

Office for Civil Society Green Paper: Modernising Commissioning

Consultation Response

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

Generally speaking, opportunities for CSO to deliver public services are currently shrinking rather than expanding. The reason for this is LAs' overriding aim to cut down on the administrative burden of outsourcing (for want of a better word) and of contract management. As commissioning has been introduced to areas of public service delivery by CSOs over the last few years, an underlying outcome for most LA departments has been the highest possible consolidation, radically reducing the amount of contracts, to make savings in operational costs within supply management. The onus is therefore placed on the local sector itself to ensure that small local CSOs which have been delivering public services do not fall out of these future arrangements, by managing to work together, forming consortia and brokering subcontracting arrangements. The indications are that such arrangement aren't always the best possible way to deliver relevant services, the effectively move the burden of contract management to the CSOs, and therefore many CSOs will stop delivering services, are likely to shrink and indeed close down. With the current budget pressures, these trends are likely to increase as LAs aim to make the highest possible efficiency savings and cut down on operational and back office costs; together with pressures on other funding sources, the market is therefore expected to shrink, in some areas considerably, rather than expand. In other words, implementation on the ground has the opposite impact than what Government is currently hoping to achieve. These tensions have to be addressed before new opportunities for delivery can be realised.

- **Introducing payment by results – so payment is linked to outcomes not inputs;**

The sector has in many ways taken the lead in applying outcomes-focused approaches to its work and therefore welcomes further steps towards this. However, it has to be clearly understood that outcomes do not equal outputs and those outcomes that cannot be easily measured in hard figures need to be taken into account when measuring results. This is particularly important as much of the work of CSOs is in areas where so-called soft outcomes dominate; and much of its work does not lead to result in a

linear way. Many outcomes can only be measured in the very long-term, and the impact of prevention which is where CSOs do most of their work can often only be measured indirectly or “negatively”.

Examples are:

- volunteering - the positive benefits of volunteering on people getting (back) into paid work are well documented; however, a volunteer placement in most cases does not lead directly and straightforwardly to a paid position. Volunteers may move onto a second volunteering opportunity before finding a paid job; they may volunteer for some considerable time (that is more than 26 weeks) before securing it. They may go into training which then helps them find paid work; their first paid job may be time-limited either in terms of weekly hours or in terms of length of employment etc. For the organisation which places the person into the initial opportunity, to measure that result can be difficult if it is defined –as is often the case with current worklessness programmes – in very tight ways such as demonstrating that after 3 months the person moves into a paid position of a minimum of x months and y hours per week.
- supporting children with learning disabilities will only demonstrate the ultimate outcomes years later when these children manage to live independently as adults, due to the long-term and at times intense support they will have received as children.
- supporting people with mental health problems and their carers may be only measurable in a negative way and again in terms of longer-term impacts, e.g. less people with mental problems become homeless.

These factors must be taken into account when widening the concept of payments by results.

In addition, due to the way CSOs operate, are funded and governed, they are simply unable to operate on the basis of payments by results defined in a narrow way only. They cannot take on the risk. This is even more so the case as funding becomes better and therefore more targeted, which means that it will be more rather than less restricted. CSOs are therefore likely to have even less unrestricted capital and resources which can be used to mitigate risk and ensure continued operation when payments on results cannot be achieved for certain services that they deliver. It has to be understood that funding and contract arrangements are also increasingly based on tightly defined cost units, excluding contingency and other costs from these arrangements, which also limits the operating capital available to CSOs. Last but not least as all funders begin to move towards outcomes-based funding and payment by results, as is the trend, it could cripple COs which exclusively focus on charitable activities (ie who do

not have any trading or income generating activities). It should not be forgotten that many CSOs are charities who in terms of their governance are set up for charitable purposes and therefore should not be penalised for not engaging in other income generating activities. In other words, arrangements such as payments by result may lead to a fundamental change in the way charities operate which is not intended by their governance arrangements.

- **Setting proportions of specific services that should be delivered by independent organisations; and**

This could be a positive measure to achieve Government's ambition, but it would have to be well defined. With the current trend, as per above, what we are seeing is an acceleration of private businesses taking on public services rather than CSOs, which is taking more services out of the hands of communities and citizens rather than the other way around, contrary to Government's ambition. Therefore it may need to be defined as a proportion of CSOs rather than independent organisations in general.

- **Introducing new rights for communities to run services.**
(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?

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?)

Having the formal right to run services is not the key in removing barriers for communities to do so. Comparing this to the similar "right to buy", CSOs have always had the right to buy assets, whether in the open market from private owners or from LAs. The barrier is yet again resources. An asset needs to be an asset, not a liability and CSOs, especially local ones, have simply lacked the funds to take on

buildings where repair and running costs have been high. However, where CSOs have had the funds, LAs have often very readily transferred assets.

- **Sub-Question: How can we encourage more existing civil society organisations to team up with new employee-led mutuals?**

Current barriers to communities running services are that ‘hard fact and figures’ are not shared openly (such as how many people need to be supported in terms of statutory obligation, what are the current costs, what are the current delivery models etc), making it hard for CSOs to propose how they could run services to the same standard and at a minimum, at the same cost, if not less. At present, due to the budget pressures, the mutualisation process seems to be used by LAs to maintain services and teams as they are, ie the aim is to “float off” these services and teams in their current configuration as mutuals; both to safeguard the service and to safeguard those who are currently delivering it. This in itself does not achieve a transformation of service delivery, greater community involvement or efficiencies. Mutuals cannot be run like LA departments. This approach has also meant that LAs working towards the setting up of employee mutuals are not working in partnership with CSOs; they are not coming to the sector to make use of the sector’s expertise. In other words, it is not necessarily CSOs that need the encouragement, but the new mutuals. There is otherwise a danger that we will see the creation of “arms-length” organisations which are classed as preferred providers as well as the creation of a two-tier sector where mutuals operate effectively like LA departments with similar terms, conditions, pay, benefits and management overheads.

Another barrier is the transfer of statutory obligations from the state to CSOs in terms of governance, responsibility and accountability, which needs to be addressed comprehensively.

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

- **Cut away unnecessary red tape by streamlining procurement processes;**
(Sub-Question: What issues should the Civil Society Red Tape Taskforce consider in order to reduce the bureaucratic burden of commissioning?)

Procurement and commissioning have increased red tape due to the lengthy processes involved and have increased opportunity costs for CSOs, forcing them to spend more resources on securing funds and contracts and on the management thereof. The review and market testing processes at the beginning of commissioning cycles mean that CSOs are asked to spend considerable time and resources on contributing data, participating in in-depth reviews, including detailed analyses of costs, impacts etc; “mock tenders” for market testing purposes require the same amount of resources than the real thing, diverting more resources from frontline service provision. The value of this approach has to be questioned, especially as the commissioning of services has often not produced the right results. Management costs for LAs have also increased with the introduction of commissioning teams, contract managers and supply managers. Locally, some reviews – from needs analyses, developing commissioning strategies to the actual commissioning of services – have taken years. Outcomes-focused contracting of services, according to well-defined specifications, based on well-understood needs and on robust contract management and quality control could well be achieved much better and effectively through other mechanisms, especially locally.

Therefore the proposals in the white paper are much welcome and based on a good understanding of the issues faced by CSOs. The right measures have to be found to achieve the desired results.

Things to consider are why an organisation has to complete a PQQ for each tender; whether the preparation of detailed monitoring reports is the best way to manage a contract; why where CSOs are concerned full-cost recovery is seen as an ambition when commissioners readily accept that commercial companies will of course cover all of their costs when delivering a contract; why CSOs find it more difficult to ensure that payment on agreements and contracts is made on time; why certain decision-making processes take this long and why they have to involve quite so many stages.

- **Improve transparency of public procurement opportunities;**
- **Address ways to manage the short term movement towards large centralised contracts and move to a decentralised approach in the longer term;**

As per the general comment above, this is a key priority.

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

- Encourage understanding of social and environmental priorities of local people to be considered in the commissioning process; and
- Support the 'Social enterprise and Social Value' Bill which would require the recognition of 'full value' as part of mainstream commissioning practice.

Much work has been done by the public sector and CSOs in recent years to develop better ways of defining and understanding social, environmental and economic values. These simply have to be used now – in other words, commissioners have to be obliged, not just encouraged to use these in commissioning decisions. CSOs have observed in recent years that it is the commissioners who require training and support in areas like this to improve commissioning rather than CSOs themselves. Government should therefore ensure that commissioners receive the relevant training and resources. Consultation processes with local people must be handled better, by making better use of the local CSOs and their expertise in reaching out and engaging with local people. In Barnet, we as the local CVS, using our expertise in participatory engagement and our in-depth local knowledge and connections via 850 CSOs have just delivered a very successful consultation on the future of local libraries which has reached many more people than the LA would have and provided much richer data than they could have achieved through traditional consultation approaches.

Government's recognition of the needs of SMEs and where these intersect with CSOs (which in many cases are SMEs) is very welcome. All LA need to understand they key role they can play in supporting local businesses, that is the local economy and in safeguarding local jobs. Government should therefore find effective ways of ensuring that all LAs make the support of the local economy and local enterprise part of their community leadership priorities.

- **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?**

CSOs need regular and unrestricted funds in order to maintain their operations and giving them the ability to focus on effective and high-quality service delivery. Opportunity costs in income generation are currently very high, which means that public and charitable funds are used, in effect,

not for the purposes for which they are intended. Too much funding is project-based and tight to specific short-term initiatives and priorities which change too often so that CSOs are constantly forced to change the way they deliver services in order to fit in with new criteria. Whilst there is of course a need for innovation, for maintaining up-to-date knowledge of service users' needs, developing and implementation best practice etc, a lot of the services provided by CSOs simply have to be provided on an on-going basis. E.g. autistic children will always need certain types of support and for each autistic person who reaches adulthood and is able to live independently as a result of the support provided by CSOs, another autistic child comes along into the service (that is until autism as a development condition ceases to exist). The sector will be as effective as it can be if it achieves true sustainability and there is a move away from short-term initiatives that underpin funding criteria. The Big Society Bank offers a key opportunity to provide such resourcing to CSOs.

Having said all of the above, CSOs must be enterprising and many already engage in income generating activities in a positive way; a mixture of free and paid-for services is an excellent way of providing services to different groups of service users. Many CSOs have the ambition and vision to build on these activities and to be more enterprising, but simply lack the resources for business development. They often also lack the means to invest to save in terms of back-office functions and operational costs. Again the bank could focus investment in these areas which could support the long-term transformation of CSO resourcing.

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

Many CSOs have developed close working relationships; the setting up of a formal partnership only makes sense where it unlocks relevant resources. In our local area we have closely networked groups of CSOs who are ready to bid for contracts and deliver services jointly as soon as the opportunity arises.

Real barriers are what is set out above in terms of business development costs. Where the approach is that a larger CSOs could be the main contract holder and sub-contract smaller partners, the resources for such contract management are often too little to make it manageable.

It should also be acknowledged that the sector has increased its understanding of collaboration and partnership working considerably over the last few years; there is an awareness that mergers done solely on the basis of finances often do not work, and that it needs to be carefully considered whether the formation of consortia is the best way of working, especially locally.

Many local CSOs are small, but there is far less duplication than is often assumed. The advantage that these CSOs have is that they are true community-based, self-help groups, which are effectively user-led. They are so close to the ground and so close to their users that they are very well informed about their needs, can draw on many resources from the community (volunteers, donations etc) and thus deliver a highly-effective service. The majority of these groups are not funded by the state, or only receive a very small proportion of their funding from the state. There is no reason for these groups to form consortia other than state funders preferring to work with less partners for reasons of efficiencies. It should be considered whether efficiencies could be achieved in other ways when small CSOs deliver an effective service.

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

- **Develop a new package of support to enable local civil society organisations and state partners strengthen working relationships;**
- **Extend the planned 'right to challenge' to public services; and**
- **Roll out 'Community Budgets' which pool funding for local services giving more flexibility to meet local priorities and a joined up approach across the board.**
- **Launch a contract finder service, a free facility for small organisations to find procurement and sub-contracting opportunities all in one place.**

A fully **FREE** and centralised **CONTRACT FINDER** which would provide information in plain English about opportunities rather than simply listing the official entries which are in complete legalese would be most welcome.

- **Sub-questions: What role and contributions could civil society organisations place, through Local HealthWatch, in informing the local consumer voice about commissioning?**
What issues relating to civil society organisations should the Government consider when refreshing the Joint Strategic Needs Assessment Guidance?

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

It is important to understand that locally, the local community sector IS the local community – the majority of people who are actively engaged in their communities and society do so through the local sector. The majority of local groups are user-led groups. In Barnet, with a population of 320,000, approx. 40,000 people volunteer through these local groups. This means, using local support organisations/infrastructure service providers such as CVS as a conduit, local public bodies are able to reach considerable numbers of their residents by engaging with the local sector. Support organisations that provide infrastructure services have always been engaged in community development and engagement activities. Our vision as a local CVS is an active community sector enabling people to help themselves and to be engaged in their local communities. This is not just about support of existing CSOs, but about providing ‘intelligence’ about the local area, local communities and their needs, enabling people to become active in their communities, to access and contribute to services and activities, enabling groups to reach communities and to work together, and most crucially about encouraging new activities and services in areas of need which we identify through our local intelligence. We also give local people a voice and we help local public bodies to understand the needs of their local communities and people. The community engagement and development function of existing support organisations should be strengthened to better support this element of their work. CVSs whose core service includes this sort of intelligence and insight provision about local communities and CSOs have demonstrated how well they can support engagement mechanisms such as LINKs (local Health Watch), Centres for Independent Living, Community Safety Engagement Groups, Community Engagement Networks and other user forums, often closely integrated into local strategic partnership structures so that citizen representation is effectively built into local planning via a system of community representatives supported by the local CVS (as LSP executive members). These already enable residents and citizens to feed into local planning, needs analyses, priority setting and service design. A strengthening of these structures by giving LAs guidelines to build community representation into these would be welcome.

