uniquely placed as they have the trust and confidence of commonly excluded and seldom heard people.

However, it is more commonly the role of infrastructure organisations like VANL; who have the professional expertise and information to represent and advocate for VCS organisations; as shapers of service planning and commissioning and potential deliverers of activity. In North Lincolnshire VANL is the host for the LINK and therefore there is a great deal of cross fertilisation.

Sub-question: What issues relating to civil society organisations should the Government consider when refreshing the Joint Strategic Needs Assessment Guidance?

- Ensuring engagement happens with the widest range of stakeholders and organizations, particularly in the assessment of health and wellbeing in the most deprived areas. Many groups still see consultation as fleeting and as a box ticking exercise. Engagement needs to be real, and demonstrable outcomes need to be proven to groups to ensure participation. With many groups struggling for capacity, it may put some off responding unless they are shown that their voice could help make a difference to future commissioning.
- Using the insight of Civil Society organisations - The JSNA should not only focus on current need, but also on future need. Many groups are in a position to forecast issues before they arise, based on the insight from community members. This insight should be harnessed to make sure that future planning is carried out, as well as beginning to tackle the issues which the area is currently facing. This future planning could then be refreshed throughout future consultation and engagement exercises, as well as future JSNA's. This insight also stretches to data and information which could be shared amongst stakeholders and fed into the JSNA, as well as contacts for other organisations to engage with (hard to reach groups etc).

Sub-Question: What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?

There needs to be a close working relationship between local public sector and local VCS and Government and national VCS based on the principles of the Compact and this open and honest partnership needs to be maintained in good and bad times, as traditionally public sector organisations withdrew when they are having to make hard decisions, often related to funding which has the potential to impede effective decision making!

Sub- Questions: What can civil society organisations contribute to the roll out of community budgets? What barriers exist to realising this contribution? How can these barriers be removed?

Again as discussed above VCS organisations hold a very unique position with individuals and communities, particularly the seldom heard, which would strengthen any community budgeting exercise.

Further more community based organisations, Residents Associations, Community Building Committees, sit at the heart of communities, and would be well placed to inform or on some occasions lead Community Budgets.

Also some infrastructure organisations are well placed and experienced at engaging communities to shape decisions, or respond to identified need themselves; as VANL has done extensively in the past using a methodology (Community Assessment and Action in regeneration) based on Participatory Appraisal techniques. This research/engagement has recently been carried out in a neighbourhood in North Lincolnshire to form a Community Contract between the Council and that community, on what services are a priority and how they should be delivered.

Sub- Questions: What can civil society organisations contribute to the roll out of Local Integrated Services?

What barriers exist to realising this contribution? How can these barriers be removed?

As above VCS organisations and the communities they serve have a key role to play as they know what is needed and what needs to be done and how it should be done! Including potentially delivering services themselves.

The barriers are different depending what level the organisation is working at and how familiar they are with service delivery.

Community groups will need capacity developing support, so that they can ensure that their governance, systems, and processes are safe and successful in delivering public services. Using large numbers of people in voluntary posts requires more training opportunities than public organisations would need, and possibly in different

fields – work requirements as well as skills. This support is currently available through organisations like VANL and we have successfully supported a range of organisations to develop their activities.

The barriers for voluntary organisations are as above, lack of capacity, a lack of public sector understanding of the value of outsourcing contracts more widely to the sector.

Both voluntary and community groups in our area struggle with the political culture within the Local Authority, which is resistant to outsourcing activity and community budgets and the PCT has had a history of over-spends and more recently had to implement a financial turn-around plan, which involved substantial savings, resulting in the PCT becoming very inward looking.

Sub- Questions: What can civil society organisations contribute to the development of Free Schools? What should Government consider in order to realise this contribution?

Free Schools could and probably should be VCS organisations in the same way as Pre-schools and Out of School Clubs are in most rural areas.

Sub- Questions: What contributions could civil society organisations make to the extension of personal budgets across a range of service areas?

What changes do both commissioners and civil society organisations need to make to adapt to an environment where citizens are commissioning their own services?

The VCS will be well placed to support people to understand and engage with personal budgets and some organisations will be well placed to act as an umbrella, linking people into the right services and opportunities and providing good quality, person focused services.

Again, voluntary organisations with little capacity or reserves to build services will need pump-priming money, particularly as they will need to build the business of the organisation to secure enough people 'buying' it to fund the overhead costs in the long-term.

I would not predict issues with popularity, once the service is embedded, it would be the process of raising awareness of the organisations and what they provide, with individual users and building the capacity of the organisations to respond.

Commissioners (and Government) will need to recognise that the initial investment needs to happen to allow the market to increase and personalisation to become a reality and VCS organisations will need to improve their marketing/business skills to ensure they capture enough of the market to sustain the service.

Again this is something else that could happen via infrastructure organisations who are in the best position to support both commissioners and VCS organisations to develop understanding and capacity, as we have started to do in North Lincolnshire, making use of the NAVCA personalisation toolkit.

In addition VCS organisations would be best supported by infrastructure organisations that have the expertise to support not for profit organisations to develop their governance policy and procedures and business skills.