

Modernising Commissioning Green Paper: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery'

Background

The Green Paper consultation '**Modernising Commissioning: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery**' was published in late 2010 with a deadline for response of Wednesday 5 January 2011. The exceptionally tight timescales involved in responding to the paper; which also encompassed the Christmas holiday and a number of Bank Holidays, meant that whilst One East Midlands widely promoted and advertised the consultation, we were unable to undertake specific outreach with the VCS in the region and collate wider sector views and thoughts on the four specific questions asked within the Green Paper.

This response is therefore informed by the opinions and views we have gathered from the East Midlands VCS during the course of 2010 on the subject of commissioning. We have drawn the feedback from a number of sources such as

- questions and views raised at events we have hosted; such as the Knowledge Impact and Success event which took place in June 2010
- consultations with another focus; such as our survey to inform the Big Society Commissioning Paper, published December 2010 and
- discussions that have taken place at the Regional Infrastructure Consortium meetings and at the East Midlands Infrastructure Steering Group

East Midlands Dimension

There are an estimated 35000+ VCS organisations in the East Midlands. These organisations vary in size from small community based groups with few or no paid staff to big organisations with 50 or more employees. Total turnover of registered VCS groups (charities and social businesses) is £1.2bn according to the 2010 Civil Society Almanac (ncvo). Nationally trends show that 36% of total sector income is from statutory sources. At a regional level this would equate to £432m of which approximately £300m earned through delivery of contracted services.

Consultation Questions

1. In which public service areas could government create **new opportunities** for civil society organisations to deliver?

This question looks at increasing the diversity of provision, the levels of competition and consumer choice and raises the issue of 'payments by results' across public services.

The Localism agenda and the Big Society seem to be the principal drivers in future procurement of public services from the private sector and VCS. This approach should run thorough the whole commissioning process with preference or additional 'weighting' being given for local service providers for local people.

To sustain a vibrant and diverse VCS there is merit in the provision of a mixture of both grants and contracts from statutory sources. Whilst some VCS groups are able to deliver contracted services, many will require minimal support and deliver high levels of return from short term seed-corn investment. The provision of a small grants programme is a valid commissioning outcome in the successful delivery of a thriving voluntary sector in any given locality.

There are huge barriers for smaller voluntary and community organisations, being unable to win public service contracts. Organisations cannot be expected to pay staff and overheads and to cover their own bills for external services necessary and not receive a penny in. Access to working capital can be a challenge for many VCS organisations and payment linked to a specific outcome may risk overlooking the wider picture if the outcome is attributed to a specific value. Too many outcomes focus on a change in numbers – ie: x number of additional long term unemployed into work or re-offending rate reduced by x%; what they don't identify is the complex journey and the added value that engagement with the service brings to the service user and as a consequence, the wider community. Payment by results should include recognition of interventions with softer outcomes that have developed organically within the VCS to address identified needs and gaps in statutory provision.

A high profile example, debated in parliament being, Refugee and Migrant Justice, formerly the Refugee Legal Centre. They were the largest specialist national provider of legal representation to asylum seekers and other vulnerable migrants. The reason they found themselves in administration in June 2010 was a shortage of cash, caused by late payment of legal bills (through the legal aid system) by up to two years. Payments only being made when cases are closed by the Home Office, which experienced many backlogs in its casework.

2. How could government make existing public service markets **more accessible** to civil society organisations?

This question seeks to address barriers to entry into existing markets, both practical and bureaucratic.

The anticipated increase in civil society involvement in the delivery of public services is received with mixed feelings by VCS organisations. There is an expectation that public bodies will commission more services from the VCS and others in the future. By doing so this will create opportunity for the VCS and communities to share their knowledge and expertise and shape better services to meet **real** need.

Strategic commissioning frameworks which value and enable the contribution of the VCS have developed over recent years at local level; however, these are not consistent across the country and lead to wide variation in the quality of relationships.

There is a need for proportionality in procurement processes depending on the size and scope of the service and contract. A more consistent procurement process, simplified and streamlined, will allow small groups to participate without being overwhelmed by red tape. The VCS welcomes the government's pledge to remove unnecessary red tape and enable organisations delivering public services to develop sustainability by generating a surplus.

More state money goes to larger civil society organisations than the small, representing a clear inequity in the system. Rising bid costs are a problem to bidders and especially small organisations. High costs of bidding inevitably lead to a reduction in the number of bidders. Too little is intelligently spent on early intervention and other innovative techniques. Too much is spent on making civil society look like and conform to, the structures of the public sector.¹

¹ The Civil Effect: Bringing efficiency, innovation and community capability to our framework of public services commissioning. Asheem Singh (2010)

Procurement and commissioning can incentivise organisations to be more businesslike therefore lose their user focus and flexibility. Timescales and contracts should consider affordability, quality of service and full cost recovery in order for projects and organisations to be more sustainable and focus on service delivery without the pressure of looking for additional resources. However cost should not be the principal driver and there is need for better evidence impact.

In some fields of public sector commissioning, there is a current trend, and one which the VCS has fought against strongly; towards procuring larger contracts. It is within these high value contracts, often awarded to national charities or private business and usually covering large geographical areas; that we find the increasing scenario of the VCS as a sub-contractor rather than the prime contractor. Whilst EU procurement rules emphasise that *'in order to encourage the involvement of small and medium sized undertakings in public contracts procurement market, it is advisable to include provisions on sub-contracting'*, there is also a need to include clauses to protect VCS sub-contractors engaging in the 'supply chain' ensuring that large, scalable contracts (national and regional) attribute the success or failure of interventions to the prime contractor so that they, or their social investors, would bear the risks of deferred payment, and smaller sub-contractors would not be expected to wait to recover their costs.

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

Competitive Tendering processes have endured in the public sector since the mid 1990s and continue to place too much emphasis on lowering the cost associated with a certain service, often to the detriment of other factors such as quality, sustainability, long term over shorter term impact, social capital built or employment conditions.

There is a big challenge on the capacity of commissioners to understand the various issues brought about by the changes in the system and the new government initiatives. Promotion of social action and equating it with an effective, self improving public service agenda foretells new competencies for commissioners.

Establishing the right balance between collaboration and competition is key. The whole idea of having VCS organisations compete for contracts is to encourage improvement through competition, but there are advantages to putting together collaborative bids, sharing strengths and encouraging economies of scale.

Learning from the Total Place pilots and thematic studies such as the Marmot Review of Health and Social Care, there are clear benefits to the

provision of more holistic services. Marmot, as an example, clearly states that the wellbeing of an individual is more closely associated with their social and economic wellbeing than with the availability of preventative health services. If this principle is translated to other areas of service provision; the pooling of local expenditure which was trialled through Total Place and is now being developed as community budgets, is a positive step, provided that all parties are fully able to engage with and influence the commissioning process.

4. How could civil society organisations support greater **citizen and community involvement** in all stages of commissioning

The VCS has three distinct roles to offer in relation to commissioning processes however these are rarely utilised by public sector partners. It is important to understand where the opportunities lie in order to improve community involvement overall:

1. **Supporting the commissioning cycle:** This role is split into a further 3 elements
 - i. Informing commissioning priorities – engaging communities and providing data and intelligence to ensure that commissioning priorities are appropriate and that best providers and procurement mechanisms can be sought. In short ensuring that commissioners don't buy the wrong product delivered in the wrong way
 - ii. Contract delivery – not all VCS organisations are interested in service delivery but for those that are this can be as either prime deliverer or sub-contracted
 - iii. Review and evaluation – examining the success of a service and refining the specification to improve quality, reach or value for money
2. **Supporting contract-readiness in the VCS.** Working with potential VCS service providers to ensure they are fit for purpose, are aware of opportunities and can demonstrate quality, value and reach in competition. Examples include the highly successful; Derbyshire Contracts Advice Network.
3. **Long term market transformation.** The VCS over time works with communities to reduce and change the need for expensive intervention services. Examples include supporting asset transfer processes to enable ownership of community assets and community development work to stimulate local action.

It is unfortunate that amongst these opportunities the focus is often placed on the contract delivery element of the commissioning cycle. However, by drawing on the skills and links at other parts of the process the VCS can ensure that services are better specified, delivered by the

right people, grow the market for delivery, reduce demands on direct services by increasing community ownership and continually review services to ensure they change and develop with the communities on which they are focussed. The VCS can save public money if they are involved effectively from the outset.

Strategic commissioning needs to look at the needs of communities and existing population structures and arrangements. Some individuals and groups because of their disposition might not be able to participate nor benefit from the public services so envisaged. More attention should be given to the detail of vulnerabilities, capabilities and equality and outcomes to places and not organisational ethos and competencies.

The VCS makes a significant contribution to the aims of the Big Society, by improving outcomes for local people and communities. VCS organisations have a long experience of working in partnerships with the public sector through both grant aided and contracted work. However, some organisations; due to their size and capacity may face challenges that make being involved in the commissioning process particularly difficult. Small steps to reduce red tape could rapidly improve community engagement and service effectiveness, efficiency and reach and ensure better outcomes are achieved.

The Community Forests, some Areas of Outstanding Natural Beauty and LEADER Local Action Groups, are all examples of partnerships that have brought together public organisations with community representatives, to deliver projects tailored to the local area. In all cases, the model has been to work from a shared assessment of local needs to a programme of activity that is backed up by a sufficient funding pot to allow plans to be put into action. Some grant schemes, including Parish Paths and the former Rural Action scheme, have encouraged communities to come forward with their own ideas in response to specific intervention areas. In these models, it is open to communities to consider relevance to their own area, but having decided to participate, it is then essential that they are provided with appropriate support to develop and implement their ideas.

A current role of VCS infrastructure organisations is to support small and frontline VCS groups to understand and engage with often complex commissioning and procurement processes. It is important to maintain the accumulated skills, knowledge and experience of these organisations and their relationships with frontline groups. There is a danger of losing these structures and knowledge because spending and budget cuts have taken effect before alternative means of funding have been established.

The principles of community action and ownership articulated within Big Society have enormous potential to create opportunities for greater involvement of users in the design and delivery of services. Involving

local people in public service delivery has been shown to improve service delivery outcomes, result in services which are more relevant to people's needs leading to increased take-up and delivery of better and more sustainable public services.

Support to enable the new and emerging GP consortia to engage effectively with the communities and citizens they serve is crucial. This is a critical phase in the development of GP consortia and we believe that building in a strong understanding of and commitment to community empowerment at this early stage is essential.

ENDS

One East Midlands

One East Midlands is a regional voluntary and community sector infrastructure organisations for the East Midlands. We work to ensure that the voluntary and community sector is actively engaged with key regional bodies and other partners, from across the public, statutory, business and social enterprise sectors. We bring together organisations that support voluntary and community groups across the region to influence and shape policy, improve services and provide a point of contact at a regional level.

One East Midlands has 137 full **members**; these are third sector infrastructure organisations that provide services and support to frontline voluntary and community groups.

