



# **Consultation response**

## **Modernising Commissioning:**

### **'Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery'**

Submitted to the Office for Civil Society

5<sup>th</sup> January 2011

Understanding and supporting  
women and their organisations

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## **About the Women's Resource Centre**

The Women's Resource Centre (WRC) is a charity which supports women's organisations to be more effective and sustainable. We provide training, information, resources and one-to-one support on a range of organisational development issues. We also lobby decision makers on behalf of the women's not-for-profit sector for improved representation and funding.

Our members work in a wide range of fields including health, violence against women, employment, education, rights and equality, the criminal justice system and the environment. They deliver services to and campaign on behalf of some of the most marginalised communities of women.

There are over ten thousand people working or volunteering for our members who support almost half a million individuals each year.

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## **Introduction**

The Office for Civil Society (OCS) is currently consulting on its plans for commissioning reform. The green paper 'Modernising Commissioning' outlines the department's proposals to support the creation and expansion of mutuals, co-operatives, charities and social enterprises, and enable these groups to have a much greater involvement in the running of public services.

For further information about this consultation and to read the document in full, please visit: <http://download.cabinetoffice.gov.uk/green-paper/commissioning-green-paper.pdf>

## Questions

### What are the implications of payment by results for civil society organisations?

The majority of women's organisations are already excluded from commissioning; only relatively large women's organisations are in a position to tender for contracts. The introduction of a payment by results system could compound this problem and further exclude women's organisations from commissioning processes.

Paying providers during the later stages of contract delivery would exclude many women's organisations from competitive tendering as they are often reliant upon contracts to cover immediate costs. Some women's organisations do not have significant financial reserves and are already struggling to subsist in the economic downturn. A shift to this new payments system could be fatal and force further organisations to close.

The Women's Resource Centre (WRC) Bread and Roses Report highlights the unique level of financial instability experienced by women's organisations. 43% of women's organisations across the UK have an income of just £10,000-£100,000 and 27% report higher levels of income volatility than larger organisations. This statistic is far higher than the level of financial instability reported by other charities in general.<sup>1</sup>

Whilst the Government may view payment by results as a path to efficiency, it may ultimately create greater financial instability for women's organisations. Payment by results will perpetuate income fluctuations amongst women's organisations as a budget will not be allocated to run over a fixed period. Organisations will only be rewarded for their work if it is deemed 'successful' and will possess limited margins for error. The outcome of this action will mean that organisations are unable to plan for their future which can have a detrimental impact on both service users and staff.

We remind the Office for Civil Society (OCS) of its expressed commitment to engage with 'any willing and credible provider'<sup>2</sup>. Smaller women's voluntary organisations have the skill and expertise to provide public services and it is the department's duty to support their capacity to do so.

The consultation document recognises the challenge of voluntary organisations 'accessing working capital' under a payment by results system however it doesn't detail how it might overcome this problem. We would like to pre-emptively state that offering short term loans to voluntary organisations would not be a viable solution to this problem. Small voluntary and community organisations are not in a

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<sup>1</sup> Women's Resource Centre, 2009, Not just bread, but roses, too: funding to the women's voluntary and community sector in England 2004-2007

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2009/f/final\\_report\\_version1.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2009/f/final_report_version1.pdf)

<sup>2</sup> HM Government, 2010, Building a Stronger Society

[http://www.cpa.org.uk/cpa\\_documents/building\\_stronger\\_civil\\_society.pdf](http://www.cpa.org.uk/cpa_documents/building_stronger_civil_society.pdf)

position to take out loans, as their trustees are unwilling to take the risk and few financial institutions are willing to lend to these organisations.

An additional problem associated with payment by results is that it will encourage providers to work with those who are easiest to help. Pressures to meet financial targets may lead to the neglect of individuals with complex needs. This is unacceptable in the women's voluntary sector where women's organisations work with the most marginalised and vulnerable women in society.

Introducing a payment by results policy will fail to tackle persistent social problems affecting women; which instead require a holistic approach. Many services that work with vulnerable women do not always offer immediate positive results but instead produce longer term outcomes. Under the proposed funding system this essential work would potentially be discounted and therefore women's organisations could be less eligible for funding.

Another problem associated with payment by results is the measure by which success is defined. There is a need for clarification of the term 'results' and the conditions providers must meet to receive payment. Where the system is introduced; it is essential to focus on realistic outcomes and results should be defined in consultation with organisations that are specialists in that field. Commissioners should work with women's organisations and engage their expertise on realistic targets for different policy topics. For example, The Together Women Project which operates a successful female offender programme in the North of England could offer advice on realistic results regarding the rehabilitation of offenders.

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

As explained in detail in the question below, women's organisations have had limited success in engaging in commissioning processes due to their size and the specialist nature of their services. Many women organisations report negative experiences of commissioning and find it to be a complex and rather confusing process filled with practical difficulties and bureaucratic burdens.

A common complaint amongst women's organisations is that service specifications are too large and generic for women's organisations to bid for. The only way women's organisations can often get involved in commissioning is through a consortium as that is the only way they can meet the range of criteria. Many commissioners adopt EU procurement processes when they are not necessary and the limited use of grants further excludes the participation of smaller women's organisations in commissioning.

Although women's organisations do provide public services across many service areas, we must stress the importance of preserving public services provided by the state. The role of voluntary and community organisations should complement public sector provision and provide a valuable addition to core services offered by the state.

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

To make public service markets more accessible the Government must tackle the prevalence of a gender neutral approach within commissioning. WRC research shows that many commissioners are unaware of their legal obligations to promote equality under the Gender Equality Duty. Commissioners often misinterpret gender equality to mean treating men and women the same, rather than commissioning services according to specific needs.

Commissioning processes often exclude women's organisations from tendering processes as commissioners wish to enlist a generic provider (serving men and women) to save money<sup>3</sup>. This problem is intensified by the minute influence women's VCOs exert on policy decision making due to commissioners lack of understanding about the conditions needed to achieve women's equality or the differing needs between women/girls and men/boys.<sup>4</sup> Gender neutral policies are often fuelled by the misperception that gender equality has been achieved and this contributes under valuation of the importance of women-only services<sup>5</sup>.

The precarious position of women's organisations is heightened by the under representation of women in local decision making processes. Women's organisations represent around 7% of the total voluntary and community sector, however they account for fewer than 2% of voluntary and community sector representatives on local strategic partnerships (LSPs)<sup>6</sup>. Despite the implications of this disparity, gender equality is not treated as a priority and remains unmonitored by 80% of local councils.<sup>7</sup>

The combination of the aforementioned factors means that women's VCOs cannot compete for funding on an equal playing field. To address this issue we urge the OCS to introduce a national model of best practice in relation to equalities to educate commissioners about their legal obligations under current equalities legislation. This action is vital, particularly in light of the upcoming implementation of the new Public Sector Duties introduced by the Equality Act 2010.

We also ask that a gender equality module is integrated into the curriculum of the National Programme for Third Sector Commissioning. It is only by educating commissioners about the value of specialist services that they can appreciate the wider benefits created by equalities organisations and make fully informed decisions. Increasing gender awareness amongst commissioners will encourage them to actively engage a greater range of voluntary organisations in competitive tendering.

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<sup>3</sup> Women's Resource Centre, 2008, The Impact of Commissioning and Procurement on the Women's Voluntary and Community Sector

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2008/i/impact\\_of\\_commissioning\\_on\\_wvcs.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2008/i/impact_of_commissioning_on_wvcs.pdf)

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Urban Forum et al, 2007, Where are the women in LSPs?

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2008/w/womenlsp.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2008/w/womenlsp.pdf)

<sup>7</sup> Ibid.

We encourage the Office for Civil Society to work with the WRC to develop guidance and case studies of best practice in relation to equalities and promote the importance of intelligent commissioning. Government should promote the importance of considering social value and the use of a funding mix of tendering and grant aid. Voluntary organisations should be included all stages of the commissioning process, including needs assessments and consideration of different procurement methods. As noted earlier in this response; the commissioning of large contracts often excludes smaller organisations from procurement.

An additional restraint on women's organisations involvement in commissioning is a lack of resources. Smaller organisations often have limited capacity to engage in commissioning due to the large amount of time that it entails. Many organisations are reluctant to bid for contracts as it costs organisations a great deal of time and is accompanied with no guarantee of success.

Women's organisations report that commissioning is often a complex and rather confusing process and many face practical difficulties in engagement due to bureaucratic burdens. A common complaint within the women's sector is that service specifications are too large and generic for women's organisations to bid for. The only way women's organisations can often get involved is through a consortium as that is the only way they can meet the range of criteria.

Women's organisations repeatedly report frustration with the large amount of paperwork involved in bidding for contracts. To increase the accessibility of service markets the Government should simplify application forms and refocus them on practical examples to allow greater space for organisations to demonstrate their work. Government can assist smaller organisations by simplifying forms and inserting questions which allow for brief answers (for example a yes or no response).

Another way the Government can help smaller organisations to mitigate the difficulties of the commissioning process is to introduce preparatory measures to help them become 'commissioning ready'. Organisations need to be consistently prepared for the commissioning process and take actions, such as making sure that monitoring and evaluation systems are in place and up to date. Organisations often lack the capacity, ability and materials to engage in commissioning and these actions can make an important difference. The Government should work with infrastructure organisations such as the WRC, to ensure comprehensive commissioning training support.

WRC research regarding women's organisations experiences of commissioning highlights problems regarding commissioning frameworks. Women's organisations report a lack of clear, manageable processes for engagement in commissioning and a lack of knowledge about who to contact. The government needs to ensure commissioning bodies produce clear and concise information and give early notification of tendering to allow small organisations sufficient time to participate in the commissioning process.



The Government should build upon the best practice of commissioning bodies such as Bradford Primary Care Trust (PCT). The PCT simplified the commissioning and procurement process, provided capacity building support to VCS organisations and actively encouraged small equalities organisations to tender. Women's organisations report strong working relationships with commissioners and have commented that they show a strong understanding of the importance of specialist provision.

**What issues should commissioners take into account in order to increase civil society organisations involvement in existing public service markets? In the implementation of the abovementioned measures, what issues should the Government consider in order to ensure that they are fully inclusive of civil society organisations?**

As noted in the response above, it is important that the Government educates commissioners about their duties under existing equalities legislation and engages a range of equalities organisations in the commissioning process. Government should also simplify competitive tendering processes to facilitate the participation of smaller organisations.

The Government should work together with infrastructure organisations to help organisations to become 'commissioning ready' and where appropriate support consortia bids. Government should build upon best practice exhibited by commissioners and promote the work of those who successfully engage with different equalities organisations.

It is important to note that whilst many organisations experience difficulty in participating in competitive tendering, the process of awarding grants is far simpler. We urge the government to consider the increased use of grant aid and promote a funding mix.

**What issues should the Civil Society Red Tape Taskforce consider in order to reduce the bureaucratic burden of commissioning?**

As described in greater detail earlier in this response, the Government should take the following actions to reduce the bureaucratic burden of commissioning:

- simplify commissioning and procurement processes;
- provide clear concise information to voluntary organisations;
- fund training programmes to make organisations 'commissioning ready';
- Encourage commissioners to work in partnership with voluntary organisations and assist them to engage in the commissioning process.

It is essential that commissioners provide organisations with enough time to participate in tendering and consider the use of grants. Government should ensure that public bodies do not adopt EU procurement processes when they are not necessary. Most health and social care services come under part B, however, a lot of commissioners choose to use a full EU procurement process when it is not necessary or appropriate.



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

Pressure to create financial savings may increase cost consciousness amongst commissioners and encourage them to employ generic service providers as a way of saving money. To counteract this problem the Government should promote the value and legality of women-only service provision and the wider benefits of specialist services.

To ensure that the value of voluntary organisations is assessed fairly the Government must encourage commissioners to commission intelligently. Intelligent commissioning is characterised by an inclusive approach which engages local VCOs and service users in all stages of the commissioning process<sup>8</sup>. Under this system commissioners are required to acknowledge that organisations do not operate on an equal playing field and should seek to address this in their commissioning process<sup>9</sup>. By fostering effective competition for contracts and engaging the fullest practical range of providers, commissioners can help to ensure the most appropriate provider is chosen.

Intelligent commissioners are also required to adopt a holistic approach and consider the broader benefits of their funding decisions<sup>10</sup>. This means taking account of the impact of commissioning on broader, social, economic and environmental concerns. For example, the impact commissioning may have on the outcomes voluntary and community services. Commissioners are also expected to consider the full value offered by providers, such as the wider and multiple benefits indirectly connected with contracts. Examples of associated benefits include supporting local economies, promoting employment, and fostering community cohesion.

We welcome proposals contained within the Public Services (Social Enterprise and Social Value) Bill which support the assessments of social value in the commissioning process. However, we encourage policy makers to acknowledge that in reality social enterprises and charitable organisations may not have the ability to compete for bids on an equal footing to the private sector. At a time of public funding cuts, commissioning decisions will be more likely to be taken upon cost and this may increase the dominance of private companies in public service provision.

Intelligent commissioners measure value in a variety of ways and do not focus upon securing the lowest cost. Success can be assessed using wider objectives for example promoting gender equality; and commissioners consider the whole-life costs of decisions and how they will impact upon services users across their lifetime. Intelligent commissioners design service specifications that are outcome focused rather than centred upon outputs and focus their objectives on effectively meeting the needs of communities.

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<sup>8</sup> Women's Resource Centre, 2009, Intelligent Commissioning  
[http://www.wrc.org.uk/includes/documents/cm\\_docs/2009/i/intelligent\\_commissioning.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2009/i/intelligent_commissioning.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

The commissioning process does not always involve competitive tendering and commissioners are encouraged to use a funding mix of tendering and grant aid. Intelligent commissioners select funding methods that help to achieve good outcomes and meet their commissioning objectives. Intelligent commissioners also help to engage a broader range of providers in the procurement process by ensuring that monitoring requirements are proportionate to the value of the contract.

**What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?**

Women's organisations report that operating in consortia often seems daunting, time consuming and unpredictable, with evident risks and limited rewards. If the Government hopes to remove barriers to participation in consortia, it must promote its benefits and directly facilitate partnerships.

The Government needs to recognise the time and effort required to form strong partnerships and work with infrastructure bodies to guide voluntary organisations through this process. Through education and one to one support organisations will be able to overcome immediate concerns such as financial liability; and share in new funding opportunities that consortium can offer.

The Women's Resource Centre has significant experience in facilitating partnerships and in 2009 established the Women's Health and Equality Consortium (WHEC). WHEC is strategic partner of the Department of Health and is comprised of a coalition of small and larger organisations which include: Maternity Action, Forward UK, Rape Crisis England and Wales and YWCA. We hope that the government will financially support successful infrastructure programmes to help extend consortia support across the UK.

Whilst the WRC supports a collaborative approach in commissioning, we must stress that organisations should willingly form consortia rather being forced to enter them due to funding restrictions. We are currently noticing that women's organisations are being given no lead up time to forming partnerships and having to share limited resources between several organisations. As public spending cuts are implemented over the course of the next few years, it is imperative that the Government acts on this issue. Commissioners should support consortia in the interest of creating better outcomes for service users, as opposed to using it as a method for implementing spending cuts.

**What approaches would best support commissioning decisions that consider full social, environmental and economic value?**

As noted in our response to earlier questions commissioners should commission intelligently. Intelligent commissioning is characterised by an inclusive approach which engages local VCOs and service users in all stages of the commissioning process<sup>11</sup>. Under this system commissioners are required to acknowledge that organisations do not operate on an equal playing field and should seek to address

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<sup>11</sup> Women's Resource Centre, 2009, Intelligent Commissioning  
[http://www.wrc.org.uk/includes/documents/cm\\_docs/2009/i/intelligent\\_commissioning.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2009/i/intelligent_commissioning.pdf)

this in their commissioning process<sup>12</sup>. By fostering effective competition for contracts and engaging the fullest practical range of providers commissioners can help to ensure the most appropriate provider is chosen. Assessment of social, environmental and economic value should form the foundations of all commissioning decisions. Commissioners should commission intelligently and engage a diverse range of equalities organisations in all stages of the commissioning process.

We encourage the OCS to fund Social Return on Investment (SROI) projects as a way of supporting informed decision making within commissioning. SROI is an effective tool which captures the broader social, economic and environmental benefits of services. SROI outlines the full value of services and provides a strong evidence base which can support commissioners to make decisions.

Whilst SROI is a useful tool, it is important to draw attention to its limitations as it takes a great deal of time and financial investment to conduct SROI assessments. Most importantly, SROI's cannot be used to compare with one another. For example, the value created by one service (e.g. £4 of social for every £1 spent) should not be contrasted with another (e.g. £9 for every £1 spent). SROI should never be the sole method for measuring value and commissioners should consider other ways of assessing the benefits created by smaller organisations.

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

Women's organisations already facilitate female engagement in local needs analysis and the planning stages of commissioning. Women's organisations help to connect commissioners and local communities and offer an insight into the needs of vulnerable women. Embedded at a grass roots level, women's organisations have a unique reach into communities and can access and empower individuals who may be reluctant to engage with statutory bodies.

We urge commissioners to engage with specialist women's providers, for example women's disability organisations, as a way of ensuring that the diverse needs of communities are appropriately met. The Government must acknowledge the diversity of the female experience and engage a wide range of women's organisations in the design and delivery of local services.

Women's VCOs are a vital gateway into accessing ethnic minority communities, and services that are led 'by and for' women are an effective way of increasing effective service delivery as staff have greater cultural sensitivity and greater success in reaching members of their communities<sup>13</sup>. For many women cultural and language barriers can impede their access to public services support and their needs often remain unacknowledged by mainstream providers. By working with women's organisations commissioners can access a broad range of women and ensure the services they commission meet local needs. Through working with the women's sector commissioners can ensure that commissioning is more representative of women and the communities they serve.

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<sup>12</sup> Ibid.

<sup>13</sup> Women's Resource Centre, Why Women? Report, March 2006, p47

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2008/w/wrcwhywomenreport.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2008/w/wrcwhywomenreport.pdf)

**What role and contributions could civil society organisations place, through Local Health Watch, in informing the local consumer voice about commissioning?**

As expressed in the response above women's organisations can inform commissioning decisions from an equalities perspective. Women's organisations provide a vital opportunity to connect commissioners and women in local communities and can provide research and a robust evidence base to help support commissioning decisions. Women's organisations are experts in meeting the needs of local women and should be actively engaged in all stages of the health commissioning process.

Equalities is the key to efficient service delivery, and commissioners should engage with women's organisations to ensure the diverse needs of communities are met. Where a Local Health Watch is unaware of women's organisations based in its local area it should contact the WRC to find out further information.

**What issues relating to civil society organisations should the Government consider when refreshing the Joint Strategic Needs Assessment Guidance?**

It is important that gender inequality is explicitly acknowledged in needs assessment guidance and that commissioners are reminded of their legal obligations to promote gender equality. The guidance should specifically encourage commissioners to work with equalities organisations to assess the diverse needs of their communities.

The importance of an equalities framework should be referred to throughout the document and commissioners should be signposted to leading voluntary sector organisations for expert advice. We suggest the document should provide links to organisations such as the Women's Health and Equality Consortium, which is a strategic partner of the Department of Health.

**How could civil society organisations facilitate, encourage and support community and citizen involvement in decision making about local priorities and services commissioned?**

As expressed in the answers above, women's organisations can engage women in local decision making and publicise the commissioning process. Women's organisations can play an important role in making commissioning more accessible and interesting to local women and encourage greater participation of diverse sections of the community. Women's organisations can facilitate consultation between commissioners and local women and communicate key issues in their local area.

Women's organisations are able to support genuine consultation and enable decision makers to have direct contact with some of the most marginalised people in their communities.

## **What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?**

Local CVS's and infrastructure bodies offer places where statutory partners and civil society organisations can join and work collectively. National specialist organisations, such as Rape Crisis England and Wales, have experience in supporting connections between statutory partners and their member organisations. Where possible the Government should seek to build on this work and establish strong channels of communication and cooperation between statutory bodies and women's organisations.

Government should work with national infrastructure bodies to facilitate community partnership projects. The Government should model the best practice exhibited in the WRC's borough surgeries, which bring together commissioners and local organisations to discuss funding.

As part of the Building Futures project, WRC are running a series of borough based funding seminars, tailored to address the needs of women's organisations in each London borough. The seminars look at how organisations can make themselves more financially stable by engaging with different funding options. Seminars include:

- Advice from local commissioners: commissioners from the Local Authority give an overview of how the commissioning process works in the borough including guidance on how women's organisations can get involved
- Success stories: local women's organisations who have secured funding or formed a successful partnership share their experiences.
- Presentations by experts: members of the WRC Development Team give overviews of topics such as social enterprise and income from individual donors.
- Question time: participants are given the opportunity to raise their specific questions and concerns face to face with the experts and commissioners
- Networking: structured networking sessions give women's organisations the opportunity to get to know others working in their area. This is an opportunity to share information about work, issues and experiences as well as think about future partnerships.

We welcome OCS staff to attend the next WRC borough surgery, and encourage interested parties to email [development@wrc.org.uk](mailto:development@wrc.org.uk) for further information.

## **What issues should the government consider in the development of the future programme of training public service commissioners?**

It is paramount that the Government must tackle the prevalence of a gender neutral approach within commissioning. We ask that a gender equality module is integrated into the curriculum of the National Programme for Third Sector Commissioning. It is only by educating commissioners about the value of specialist services that they can appreciate the wider benefits created by equalities organisations and make fully informed decisions.



## **What issues should Government consider in taking forward the Public Services (Social Enterprise and Social Value) Bill?**

We welcome proposals contained within the Public Services (Social Enterprise and Social Value) Bill which support the assessments of social value in the commissioning process. In reality however; social enterprises and charitable organisations may not have the ability to compete for contracts on an equal footing to the private sector. During a time of public funding cuts, decisions will be more likely to be taken upon price and reforms to open up public service markets may increase the dominance of private companies.

## **Summary of recommendations**

The WRC recommends that Government should do the following:

- Introduce a national model of best practice in relation to equalities to educate commissioners about their legal obligations under current equalities legislation.
- Integrate a module on gender equality into the curriculum of the National Programme for Third Sector Commissioning.
- Promote the importance of intelligent commissioning and a funding mix of grant aid and competitive tendering.
- Work with infrastructure organisations to help organisations to become 'commissioning ready' and where appropriate support consortia bids.
- Facilitate the engagement of women's organisations in all stages of commissioning by working with WRC and national specialist organisations.
- Simplify commissioning processes and promote the value of specialist provision, e.g. women-only services.
- Heed our concerns over the introduction of a payment by results system and problems associated with further opening up public service markets.

We welcome OCS staff to attend the next WRC borough surgery and consult with us directly on ways to improve relationships between voluntary organisations and statutory partners. The OCS has not been Compact compliant in the timing of this consultation which has restricted women's organisations ability to respond. We hope to work with the OCS to ensure that all future commissioning reforms are responsive to the needs of the women's voluntary sector.