Cabinet Office Green Paper, *Modernising Commissioning*
ACEVO response – December 2010

This is ACEVO's response to the Cabinet Office Green Paper *Modernising Commissioning*.

We welcome the Green Paper and strongly support many of the proposals contained within it. There are three over-arching points we would make in terms of how the Government takes the Green Paper forward:

1. **Ambition**. We believe the third sector can play a major role in reducing the deficit and building the big society through more efficient public service delivery. But a variety of factors, some of them beyond Government's control, will act as pressures in the opposite direction, making it harder rather than easier for third sector organisations to deliver services (e.g. public spending cuts and the way they are implemented locally, vested interests in the status quo, the speed at which various departments are undertaking reforms, the third sector's capacity and access to capital). These countervailing forces should not be underestimated. In taking the proposals in the Green Paper forward, we believe the Government should therefore be highly ambitious where it does have levers to pull to increase the third sector's role in public service delivery (e.g. by being ambitious and radical on setting proportions of services to be outsourced, or on reform of public sector pensions).
2. **Teeth**. Many of the proposals in the Green Paper (e.g. extension of the Merlin standard, right to challenge, promotion of consideration of added social value in commissioning) are highly welcome in principle but could very easily fall short of the ambition behind them if they are not given sufficient teeth to bite in reality. Given the very difficult circumstances that all agencies (public, private, third sector) are operating in, the Government will need to make sure that its proposals cannot be got around, paid lip service to or ignored in practice – or they will be.
3. **Timing**. The timing of Government action is critical here. Public spending cuts and many departmental reforms are already underway and will have a significant impact, very soon, on the long-term ability of the third sector to deliver public services. In taking forward the proposals in the Green Paper we believe the Government needs to ask what it can do immediately on an issue as well as what it might do in the long term. E.g. on pensions and TUPE, what clarification or promotion of best practice can be done immediately whilst the Hutton review and HMT consultation on Fair Deal are still underway? On Merlin what can be extended immediately whilst DWP still continues to learn from early implementation?

Turning to the questions in the consultation:

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

The feedback we have had from ACEVO members suggest that of the three methods for opening up new public service markets to the third sector that are mentioned in the

Green Paper (payment by results (PBR), right to challenge, and setting proportions) setting proportions is the one most likely to achieve the Government's stated aim.

Payment by results, as the Green Paper recognises, poses problems as well as opportunities for third sector providers. It probably requires an existing, fairly mature market to exist already (with organisations confident enough in the market to invest; or organisations who have expanded through successful deliver; or organisations with a good track record to attract investment). It requires commissioners to have a sophisticated understanding of 'results', and third sector organisations to have access to capital or to be able to partner with organisations who have access to capital (such as large private prime contractors). Currently even where PBR is most advanced (welfare to work) there remains much work to be done on refining 'results' (through the precise design of a differentiated payment system); third sector organisations lack access to capital and the government's plans to increase it are still in the pipeline; and even where partnerships with large private primes are most mature and most carefully scrutinised by Government (again, welfare to work), significant problems remain. Our view is that PBR should in the long-term open up markets to the third sector, and should be implemented in a variety of areas – but that it should not be seen as a tool for opening those markets up to the third sector in the short term.

Similarly, the right to challenge is a hugely welcome step but one that we would not rely on to open up public service markets to the third sector. Lots of question marks remain – it is relatively untried as a concept, much detail remains to be worked through, and it will depend on third sector organisations having the capacity to do the challenging and local authorities being willing, prepared or forced to be genuinely open to challenge. We believe that it is a welcome step, that it should be extended, particularly to community health services and prison/probation services, but again we do not believe – in the economic climate, given the timing of cuts/reform, and given the uncertainties around it – that it is likely to be the primary catalyst that 'breaks open' public service markets for the third sector.

Our view is that both PBR and right to challenge should be implemented and extended ambitiously and radically, but that the short-term catalyst to opening up new public services to third sector provision will be requiring proportions of services to be delivered by the independent sector (or at least put out to competition), and accompanying these steps with a radical levelling of the playing field so that the advantages third sector organisations bring to public service delivery are patently clear to the public agencies commissioning them (more on this under question 2 below, 'how should Government make existing markets more accessible'). Put more bluntly, the reforms that we believe will make the biggest difference to third sector organisations' ability to deliver services are setting proportions for outsourcing, reforming public sector pensions, and reforming VAT. All three together would make an enormous positive difference; lack of action on the latter two would significantly reduce the impact of any of the other proposals in the Green Paper.

We see the setting of proportions as a relatively crude measure appropriate for catalysing change quickly in an environment where other factors (e.g. cultural, self-interest of incumbents) tend to preserving the status quo. Setting proportions will give providers and investors confidence and will promote the growth of a healthy mixed provider market in preparation for a more sophisticated competitive commissioning environment. In particular we believe it could be applied to:

- offender rehabilitation. The third sector has clear potential to transform services here, is currently on the margins, and has remained so despite the previous Government's stated aim to build a mixed market, partly because of countervailing pressures in the system. In preparation for the introduction of a system of payment by results (which in the long-term will be a more effective means to ensuring a healthy, mixed provider market), and with DOMs being abolished and commissioning at least temporarily centralised, in the short term the Government could break open the market using proportions of services to be delivered by the independent sector.
- community health services. Almost exactly the same argument applies: an effective but marginal third sector, attempts to build a mixed market that have foundered on countervailing forces, a long-term vision for a competitive market but one that won't be in place for a few years, and with PCTs being abolished and the DH talking of taking a firmer grip on commissioning in the interim.
- early years services. Here the Government explicitly wants third sector organisations to play a bigger role, and the sector has much to offer but faces the usual barriers to being commissioned

We believe the Government should be ambitious in the proportions it sets. Third sector organisations currently deliver less than 5% of services for offenders, and by our estimates around 6 or 7% of community health services. We have not been able to come to reliable figures for early years services, but the proportions here appear to be much higher (in the region of 30% or more, though we would stress figures are difficult to arrive at). For offender rehabilitation and community health, we would argue for at least a target of 25% of services by value being put to competition or outsourced to the independent sector. This is a necessarily arbitrary figure but one with antecedents in a variety of public service markets. For early years services the figure should probably be significantly higher.

Whilst we appreciate that the Government cannot set proportions of services to be delivered by the third sector, we do believe it should monitor what proportions third sector organisations ultimately end up delivering in these areas, to test whether its policies are having the desired effect and thereby to understand where alternative action needs to be taken.

In the long-term, where PBR is applied to public service markets, we believe the following to be crucial if third sector organisations are to play a major role:

- different types of results need to attract different levels of payment. Often, third sector organisations' competitive advantage lies in their ability to achieve results with service users who are 'harder to help' (and often therefore costlier to help). If achieving results with those groups attracts the same level of payment as achieving them with the easier (and cheaper) to help, the worst case scenario is that payment does not cover costs and there is simply no market for third sector organisations to sell their USP to (and no market for public services for the harder to help), and the best case scenario is that prime

providers are incentivised to cherry pick rather than work with third sector organisations to focus on the harder to help. Under this logic differentiated payments could be applied to a whole host of public services – e.g. offender rehabilitation, community health services, early years provision.
- Third sector organisations need access to capital. That makes the Big Society Bank crucial, but it also makes effective regulation of subcontracting crucial where third sector organisations effectively rely on a large prime provider having access to capital, and it argues for a less discouraging approach from the Charity Commission to third sector organisations taking financial risks. We explore all these issues in more detail below.

Finally, where new mutual organisations 'spin out' from the public sector, we believe there is a significant opportunity for them to form partnerships with existing third sector organisations (and conversely, those partnerships could do much to mitigate the risk we see that new mutuals 'lock in' old ways of working rather than being a vehicle for transformative change). To encourage these partnerships:

- the Mutual Support Programme should place an emphasis on bringing the new mutuals together with other independent sector providers as a means of developing new ways of working as well as a way to access business support. It should also include a focus on how to build SPVs and partnerships as a practical way for new spin outs to ensure they have access to commercial expertise/experience
- the Government should act fast to prevent VAT acting as a barrier to partnerships between third sector organisations (more detail below).

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

We see the two primary barriers to third sector organisations delivering public services as the unfair playing field on pensions and on VAT.

2.1 VAT

Under Section 33 VATA 1994, local authorities and other public bodies are able to recover VAT from the Treasury, where it relates to non-business activities. However, the kind of social services that are offered by most voluntary organisations under contract to the state are not usually eligible for VAT, making it difficult to recover this cost. Where the services are exempt, nothing can be done to recover the cost. However, where the services are in principle taxable, the VAT will be recoverable provided they are supplied under a contract for service in return for consideration rather than funded by a grant. Failing to appreciate this point, and insisting on grant funding even though a contract for service basis would be more VAT efficient for everyone concerned can put third sector providers at a significant disadvantage – it makes their bids to deliver services appear more expensive, even though in effect the cost to the public purse is the same. It is a disadvantage that disproportionately hits smaller organisations, more of whose income goes on paying VAT. It is a disadvantage which will affect new mutual spin-outs (and/or inhibit their growth). And it is one which, particularly in the context of an increasingly diverse provider market for public services, is difficult to justify. ACEVO and the CharityTax Group commissioned YouGov to survey the public on the issue in October 2010. When asked if they think charities should be able to claim back VAT on the same services that council are able to, 71% of the public said 'yes' versus 16% saying 'no'. There are examples of the Government acting to remove this distortion to the playing field – for instance, academies, being unable to make use of the local government VAT reclaim facility, receive grant funding in compensation.

VAT also currently discourages third sector organisations from forming informal working partnerships and cooperative joint ventures – which are likely to be a key route into many public service markets, e.g. with larger providers. This is because VAT will apply to cross-charges made between the parties, leading to significant extra costs, particularly in the case of exempt service provision by the partnership. It will also be a major barrier to the exciting potential for partnerships between existing third sector organisations and the new mutual 'spin outs' from the public sector – partnerships which could make the new mutuals better prepared to compete, and which could result in innovative forms of service delivery. The Government can help to tackle this barrier by implementing the exemption in Article 13 A(1)(f) of the EU's sixth VAT Directive. We understand the Treasury is minded to postpone action on this front to 2012 – in the context of the cuts to public spending and the reforms to public services underway, that would mean a significant barrier to third sector organisations' access to public service markets remaining in place at a crucial transition stage. We would urge the Government to act as fast as possible.

2.2 Pensions

On pensions, we would urge radical reform in the longer-term and 'quick-wins' wherever possible in the shorter term. In the longer-term (i.e. after the period of consultation expected in the first half of 2011), our view remains that the Fair Deal guidance should be scrapped. We are clear that public sector staff transferring to the third and private sectors when services are outsourced should continue to be provided with decent pensions. ACEVO members want to be good employers. They would not want to see a 'race to the bottom', with providers competing to deliver public services by driving down the costs of labour. They want a race to the top, with providers competing to deliver the best possible services to people and communities. The law protecting transferring public sector staff (TUPE legislation) should therefore stay, including its provision that transferring staff should be offered a pension that is either defined benefit or defined contribution with the employer contributing 6% of salary or more.

Fair Deal guidance added to that legislation, however, distorts the market disproportionately, and effectively ensures that one segment of the public service workforce receives the best available pensions at the expense both of the people who rely on public services and of other staff who provide them.

This guidance (Fair Deal) requires that over and above the law, the new employers give their new staff a pension that is no worse than what they received in the public sector. It also effectively enables the deficits associated with the employee's public sector pension (which are often substantial) to be transferred to the new employer.

The result is that:

- Third sector providers are required to offer staff transferred from the public sector as part of a TUPE transfer equivalent pensions to those of public sector providers, but to do so without what the HMT subsidy that public sector providers effectively enjoy. This in turn results in a non-level playing field in the competition to deliver public services, ultimately depriving taxpayers and service users the best possible deal.
- Transferred staff can transfer accrued pension liabilities to their new employers, enabling public sector agencies to 'dump' deficits on third sector organizations, and requiring the latter to shoulder unknown risks if they wish to undertake service delivery. These risks deter many organizations from undertaking the provision of services, even where they could deliver them at better value for money for service users and taxpayers.
- Third sector organizations are required to make pension arrangements for transferred staff different to those of existing staff, resulting in a two-tier (or several-tier) workforce, extra (expensive) bureaucracy and potential staff morale problems.

The arrangements for public sector pensions therefore mitigate against a stated aim of Government policy (greater third sector delivery of public services). They mitigate against the Government getting best value for money in service delivery through fair competition between potential providers (meaning, in effect, that service users' interests are sacrificed in the interests of public sector employees). They also mean third sector providers are likely to offer less generous pensions to other, non-transferred staff (meaning, in effect, that the interests of some staff are sacrificed in the interests of others). These problems are likely to become more acute as public spending is cut.

We therefore urge the Government to scrap the Fair Deal guidance once it has consulted on the issue over the coming months.

Given that the coming months will be a crucial period for third sector providers of public services, we would be wary of simply waiting until the end of the consultation on Fair Deal to take action on pensions. In the shorter term, the Government could act to spread good practice on the treatment of pensions – which currently varies significantly. For instance, there is some variation in the way different public sector agencies deal with the liabilities associated with the pension deficits of public sector staff transferring with an outsourced service: some agencies will agree to an independent evaluation of the scale of the associated liability, others will not; some will agree to pay indemnities for some or all of the liability, others will not. There are a host of other ways in which the treatment of pensions during outsourcing can vary, to the benefit or otherwise of third sector potential providers, and the Government could bring together a group of providers and commissioners to agree a statement of good practice, or something more enforceable, whilst the consultation on Fair Deal continues.

2.3 Subcontracting, Merlin standard

We strongly welcome the proposal to extend the Merlin standard. For many third sector organisations partnership with larger primes will be the sole route to market. Our contention would be:

- it stands and falls on whether it has teeth to back it up. If there are not stiff penalties for prime providers who break the Code of Conduct on subcontracting or who receive poor Merlin reviews, it will have limited impact
- the Government does not need to wait until the end of the DWP pilot before acting to introduce it elsewhere. As mentioned elsewhere, the coming months will be a crucial period for third sector providers, and there is a significant danger of support for them coming too late. It seems highly likely that there will be a period of learning and adaptation on Merlin in each public service area, irrespective of what testing has already been done in another field (i.e. in welfare to work). Starting to introduce the standard elsewhere would also send the right messages to both potential third sector subcontractors and larger prime providers about the behaviours expected of them. We would therefore urge the Government to take steps now, however limited, to start introducing Merlin into areas beyond welfare to work.
- We do believe there would be some merit in adding an element of 'added social value' to Merlin – i.e. incentivising primes to ensure that their supply chains bring extra social/environmental value to service delivery
- However, we would also advocate Merlin being as simple as possible to avoid unnecessary regulatory burdens
- Wherever possible, we would advocate Merlin assessments being taken account of / undertaken by / enforced by the relevant regulatory bodies/ombudsmen in different public service markets, so that their weight is thrown behind it and so as to streamline the regulatory regime providers are under

2.4 Regulation & the Red Tape Taskforce

We believe a key problem relating to the regulation of third sector organisations is the way the regulatory regime currently discourages organisations from building up capital (building reserves, borrowing etc.), and promotes risk-aversion, thereby effectively excluding them from public service markets where risk is increasingly placed on the provider (e.g. with payment by results).

The report of our regulation taskforce covered these issues in more detail. The report is attached. The relevant section is pp.18-28.

2.5 Capacity-building

Capacity-building is likely to be a key enabler to third sector organisations accessing public service markets. We are responding separately to the OCS consultation on infrastructure, but a broad point of relevance here is that capacity-building is not, and should not be seen as, the preserve of OCS. Commissioning departments (e.g. in future MoJ, DWP) should see it as a potential tool for market management as well. And currently local government/the NHS invest significantly in capacity-building. Research we are currently doing in the East of England suggests that in one local authority area a total of 14 public sector agencies invest around £1.5 million in various infrastructure organisations – and our research suggests this has less impact than the investors would like. If that story were repeated around the country we would be looking at significant sums of public money achieving highly varied results. There may well be a role for central Government here in supporting local agencies to commission capacity-building more effectively, rather than continuing with current arrangements – often characterised by funding following historic relationships and enabling organisations to undertake traditional activities which may not be best suited to the changing environment. ACEVO will be producing a report on this in the new year.

2.6 Good commissioning

A key factor in making existing markets more accessible would be better practice in commissioning.

We welcome the Government's proposals to simplify procurement processes in order to enable SMEs to deliver services. To ensure these measures are fully inclusive of civil society organisations we believe the key will be to involve civil society organisations in some of the processes (the 'Lean Review', the preparation of standard PQQs etc) and to ensure that any new systems/services (e.g. Contracts Finder) is presented as being aimed at the third sector and not just the private sector (in a way that appears not to have happened, for instance, with Business Link – where much of the content is, and is intended to be, useful for third sector organisations, but where language, presentation, lack of engagement with third sector networks etc appear to have led to the service being seen as 'not for us').

Better commissioning would also mean further embedding of some of the good practice promoted by OCS/OTS over the past few years – e.g. long-term contracting, which remains a key issue for many ACEVO members. We believe the Government should continue to embed aspects of the OTS Action Plan on public services where progress has been made but where more remains to be done.

Finally, we believe Government should get better value out of its investment in improving commissioning, with a focus on promoting joint commissioning and commissioning for added social value. Attached is a briefing we prepared earlier in the year with PwC and the Community Alliance which still represents our views on this. We believe it will be particularly important to get this investment in good commissioning right with 'new' commissioners such as GP consortia, where there is an opportunity to achieve a step-change in practice (and equally the danger that existing good practice will be lost in transition).

2.7 Access to capital & Big Society Bank

We very much welcome the creation of the Big Society Bank. However there are two major issues with the Bank: firstly, that it will need to serve a large number of public service markets (it is already clear that many departments are planning on the basis that the BSB will solve the problem of third sector organisations lacking access to capital); and secondly that it will come on stream too late for many organisations given the speed of the Government's public service reforms (e.g. welfare to work). We see three consequences:

- We believe that the Government should see two blunt priorities for the BSB: ensuring it has as much capital as possible, and ensuring it is established as quickly as possible.
- The proper regulation of prime contracting becomes all the more important, as in the temporary absence of the BSB (and given that it will not be able to provide all the finance required) for many organisations the only way to find the capital to enter some public service markets will be to partner with larger primes who have better access to finance.
- The government should investigate other ways of encouraging the flow of capital into the third sector. For instance, it could investigate the potential for 'local authority banks' (already tested to some extent, and to be made easier by the Localism Bill) to lend to civil society organisations; or the potential for large NHS organisations being 'spun out', given greater independence or reformed to use their assets to lend to the local health economy.

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

We strongly support greater use of assessments of full social, environmental and economic value in commissioning. We therefore strongly support the associated parts of the Public Services (Social Enterprise and Social Value) Bill. We support the Government's broad approach to this Bill.

We would encourage the Government to consider the following:

- We believe that the legislation should ultimately require commissioners to consider the full social, environmental and economic impact of their actions not just when commissioning new services, but also when decommissioning existing services.
- We do not believe Government should be overly prescriptive about methodologies commissioners should use to assess full social, environmental and economic value – some methodologies will be disproportionately complex for certain organisations/contexts
- Part of the value of the bill could be its impact on private sector prime providers, incentivising them to work with third sector partners in their supply chains. In the design of the legislation and in its communication, the Government should seek to ensure that this opportunity is seized, and avoid legislating (or communicating the legislation) in such a way that prime providers feel their response must be to deliver added value themselves (potentially reinventing the wheel while existing external capacity withers) rather than making use of existing networks/expertise in potential partner organisations
- Part of the challenge for encouraging commissioners to consider the full impact of their commissioning decisions will be culture change – getting commissioners to think of themselves as servants of a community/locality rather than a siloed agency; opening their eyes to the potential full impact that they could achieve, etc. This makes investment in commissioners' capacity – and particularly that of new commissioners such as GP consortia – crucial (as per above).

- Government can encourage/enable commissioners to consider the full impact of their decisions, but for commissioners to seek to have a significant (rather than marginal) positive impact on social/environmental/economic issues outside of their remit, we believe a big increase in joint commissioning will be required. We believe that will require Government investment in improving commissioning practice to be more coherent across the board (as per the attached ACEVO/PwC/Community Alliance briefing); and concerted efforts to enable the pooling of budgets. In that vein we believe Government should see the 'community budgets' and 'right to control' trailblazers as major opportunities upon which to build significantly over the course of this parliament.
- Third sector / citizen & community involvement in the early stages of commissioning could be a powerful impetus to commissioners achieving maximum social/environmental/economic impact with their spend, and Government should see it is a key means to that end. For instance, where a social enterprise employers ex-offenders to maintain local parks under contract to a local authority, the local authority is achieving its primary aim (well-maintained parks) and simultaneously having a significant impact on reoffending rates. It is true that this is more likely to happen if the commissioner of park grounds maintenance in the local authority is required to consider the full social/environmental impact of their commissioning decisions. It is true that it is more likely to happen if the commissioner is culturally inclined to seek that wider impact. But we believe it is significantly more likely to happen where there is also some investment from the probation service (cf. the point above about joint commissioning), and equally more likely to happen where the social enterprise running the scheme has had some input in the early stages of service design, and had the opportunity to ask how the service might be designed in order to achieve wider positive social/environmental impacts.

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

We believe that if Government is to achieve its aims here:

- Local healthwatch functions should be commissioned to external organisations rather than carried out by public sector agencies
- Government should actively encourage the Community Budgets pathfinders to engage with third sector organisations, including as a means of supporting citizen/community engagement
- JSNAs should be reformed so that they become 'jointly owned' by the community and the local public sector. ACEVO's Commission on Public Health (made up of third sector CEOs and DH officials, including those leading on JSNA reform) discussed this in detail and recommended the following:

  The Government should continue to embed Joint Strategic Needs Assessments (JSNAs), including GP commissioning consortia in the process, but should promote the JSNA as a process jointly owned by statutory sector organisations, voluntary organisations and local communities themselves, and one which effectively informs commissioning..

Government should spread best practice so that JSNAs:

- genuinely inform commissioning decisions
- include a stronger emphasis on identifying and mainstreaming innovation (including from the voluntary sector) and 'community assets' (i.e. the strengths that exist within communities which the state should seek to foster and build upon, rather than just the 'needs' and gaps it needs to plug)
- are tailored for a wider audience than highly-qualified public sector professionals (including local people, councillors and voluntary sector organisations)
- encompass an understanding of the contribution the voluntary sector and communities make locally to population health
- gather more evidence on the total impact that interventions have on individuals and communities (e.g. their impact on community cohesion, vibrant civic action, and individuals' perception of their quality of life).

The Department of Health should promote understanding of JSNAs in the voluntary sector, and should support local areas to capture the voluntary sector's contribution to JSNAs, for instance by working with local or subsectoral umbrella groups able to gather information from large numbers of organisations. Voluntary sector organisations in turn (including local and subsectoral umbrella groups) should work to connect their members with the JSNA process.

- The package of support that OCS develops to build on the PIP is welcome, and should focus on:
    - Building 'leadership for place', i.e. bringing together leaders from across the public sector, civil society and private sectors to promote joint working and/or a sense of shared purpose. We believe this will be important not just for promoting partnership between organisations/agencies who might then deliver services, and not just important for enabling better citizen/community involvement in commissioning, but also in ensuring that the retrenchment of the local state is met with a 'big society' response from civil society rather than gaps in provision and public hostility/campaigning likely to make necessary cuts politically difficult, thereby likely leading to poor decisions
    - Facilitating joint commissioning between different public sector agencies (which we believe, as per above, will be crucial)
    - Using engagement of civil society / citizens / communities as a means to designing services that are better value for money and achieve cost savings (given that this will be the priority for many commissioners)
    - Reaching 'new' commissioners (e.g. GP consortia) where there is both an opportunity to influence practice at an early stage (e.g. with GP consortia, through the pathfinders) and a danger of good practice being lost in the transition to new systems.

- As per above, in continuing to train commissioners, Government should continue to promote good practice on old issues such as long-term contracting, not seeing third sector organisations as charities who should therefore be prepared to contribute to the costs of a project etc. It should also focus on promoting joint commissioning (as per above), commissioning through the third sector in order to transform services as thereby cut costs, and engagement of third sector organisations in the earliest stages of commissioning (as opposed to simply at procurement stage).
- LIS could present a significant opportunity for third sector organisations to engage citizens/communities in commissioning, but our experience has been that few third sector organisations have heard of/understand the concept and that, even allowing for the variety of models in play, it has been poorly communicated to date (and in different ways to different audiences by different people) – better communication will make it easier for third sector organisations to engage. We believe the key will be a) real clarity on the role of the state, e.g. in ensuring inclusiveness (so that the majority in a community do not design services that exclude a minority); and b) ensuring that there is genuine community co-design (without a real premium on the latter, our discussions with people involved with LIS suggest the danger is that public agencies will see it as a tool effectively to outsource the commissioning function to an organisation which can cut costs and effectively integrate services – both desirable outcomes, but ones that will not necessarily lead to the benefits associated with community engagement or third sector involvement)
- We see three key roles for third sector organisations in the development of free schools: a) informing the design of new schools through their knowledge of particular communities, thereby increasing the degree to which (and the speed at which) the new schools innovate and achieve better outcomes, b) setting up and delivering new schools, either alone or in partnership, and c) partnering with new schools, e.g. in the provision of after-school activities. Our sense is that there is a significant role for central government to play in making these possibilities a reality. Respectively for each of the roles above, DfE and/or Cabinet Office could a) facilitate contact between potential providers of new schools and third sector organisations who might have views on how schools should be run without wanting to run them themselves; b) communicate the free schools programme as an opportunity for third sector organisations (currently for whatever reason our sense is that many ACEVO members do not see it as 'meant for them'), communicate the potential value in partnership bids, facilitate contact between potential partner bidders (e.g. through any package building on the PIP); and c) have clear incentives for schools to partner with other organisations to deliver extra-curricular activities, and again facilitate contact between potential partners.
- The Government should be ambitious with the extension of personal budgets, but with a clear understanding of the practical underpinnings they will need.
    - In particular, there are opportunities to trial this approach in two areas where the Government's cross-departmental focus on devolving power has yet to be fully articulated, namely welfare to work and offender rehabilitation. We welcome the Right to Control trailblazers and the inclusion therein of some welfare to work funding, and believe the Government should see those trailblazers as an opportunity to test the

principle of individual control over budgets in welfare to work. It could also work with individual prime providers under the Work Programme to test the concept of putting increased choice and control in the hands of the jobseeker (without necessarily giving them direct control over the cash, or giving them unlimited choice in how the money is spent). Similarly, as MoJ tests new ways of commissioning services by results and ways of joining up commissioning activities of different public agencies around offenders, it could test the degree to which lead-professional-held budgets, pooling resources from a variety of agencies, are an effective way to prevent reoffending. We believe in these two areas there is significantly more scope for devolving power (as the Government has said it wishes to do across the board) and thereby increasing efficiency and effectiveness; and that in these two areas there are immediate opportunities to trialling ways of doing so. The White Paper should be seen as an opportunity to articulate how the Prime Minister's 'people power revolution' in public services will be put into practice in welfare to work/offender rehabilitation (beyond giving providers more freedom and paying them by results).

- We believe the pooling of resources from different agencies into individual budgets is crucial and should be seen as a priority – increasing the sums of money involved and thereby making individual control more viable; reducing the costs of administration, advice etc by removing duplication; and better enabling individuals to 'join up' and tailor their own services (which in turn is likely, we believe, to better enable third sector organisations to deliver those services).
- In order to make the use of personal budgets practically viable, the ACEVO Commission on Personalisation recommended action in 5 key areas (more detail in the full report):

1. **Bottom-up regulation and quality assurance**, whereby the central regulatory regime is pared back and the growth of a bottom-up model involving simple quality standards relevant to the size and purpose of the service offered, evidence of social impact and customer feedback.
2. **A revolution in the provision of information, advice and advocacy**, with greater transparency and availability of information (including through social media), the growth of networks of mutual support, and the provision of advice and advocacy independent from Government.
3. **A new mutuality to drive up provider and workforce capacity**, with providers and front-line staff coming together to address the capacity gaps they will face in moving to more 'personalised' public service markets.
4. **Supporting prevention and the development of social capital,** including through greater use of social investment, extension of co-funding, 'mutual budgets' allocated to individuals who band together to form mutual support networks, and linking the Government's initiatives on neighbourhood budgeting and community organisers.
5. **Large-scale social investment**, (as per above) but also through a new tax credit – Social Investment Relief (SIR). SIR would make interest and capital repayments from licensed social investment schemes tax free for UK tax payers. It would be used in particular to capitalise results based funding contracts and investment in community infrastructure. Tax incentives should

also be provided for charitable trusts to use their endowments to invest in projects that are within their charitable remit.

If you have any questions regarding this submission please contact
ACEVO