



Bournemouth Council for Voluntary Service

Registered Charity No: 1081381
Company Reg'd in England and Wales No: 4024662

Modernising Commissioning Green Paper

Who we are

Bournemouth Council for Voluntary Service is the CVS for the unitary area of Bournemouth. Bournemouth is a community of just over 160,000 and has a mix of affluence and poverty. It has a rich tradition of voluntary sector activity with over 400 registered charities, CICs and IPSs and perhaps another 1000 unregistered groups. BCVS has been working to support this activity for the past 39 years and currently has 126 members although we directly support at least 200 organisations a year, members and non-members.

Why we are responding

We gather views and issues from the sector and articulate and represent these to the public sector. Contracting has been an issue for the sector over the past 5 years. Currently we work with Poole Council for Voluntary Service in the support of a Tendering Network across Bournemouth and Poole which meets three times a year. For this consultation we have distributed the government's invitation to respond with our initial thoughts and sought comments from our members.

Response to questions

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

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

We in the sector have been committed to looking at outcomes for many years and know how difficult it is to measure and demonstrate them. We are committed to the concept of rewarding outcomes however:

- They are very difficult to measure, particularly the more important ones
- It is notoriously difficult to ascribe cause and effect
- Outcomes are susceptible to multiple factors, many outside the control of a service organisation
- It is easy (lazy?) to measure the outputs in terms of monitoring

Therefore we are concerned that a simple payment by results will be too risky for many organisations, particularly small organisations that could not deal with loss of income if the results fail to materialise as planned. Also it could mean that contracted services deal with the 'easy' outcomes and not more ingrained, long term outcomes. Payment by results will also cause real problems for small to medium organisations with working capital and cash flow. This will mean that small, neighbourhood and local groups will not compete with the larger regional/national organisations and private sector (who may have easier access to loan finance). Or these organisations may have to enter into sub-contracting relationships which have a significant power relationship and are notoriously bad for the sub-contractor.

To avoid many of these issues commissioners need to be more engaged with small local groups to clearly identify needs and solutions, agreeing outcomes that are satisfactory to both parties

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

Each geographical area is different in terms of the size and capacity of its civil society organisations. Therefore each public body needs to assess the needs with the sector, understand its current capacity and willingness to grow and then identify growth areas for each service area, say over a 3 year period. This should result in a clear written plan that is communicated to the sector. This could then be linked to a capacity building programme in the local area.

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?

We consider it should, particularly in health and public health. There is a role for local groups to develop their first response role. First responder groups exist particularly in rural areas but are still too much controlled by the statutory emergency services. Local groups could more easily bring together joined up services in the areas of social care and public safety than the current 'partnership' arrangements between public bodies.

Are there types of assets whose viability, when transferred to civil society management or ownership, would 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?

Each case needs to be looked at and a robust business plan developed to ensure that the organisation taking on the building can see a breakeven point in the near future. It must be recognised that many assets are liabilities, particularly local neighbourhood facilities that will never survive in the open market and retain meeting local need (i.e. a community centre could fairly easily develop in a letting facility at the medium to high end market but would push out local groups). Also many buildings are old, out of date, poorly maintained and no longer designed as fit for purpose. Therefore large injections of capital will be needed to ensure longer term viability. Any transfer has implications for the receiving organisation and they may need various forms of advice, including specialised professional, to ensure they are aware of their full responsibilities and are also protected against liabilities.

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

The paper does not give any particular benefits to existing organisation making these links. Employee-led organisations may not necessarily be more user/community led than private sector or even other voluntary and community groups. Therefore why should this be encouraged? Encouraging more employee led mutuals will not lead to the power shift to local communities that Big Society intends. Many local voluntary and community groups will want to see evidence of local community/user influence and control rather than a particular business structure. Mutuals may just be seen as private businesses run by employees. We would want to see the government expecting all of the private sector, including employee led ones, to undertake active engagement with communities and users their service is delivering to.

A key issue for employee-led mutuals is that many communities are already 'suspicious' of professionals (e.g. social workers, housing officers, planners). Indeed this is why many voluntary and community organisations have been far more able to engage and work with some communities than public sector organisations. Therefore employee-led mutuals will still face this barrier and communities may feel more vulnerable as they will not have the direct route into complaining via senior council officers and councillors that currently provide. For instance for many years some local communities have wanted to exert influence over local GPs and surgeries. There are excellent examples of GPs and surgeries working with their local communities but this has been initiatives of the particular practices. There is little recourse for communities to 'force' practices to work in partnership. Employee-led mutuals will be in a similar position.

Also some existing civil society organisations are actively engaged in advocating with such professionals and so forming alliances with them may be problematic.

Therefore again there should be a requirement on all service providers to engage with communities and users, allowing a high level of community control.

What other methods could the Government consider in order to create more opportunities for civil society organisations to deliver public services?

More requirement on councillors and controlling committees of non-local government public services to regularly consult with communities/users and the sector about the services they are providing and if there could be alternative providers. Similarly if there is a third party provider they should be required by their contracts with public bodies to engage with communities/users to see if their service could be delivered in a different way, and sub-contracted to other civil society organisations.

Contracting out existing specific public services is not radical enough. Many voluntary and community groups have worked with users and communities in a holistic way. Therefore there should be more exploration of community budgets, pooling of different service budgets that service a particular community (geographical and interest) to meet holistic outcomes. The right to challenge should be open to this holistic approach and not just to specific services.

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

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

More involvement by the sector during the planning stage before issuing of contracts to better plan the services that will be outsourced, taking more notice of existing services, many provided without state money. Also grants should be more part of the armoury of how to develop the market. Grants are more suited to developing the capacity of organisations to be part of the market and many services that are aiming to deliver higher level outcomes are better suited to grant agreements than contract agreements. Unfortunately many commissioners have a negative opinion of grants as being less enforceable. However this received negative wisdom on grants has very often come from poor monitoring and compliance rather than being a grant agreement per se. Some contracts have not delivered in the past due to poor written agreements, monitoring and compliance. The pros and cons of grants and contracts should be more balanced.

For many local civil society organisations they will have less of a specific track record and working capital than larger regional/national and private sector organisations. Therefore more value should be given to their overall track record to deliver similar

services and/or to particular communities and users. Also the added value in terms of cash, resources, volunteers, complimentary services should be taken more account of. The added value of strengthening communities by increasing social capital, a frequent outcome of local organisational delivery, should be given value.

In the implementation of the above mentioned measures, what issues should the government consider in order to ensure that they are fully inclusive of civil society organisations?

Many civil society organisations are micro businesses and similar to those in the private sector will need access to support and targeted local advertising of opportunities. Also since for some they will be only interested in 'sub-contractual' delivery, access to a brokerage service i.e. linking prime contractors with small local service delivery organisations would be very beneficial. A single portal that all public service bodies were required to use to advertise opportunities would be well received by the sector.

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

Need to look at easier access to advance payments as many organisations will have problems with working capital and cash flow generally. A better balance of the use of contracts and grants as many commissioners feel there is a requirement to use contracts. The length of tender documents can be very off-putting. A simpler legal framework that public bodies can use off the peg would help.

Each tender is treated separately but usually contains many of the same questions, either in a PQQ or in both that and the main tender. Therefore simplifying this so the commonly required information is held once and centrally would lessen the burden on organisations.

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

By addressing some of the above points regarding payment by results, advance payments and tender documents. If there was active encouragement, perhaps even requirement, for prime contractors to sub-contract but ensuring that there is a better sharing of risk, and better sharing of 'profit', with adequate brokerage and support of such arrangements to smaller local organisations then trustees etc may feel better able to take on the risk of public service delivery.

In our experience many commissioners are too risk adverse, they need to be encouraged to allow for experimentation, new initiatives to solve identified outcomes, more co-production, etc.

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

There needs to be easy access to free or subsidised legal advice on TUPE. When looking at taking on public service delivery the potential financial risk of pensions and redundancy will 'scare' many organisations off. Therefore the government should require public bodies to provide financial guarantees against any possible future financial liability. There have been examples in the past of this underwriting with few examples of it costing the local authorities.

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?

We agree with a focus on price and quality. There should also be a focus on ability to deliver the outcomes, taking into account not just the specific ones identified but also similar ones so that those without a specific track record in a particular service area can compete with those organisations operating across the country and/or in a specialised field. There should be an assessment of user/community control and how this will be developed. Any assessment should also look at the added value to the service (e.g. additional resources, complimentary services) and to wider social capital. Local organisations are more likely to score higher in these areas.

There are many examples of organisations suddenly having a good idea to solve a problem. Based on the current commissioning practice this group may have to wait until a particular commissioning cycle comes up. This may lose the good idea, the opportunity and perhaps even additional resources (people time commitment, non-public funds, etc). Therefore there needs to be a mechanism for commissioners to respond to these ideas. Grant funding may be a good vehicle for this, or a co-production cycle with a budget held back for funding such agreements.

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?

Grants and loans should only be made to organisations with an asset lock to maintain public confidence in the use of these monies. There should be an initiative to set up easy access to loans of under £5,000 for small initiatives and small

organisations and these should not just lead to contracting. The Big Society Bank should work with local funders, such as Community Foundations, to find out about the local sector, its needs and potential sources of funding. Foundations may be able to publicise and target particular parts of the sector far better than a national campaign.

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

Ensure that prime contractors provide a fair share of any profit margin and of overall risk.

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

Consortia, like any partnership, need time to develop the trust needed for effective working relationships. Also they would benefit from brokerage (including 'speed dating' events to start relationships) to be brought together and supported, including specialised legal support and VAT issues. The production of template agreements would be welcome. Many contract deadlines can be too tight to agree formal arrangements and because the commissioning cycle in many cases is too closed to potential providers (as many commissioners believe that organisations may have a conflict of interest) organisations have little notice of future contracting opportunities. Requiring more engagement in the planning stage would give organisations 'head up' notice allowing more time for consortia to form.

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

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

Commissioners need to use an approach that really, deeply engages with a range of stakeholders, including those they believe may be potential providers. Also commissioners need to look across the 'barriers' of the service they are looking at, including other departments of their organisation and other public bodies to identify what impact the particular service would have on other services and vice-a-versa. There should be clear questions on any tender/grant application about a provider's added value their organisation will bring.

In some circumstances the commissioning could be 'contracted out' if it was recognised that a civil society organisation may be more effective at stakeholder engagement.

What issues should government consider in taking forward the Public Service (Social Enterprise and Social Value) Bill?

Recognition that there are particular communities (geographical and of interest) who are disengaged and so will need capacity building to ensure their voice and needs are recognised. The Bill needs to make sure that public services provide clear evidence that they have considered economic, social and environmental value. There should be a clear link to the rights to challenge and provide.

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

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

Local organisations have a very big role in providing a voice for local people on health. Local HealthWatch needs to engage with the existing umbrella voice and support organisations for the voluntary and community sector. This will ensure less confusion and possible duplication of effort, dialogue and channels of communication

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

As with all consultation/planning engagement exercises the capacity needs of small organisation must be recognised. Therefore adequate time must be allowed for promotion, engagement and responses. Time of meetings, language and length of documentation must all be appropriate. For many organisations they will have qualitative data rather than quantitative. Adequate weight should be given to this. To encourage sharing of data and reviews perhaps consideration should be given to 'paying' for it. Since the Assessment will pay consultants and researchers if some of this flowed to front line organisations they are more likely to feel valued and engage.

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

Organisations can easily achieve this but will only succeed if their contributions are acted on. If individuals feel that at the end of the day they have not been listened to then they will not engage again, regardless if it is a civil society organisation or not. Civil society organisations can be helped in their role of engagement through funding to do so and support to operate as efficiently and effectively as possible. To ensure that their voice is a powerful one, organisations could have the right to places on decision making committees, a guaranteed voice with a right to challenge and to feedback.

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

There should be more guidance and peer support for all on how to improve working relationships. Some funding should be available locally to facilitate a growing, ongoing relationship or else it will be just a sporadic approach.

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

In our experience, as with a lot of training, those who really need the training often do not identify it as a need and so do not opt to attend. Therefore there should be 'professional' kite marking to encourage everyone to attend and also demonstrate ongoing practice. Also from our experience senior managers and councillors should also attend training as they can easily 'countermand' sector friendly initiatives proposed by commissioners.

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

Very often these organisations see the unjoined up work of agencies but also have ideas on joined up solutions. Therefore a requirement for active engagement of these organisations will be vital. Organisations can also act as a holder of holistic information on needs and services, not just provided by themselves but also others. Therefore having places at the 'table' for sharing information and deciding priorities will help. Some organisations could also be the 'holders' of community budgets which may be an easier way of avoiding the 'professional boundaries of different public sector departments and agencies.

What can civil society organisations contribute to the roll out of Local Integrated Services?

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

As above regarding community budgets. Also as above some communities will need capacity building to enable them to have a voice and choice.

What can civil society organisations contribute to the development of Free Schools?

What should government consider in order to realise this contribution?

As above re employee-led mutuals there needs to be some form of local community control, not just parent and/or teacher control. Schools are assets for a community and should not just be 'locked up' outside of teaching hours and only available for formal teaching. Also they should not be less answerable to joined up working than other 'public services.'

What contributions could civil society organisations make to the extension of personal budgets across a range of services?

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

Organisations have three roles:

- As a direct service provider
- As a voice of the user
- In a support role of users to make informed choices and manage their providers.

To get away from the notion of a referral. For many services a person will just apply as long as they have the money (their own or the state's) to pay for it. This fundamentally alters the relationship of the commissioner and the provider with the user. Many local, small organisations are perfect to respond to this agenda but will need help with marketing to individuals and with cash flow/working capital issues (e.g. soft loans).