

Commissioning and Procurement

Opportunities and challenges for the voluntary and community sector

Commissioning and procurement was designed to make sure services were nearer to users and delivered by a range of providers, including those from the voluntary and community sector (VCS). It was also intended to create a more sustainable future for local organisations. All sectors want to see the best public services. Transforming services involving users, communities and staff is part of the Big Society; but transformation has to be more than the transfer of services from one provider to another – even if that “other” is in another sector. Too often it is just about transfer.

Voluntary sector organisations also report concerns that smaller community provision is being sidelined and local solutions lost. Yorkshire & the Humber Forum's mid-year conference in Goole, explored the current situation and what changes were needed, with key agencies and thinkers. Following the conference, a cross-sector task group was established to take things forward and gather specific examples of barriers to effective commissioning and examples good practice. This paper summarises the findings of the group and makes recommendations for the voluntary and community sector, commissioners and government, followed by a series of case studies on both good practice and barriers to the effective engagement of the VCS.

Key issues

- Despite all the encouragement for voluntary sector organisations to look towards public contracts rather than grants as a means of securing public funding, the evidence from across Yorkshire is that genuine opportunities for the sector are few and far between.
- The VCS, particularly specialist providers, have a lot to offer in terms of service design and development. Whilst there are a few good examples of this happening, it is not common and a lot of expertise is missed. The VCS is also well placed to gather the views of service users to inform service design.
- Many public contracts that have potential for the voluntary sector are too large for small VCS organisations to compete for (often £1m plus). This means that only larger charities are in a position to realistically bid for them.
- There is still unnecessary bureaucracy (paperwork and red tape) around contracting. The amount of information required at tendering stage is

excessive and often prohibits smaller organisations. The amount of information required by tenders should be proportionate to the value of the contract on offer.

- The sector is receiving mixed messages about whether the public sector wants proposals from consortia. The rhetoric is that they are encouraged, but in practice buyers usually look for organisations to compete and encourage competition on price.
- The VCS needs to do more in terms of collaboration between larger charities and smaller local groups to delivery effective contracts. There are gains for both sides. With large nationals gaining local reach and smaller groups getting the financial clout and contract management experience of a larger organisation.

Recommendations

For the VCS

1. There are benefits for both large and smaller voluntary sector organisations in working together
2. Collaboration and even merger should be seriously considered during difficult times to avoid losing knowledge and expertise in the sector
3. The sector need to get better at capturing evidence of outcomes and impact of the services it provides- both economic as well as quality of life improvements.
4. Accurate costing of proposals is critical. It may be better to turn a contract opportunity down if it does not provide sufficient income to cover all relevant costs
5. There will be opportunities for VCS organisations to provide direct payment services where individual budgets have been awarded through personalisation of services.

For Commissioners and Procurers

1. Very large contracts are prohibitive to VCS involvement and should be avoided where there is the potential for local delivery. If a large contract is deemed essential then every encouragement should be given for prime contractors to sub-contract with smaller local providers.
2. Voluntary sector providers, particularly specialists, should be seen as stakeholders in service design and development.
3. Consider offering, mentoring support from LA staff to VCS organisations preparing to submit tenders in other areas.
4. Relevant training should be held jointly for both VCS and public sector staff. This would help build relationships as well as understanding.
5. Public bodies should be clear and consistent in saying whether they wish to encourage consortia proposals or whether they are looking for individual proposals from organisations

6. Public bodies should undertake intelligent commissioning. This should involve a differentiated approach depending on the size of contract, the type of service required and the broader needs of the service users.
7. Public commissioners should monitor and publish spend with local voluntary sector organisations.
8. In many cases, providing a grant to VCS organisations is still the most effective and efficient means of funding voluntary and community organisations.
9. Longer contracts (minimum 3 years) enable VCS organisations plan effectively and to recruit and retain the quality of staff required for delivery of effective services.
10. Longer term service planning enables both commissioners and deliverers to provide more efficient and effective services to clients.
11. If it is not possible to accurately define the service required, it may be better to indicate the price you are willing to pay and get the potential suppliers to define what they could provide for that amount

For Government

1. Staff secondments both *to* VCS organisations from the public sector and *from* voluntary sector organisations to the public sector, should be encouraged
2. In many cases, providing a grant to a VCS organisations is still the most effective and efficient means of funding voluntary and community organisations. This message should be sent out clearly by government to local commissioners.
3. The importance of the eight Principles of Good Commissioning need re-emphasising and to have a higher profile
4. Good practice in commissioning and procurement practice needs promoting and sharing between local authorities and with government departments.
5. The public sector should do more to encourage large prime contractors to sub-contract with smaller local groups.

Case studies of good practice and barriers to effective commissioning

Good practice examples

The value of early dialogue with commissioners regarding service development

1. In Hull, processes and mechanisms were developed for use by Commissioner for VCS involvement in drawing up a commission or in tendering – Key to the success of the project was the early setting up of a "Steering Group Board" with our PRP partners (HMPs Hull & Everthorpe, Wolds Prison, Humberside Probation Trust, and Humberside Police). This brought increased awareness to the commissioning process, and helped facilitate additional services and agencies, within both public and VCS sectors, to provide support to clients and assistance with pathways and rehabilitation.

2. Rotherham commissioners have done some work with one of their third sector providers to reshape services away from a 'block contract' model - to respond to the personalisation of services. The target was to reduce from a £250,000 block contract to £200,000 in 2 years. The provider has enthusiastically embraced this concept and has actually exceeded the target reduction from £250,000 to £120,000 within this time. They can demonstrate many examples of improved quality of life for people who access their services and have also seen a big improvement in staff morale through working towards a more personalised approach. It was really successful from all perspectives, commissioners, providers and customers.
3. Alzheimer's Society had been delivering services in one city for many years. The local council decided they wanted to review how they commission dementia services- wanted to tighten up the specification to make it more dementia specific. They drafted out some initial thoughts but then involved AS in putting much more detail into the specification particularly around outcomes. This was not a tender situation- they wanted AS to deliver but equally saw them as best placed to know what a service should deliver on. Possibly because they had been delivering good quality services for many years and had built up the relationship that encouraged them to trust AS in this way to do what is best for people with dementia, rather than putting the organisations needs first as a provider.

The important role that users can have in informing service development and specification

4. People who access support to assist their recovery from mental health difficulties have long championed the value of meaningful and valued activity. In Kirklees, this was translated into a range of choices as part of a joint commissioning strategy. One concerned access to creativity and the arts. **A specific menu of support was commissioned, informed by concerns about the lack of creative arts options. "Out Of the Blue" is now in place to stimulate, involve, change experiences, and take people outside an environment that defines them as mentally ill. It does help that the evidence base for creative arts and its ability to aid recovery is strong.** "Out of the Blue" has several components. These have been developed over time as people accessing the service have influenced its direction. The Guitar orchestra exists because participants wanted it to happen. The art studios are often funded by people accessing personal budgets. Participants dance, sing, write, sculpt, take photographs, make films, play musical instruments, and have fun. People make choices about who they interact with and what level of activity suits them. This flexibility is possible within the commissioning arrangements because the contracts are outcome driven. People ask the question, "what difference does this make". Participants complete recovery starts at reasonable intervals. A picture of individual and collective progress emerges based around outcomes. Participants take part in consultation events and in project steering groups. It is this quality of evidence, generated by people within the service that directly led to increases in core funding, even in a time of economic challenge.
5. Voluntary sector organisations have access to information and data that can be useful in planning the delivery and funding of services. For example, local authorities have a new responsibility to plan services that will prevent Child Poverty. Local VCS organisations have access to information that can help in carrying out the initial needs assessment in terms of Child Poverty (CABx can provide client statistics and case studies on financial issues affecting

local families). They can also help in delivering services around income maximisation, debt management, housing matters and other legal issues. Other VCS organisations can help with associated family issues including relationship issues and domestic abuse.

6. Humber example (Spring Board) – Nineteen units of fully furnished, dispersed accommodation were to be developed to meet the needs of homeless people, with flexible levels of support available to ensure the support needs of the individual are met. A steering group was set up for the development of this service which included representation from Supporting People, the provider, Young People Support Service, the Homeless section, a substance misuse worker and homeless people themselves. This services was procured through an open tender during 2006 and was operational from the beginning of March 2007.

Developing the provider market

7. Rotherham commissioners successfully worked with social enterprises. Three social enterprises have collaborated together with support from Rotherham MBC commissioners and Voluntary Action Rotherham to form a Neighbours Alliance which will deliver a project aimed at community cohesion between young people and older people where the young will teach the older people IT skills.
8. Calderdale Council appointed a "Putting People First" Engagement Officer to act as a route for market intelligence from the authority to stimulate the VCS marketplace. In addition the worker offers support around business readiness specifically linked to the delivery of services for personal budget holders. This process has been successful in establishing a network of 26 organisations that receive information, attend training and meetings and input from their own experience. A market place event is being planned to allow direct contact between support planners who discuss with customers what services are available, and those VCS organisations that can market and deliver costed services.
9. Barnsley commissioned an ambitious provider programme with Paradigm – a national consultancy / training organisation. The programme was open to all-comers and comprised 7 x targeted modules and finishes in February 2011. They also sought expressions of interest from organisations who would become their 4 'transformational providers' who accessed individual packages of support. The aim was to sense-check and test out the implications of a move to personalised services on their operating business model and that they took back changes into their organisations.
The lead officer within the council is responsible for commissioning services – so she ensures learning and changes are fed back into the organisation and inform improved practices and behaviours. **One of the successes of the programme has been providers getting together and breaking down barriers. Organisations are still competitive where they need to be – but they have valued joining up and looking at a common issue for them all. Another area of learning has been for the transformational providers who would acknowledge they underestimated the support they would need from a strategic level within their organisations.**
But for everyone involved – it has led to a culture change where providers are now challenging commissioners and the officers – in a positive way – because they understand the implications

and unintended consequences of personalisation. From the commissioner's perspective – this is really good to see.

Buy local initiatives – provide local economic benefits as well as being more personal and greener.

10. Buy4Sheffield is designed to promote better understanding and successful business relationships between the public sector organisations in Sheffield and the many potential suppliers of good and services. Sheffield public sector organisations have committed to provide the essential information potential suppliers require, here all in one place – what contracts are in place for products and services, how much is spent, what are the future business opportunities, what is the process to bid for business and how can help be provided when needed. These are the areas Buy4Sheffield is tackling now, not all of the information will be available immediately but all of the public organisations have agreed a programme to make this information available. This is just the start. Buy4Sheffield is working with the public sector organisations to standardise and simplify the procurement arrangements, provide further information and seek more innovative opportunities to help create more successful business relationships.

For more information visit: www.buy4sheffield.co.uk

Service-needs analysis done in conjunction with the VCS

11. Between 2000 and 2006, local Community Legal Service Partnerships (CLSP) were in operation in each LA area. These partnerships consisted of the Legal Services Commission who are responsible for the administration and funding of the Legal Aid Scheme; local authorities and a wide range of voluntary sector advice providers. The CLSPs were responsible for analysing data about the local population to identify the priority advice needs of local people. This data was used by the LSC and the local authority to plan and fund advice services at an appropriate level. Some CLSPs still exist despite the LSC withdrawing their support, and in these areas, the local authority is still able to identify the level of need in its communities. Where the CLSPs have disappeared, there is a lack of knowledge about whether services are provided at the right level and to the right people. A lack of appropriate advice can lead to poor health and poverty (particularly money advice i.e. Debt and welfare benefits).

Partnership delivery rather than competition

12. Hull – A year ago when the Council started to roll out personal budgets there was a very traditional type approach to 'the market' and the services on offer. People were choosing what they'd always had – and depended on neighbours and / or friends. The Council sought to change this whole approach / culture to develop a more enterprising and partnership environment to shape the future market. **The Council engaged Business Link Yorkshire to bring the existing social enterprises in Hull together to look at how they could do things differently. The aim was to provide a database of how people could access services to meet their needs and that it would offer another way for people to exercise choice and control. But this initial exercise has exceeded all initial aims and become a more ambitious partnership project. The initial group has now grown – with bigger and smaller social enterprises joining in the discussions / movement. They're now coming together as a consortium with a legal structure / status. In the future they will be in a position to bid for PCT or Council contracts of**

significance – beyond what they might have been able to do as individual organisations. They are predominantly focussing on health and social care services – but this could change.

Benefits of using VCS infrastructure organisations to act as intermediaries with commissioners to inform specifications and processes

13. Barnsley Council is rolling out their service transformation programme to introduce personalised services. As part of the role to reshape the market they have implemented a provider development programme. This has had a suite of 9 modules. They have worked closely with Voluntary Action Barnsley to develop and implement the programme. On evaluating the first phase they recognised that the programme had mostly targeted the larger third sector organisations. So VAB and the Council considered how they might 'reach' the smaller VCO's or micro-social enterprises. They saw the need to explore the barriers to enter the new market for these smaller organisations. As a result they are now working with Community Catalysts (a spin off from naaps, the national organisation that has done pioneering work with personalisation and small micro-businesses) on a new phase of the development programme.
14. Bradford WNF Skills & Employability Innovation Fund – supporting smaller projects at a neighbourhood level or with communities of interest. Focusing on the 10% most deprived areas in Bradford district and targeting unemployed people and those farthest from the labour market. The commissioning round offered grant opportunities from £10k to £50k.
 - A pool of expert advisors, drawn from Bfunded and the Funding Advisors Network (FAN) worked with the commissioner pre-launch to give specific, practical advice on improving the process/ forms including question wording. * The launch event included a training session and advisor support. The commissioning prospectus included a named Bfunded advisor that groups could contact if they wanted support with their bid.
 - Bfunded advisors acted as a first point of contact and matched the group's needs to the appropriate support available in the district.
15. Calderdale – Joint working between partners in the local Strategic Partnership to support National Indicator 7 'providing the environment for a thriving third sector' has led to a funded programme being set up to support an information exchange between commissioners and VCS providers. Activity developed
 - To create an information hub to improve information about TS services, and commissioning processes, priorities and personnel
 - To develop a contract agreement which places a value on local services e.g. an indicative amount of a contract to be sub contracted to VCS or tenders under a certain value reserved for VCS
 - To develop a Third Sector 'marketing' programme, with buy in from commissioners, to enable TS to pitch their work to commissioners more engagingly and in line with commissioning priorities. Using the information hub as the means of exchanging information and as an opportunity for VCS groups to market themselves.
 - To develop partnerships, links and consortia to maximise existing capacity amongst the TS and develop skills in commissioning

Value in exchanging ideas between LA departments (e.g. Third sector teams and procuring departments)

See example 15. above, for details of Calderdale Information Hub

Procurement mentoring programmes (there is a successful one in Sheffield)

16. Sheffield City Council set up a Procurement mentor scheme in conjunction with Voluntary Action Sheffield. The aim of the service is to provide individual tailored support from a procurement professional, to help voluntary sector organisations bidding for public sector contracts. Mentors are able to give advice and guidance on: Completing a Pre-Qualification Questionnaire; Writing bids in response to a specific tender; Improving on what has already been written; preparing for a tender presentation; How to identify any organisational changes you may need to make to help you become more competitive; How public sector procurement works, and whether it's a viable business opportunity for your organisation. The mentoring scheme costs £180 plus travel expenses for 4 hours of a mentor's time, but is 50% subsidised by Sheffield CC.

Developing consortia and other capacity

17. Youth Consortium Sheffield (YCS): Children and young people. YCS is a third sector consortium of 47 providers of services to children and young people. Zest is the lead body and is responsible for business development and contract and performance management. Consortium members elect a strategic group that steers the direction of the organisation. YCS currently has a contract with Sheffield City Council to deliver positive activities to 8-13 year olds across the city. The programme delivers activities over a range of areas including play, arts and crafts, environmental activities, sport, culture and heritage and music. Activities provided are offered on a weekly basis and during school holidays. Members of the consortium's Strategic Group who do not have sub-contracts to deliver these activities act as a technical committee and have dealt effectively with any performance issues. This has helped to ensure that we deliver the contract's key performance indicators. Initially the contract was for 1 year (2009/10). In 2010/11 the local authority extended the contract which enabled us to offer children and young people continuity of provision.

* See also case study 7 above from Rotherham.

18. North Bank Forum (NBF) has developed an innovative consortia approach to the delivery of infrastructure support to Hull's voluntary and community sector. This model identifies NBF as the lead agency for the co-ordination of service delivery by a range of community partners across the City. This enables consortia partners to develop their own capacity by supporting other groups and knowledge and to develop services in line with identified needs. Consortia partners were identified to reflect emerging issues, such as social enterprise development and funding advice and support, and the development of a community anchor model. The approach to infrastructure development focuses on supporting the establishment of voluntary and community sector consortia arrangements to tender for public sector contracts across the City. This is intended to maximise resources, develop and enhance existing skills and knowledge and to promote a joined up partnership approach to future working.

Little and large organisations collaborating either to exchange ideas or to actually bid for contracts

19. An agreement has been reached that 2 larger organisations (one a local branch of a National Charity) will act as lead bodies within consortia containing a range of organisations. There are some smaller groups that would be unable to offer services without this supportive framework. A collaborative toolkit has been used to obtain comparative data and check compatibility. This process has been linked with the rollout of the personal budget and the opportunities of managing Individual Service funds on behalf of customers. A set of 'partnership agreement' templates will allow speedy response to any work opportunity based on the progress made in meetings already held.

Helping the VCS identifying their real impact and added value

20. A useful example of how a local authority has helped make it easy as possible for VCS organisations to evidence the impact their services have and the added value they bring. The East Riding of Yorkshire Council's: Children, Families and Adult Services developed a monitoring form for projects funded through its "Promoting Independence Fund". Although some outputs are requested, the bulk of the monitoring information requested from VCS organisations relates to outcomes and impact. A standard questionnaire is provided to capture service user perspectives on the benefits they have felt from using the service and the impact it has had on their quality of life. Examples are also given of national and local indicators and how activities which help achieve these targets may be evidenced in a very practical and service user focussed way through case studies.

Barriers and threats to good commissioning and procurement

There are pros and cons with consortia – they are not always the best solution. Procurers not always clear what they want when they encourage consortia bids.

21. One example in the region of a council encouraging a consortia approach in the early stages of the commissioning process but then when the actual tender was issued, it was clear that they were only seeking bids from individual provider organisations.

TUPE responsibilities place huge risks on Social Enterprises and other VCS organisations where they take over existing services and staff.

22. When voluntary sector organisations consider bidding for larger public contracts, there is often the requirement to take on existing services staff if successful. This brings with it the responsibility for their existing contractual terms and employment terms as required by the 'Transfer of Undertakings (Protection of Employment) Regulations 1981' otherwise known as TUPE. This brings with it major challenges including:-
 - the need to maintain the employment conditions of existing staff unless they explicitly agree to alterations

- this often means the new organisations having new and existing staff on different terms and conditions which can create tensions and can be timeconsuming to resolve to the satisfaction of all parties
- TUPE provides continuous service rights to those staff taken on. In the event of future redundancies the new employer would be responsible for paying redundancy pay based on the length of services with both employers e.g. a member of staff taken on and made redundant a year down the line could be entitled to up to 30 weeks redundancy pay if they were older and had accumulated more than 20 years services.

NB. The government announced in late October that it will review restrictions imposed on charities by the Transfer of Undertakings (Protection of Employment) Regulations as part of its plans to cut red tape in the voluntary sector, according to civil society minister, Nick Hurd.

'Astro Turfing' Where public services that turn themselves into SEs (e.g. staff led enterprises) – are these really new organisations with the real ethos of the voluntary sector?

23. The encouragement to health professionals to form co-operatives and the hiving off of local authority services to charitable companies has a number of implications. It can mean that new charities appear which have a charitable structure but they are not owned or controlled by their local community in a democratic way.

Local Authorities not sharing market intelligence

24. e.g. regarding the number of potential users and their requirements. Therefore insufficient information for VCS organisations to assess their potential to deliver.

Few contracts actually going to the sector and lack of data on exactly how many

The voluntary sector has done a lot to prepare itself to bid for and deliver public contracts. However, evidence is that very few contracts are realistically available for the sector to tender for; and anecdotally even fewer are won by the sector. Data on exactly how many contracts are awarded to the voluntary sector is very difficult to obtain from councils and other public bodies

Area A

25. From October of last year the only tender from this authority in Adult Social Care was in October when a tendering process was entered into to obtain an approved list of providers of laundry, shopping and cleaning. A full tendering process was entered into with 42 pieces of supplementary documentation and checks done and references taken. The result is still (12 months later) to be published on the website as an approved (although not recommended) list. The only other piece of work offered was a limited offer for a number of providers to take part in a pilot project.

Humber

26. The supplier and contract management system (SCMS) used by all the local authorities in Yorkshire and Humber was interrogated for contracts applicable to the third sector in the Humber area. Over a twelve month period the total number of contract opportunities that could be delivered by third sector organisations was 18. Whilst this doesn't look too bad, it is worth noting that only three of these were in Hull and none in the East Riding! The Supply2gov web portal was also interrogated. This showed even lower numbers, with only nine contracts across all 4 local authorities with potential for third sector delivery.

Area B

27. Adult social Care – Older people and physical disability. Out of 340 contracts (not contractors); only 30 went to voluntary sector organisations, of which 22 went to one national charity working in the area.

Short term contracts lead to difficulties in recruiting and retaining good staff

28. There are examples from Calderdale and Leeds of short extensions to contracts (6 or even 3 months) rather than proper long term renewals or re-tendering. This makes it very difficult to retain and motivate staff let alone recruit new people.
29. There is another example from North Yorkshire, of PCT contracts with 18 voluntary sector groups being withdrawn with only a months notice in many cases. This was instigated by the PCT to reduce £150k from its voluntary sector budget.

Too much red tape – inappropriate levels of information requested

30. An example of a £900k health related contract where:-
- Very short timescales – 2 weeks between the PQQ and ITT and 2 weeks for submission of all bid papers and documentation. Not compact compliant. Prevented being able to work with partners as insufficient time for discussion.
 - Time consuming process – 16,000 words for PQQ and 40,000 words in bid. Thirty pieces of supplementary documentation. 4 copies on disc and a hard copy because 4 Commissioners across 2 Authorities.
 - Lot of duplication – many repetitive questions but with slightly different twist.
 - Poor practice jeopardising the continuity of the organisation – The Tender was only issued after the organisation objected to a further 3 months extension after previous 1 year extension and 6 month extension.

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