



Consultation Response
'Modernising Commissioning Green Paper'

Submitted to the Cabinet Office

January 2011

About Children England

Children England is the leading membership organisation for the children, young people and families' voluntary sector. With member organisations working in all parts of the country ranging from small local groups to the largest household names in children's charities, Children England is in a unique position to use the collective voice of the voluntary sector to achieve positive change for children. Children England provides capacity building, support and information to its members and the wide range of voluntary sector organisations working with children, young people and families. It does this by building active networks, promoting good practice, stimulating policy debate and ensuring that the issues that matter most to its members are taken up with decision makers.

Children England is committed to working alongside its members in the creation of a society where children and young people are valued, protected and listened to, their rights are realised and their families supported.

For more information about this response or Children England, contact:

Children England welcomes the Green Paper on Modernising Commissioning and the chance to contribute to the development of Government policy on public sector commissioning of voluntary organisations. Children England has recently published the report and recommendations of a two year study on the experience of commissioning in the children and young people's voluntary sector, and we enclose the full report alongside this submission, as a substantive contribution to the consultation. This submission does not, therefore, aim to repeat the extensive content of the study, but to offer relatively succinct answers to the key questions in the short period available, based on the learning and experience of members.

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

There are not any obvious or substantial areas of public service, at least not for children, young people and families, that stand out to us as having been literally closed off in principle to partnerships or commissioned involvement with the voluntary and community sector. Even child protection services have involved the VCS in supporting families and commissioned bespoke packages of intervention from the sector for the children and adults involved in serious abuse cases.

What can certainly be said, however, is that the extent and type of public services commissioned for the VCS to deliver varies enormously from one department or local authority to another, and so the picture is not at all consistent. Some local authorities for example, have commissioned and re-commissioned all of their children's centres from the beginning of their development as new kinds of public services, while some other authorities still provide all of theirs in-house and have resisted attempts to encourage commissioning.

Commissioning is not all, or merely, about competitive tendering for full contracts to provide public services, but looking at needs across the authority in the round, and then deciding how best they are to be met. This should not preclude the possibility that some services may indeed be best provided by a statutory agency, and involves much more than a focus on particular teams or services within the public sector and whether they can or should remain provided by their current delivery agents. Ideally, commissioning is about taking into view the wide range of services, of all kinds (public, voluntary and private) that may be meeting the priorities and needs in the community, (or identifying new or unmet needs), and ensuring through the commissioning process that they are supported to continue, adapt, or if no longer needed decommissioned in ways which do not destabilise the provider.

This whole systems approach requires a variety of techniques for supporting voluntary sector delivery, including competitive tendering but also, particularly grants and developmental commissioning which nurtures small organisations' ability to grow the capability and capacity for full contracting as public service providers.

Sub-question – implications of payment by results

The idea of payment by results is a logical extension of outcomes based commissioning and holds potential to ensure that services are firmly focussed on what they achieve with and for their service users. One critical issue, however, is the financial capability of VCS organisations to meet the costs of providing services up front, while awaiting payment on production of their results. The Charity Commission recommends that best practice for charities is to have 6 months operating capital in reserve if possible. Some but not all organisations are able to achieve this, but the kind of service outcomes they will need to achieve under payment by results arrangements are likely to take longer than six months. Many VCS organisations do not have substantial fundraising capacity, and even those who do may have concerns that using donor funds to essentially subsidise the provision of public services pending repayment from the State, may not be the most appropriate way to spend the privately donated funds entrusted to them.

Secondly, there are currently few longer term interventions funded through this method which have been independently evaluated and assessed for effectiveness. The commonly agreed definition of a "successful outcome" needs much work, especially in areas where multiple interventions have been required by several agencies. The involvement of services users also needs to be developed further if they too are to be empowered to own and contribute to the definitions of success.

Some types of intervention will be more amenable to payments by results than others – for example a service aimed at reducing drug problems or stopping reoffending may have a clearer objective and more measurable primary outcome than a more complex early intervention scheme with varied services on offer for varied needs. It will be important to be careful in applying payment by results only to those services where it is suitable to the type of intervention and maintaining an appropriate apportionment of risk between the commissioner and provider.

Sub-question – encouraging civil society organisations to partner with employee-led mutuals

We anticipate that employee-led mutuals will face many challenges in learning to run their services/teams as independent organisations in a competitive public service marketplace, and they will find plenty of support and training available through the existing voluntary and community infrastructure organisations if they seek it out. Young markets do not easily incorporate the partnerships and respect for competitor USP's

found in more settled and established fields. Formal partnerships with VCS organisations in providing the services they run may well be of interest to some, but it will take time for confidence to be established and it would be difficult for government to create such partnerships, since one of the most important things about effective partnership working is that it is built on the organisations' mutual desire to work together for common benefit. The Government could however invest in brokerage services to assist with taking the worst of the risk out of early explorations of joint working and model policies which serve to protect the intellectual and other assets each organisation may bring to such a partnership.

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

One of the strongest themes coming through our commissioning study is the impact and inefficiency of the substantial variations in tendering and contracting processes, documentation and monitoring requirements from one authority to the next. As we submitted to the spending challenge and 'reducing red tape' consultations, we believe that there must be scope for standardising tendering processes and documentation, with benefits to be gained for both the commissioning authorities and the bidding organisations.

The proposed 'Contracts Finder' service sounds like a very positive step forward, as it can be a full time job in itself just to try and keep track of the many different ways in which authorities advertise their invitations to tender. If possible, it will be very useful to be able to keep information about when authorities' commissioning cycles are planned, not just at the point of invitations to tender being issued, but against a diary into the future, as many organisations will want to consider carefully a decision to tender for provision in new areas, and explore potential partnerships with existing local providers.

TUPE is another major barrier which not only acts to deter civil society groups from entering public service markets, it also creates a skewed playing field, which privileges those with higher levels of reserves and assets which can be set against long term pension liabilities. The current regulations place the majority of the duties and legal responsibilities for TUPE on the organisations which have the least information available to them to assess the risks, i.e. the new entrants to the market.

Commissioners need to take a far higher level of responsibility in ensuring all bidders have equal access to accurate information so that good decisions can be taken in full knowledge of potential liabilities.

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

The measurement of organisations' social, environmental and economic value is a major step forward in viewing fully the whole range of benefits that VCS organisations can deliver, but do not always show in a straightforward cost analysis. Experience to date in using tools such as SROI (social return on investment) has been that it can be a very complicated process to understand, particularly for smaller organisations that may have very localised impact and small numbers of services users. It will be vital that full assessment is conducted by the authority itself, at the 'whole authority' level, rather than expecting each commissioned organisation to conduct them themselves.

The use of social, environmental and economic value assessments will take authorities into more 'subjective' territory than merely the assessment and meeting of needs. In particular the value placed on outcomes for some service users may be challenged by voting citizens who may view other groups or needs as more worthy of investment.

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

The voluntary sector has already led the way in facilitating service user and community involvement in commissioning in a range of different ways, including innovations like citizen panels, children and young people's mayors and councils. One of the most important roles the VCS can play is in ensuring the involvement of groups who would not usually present voluntarily or confidently to 'open meetings' of interested members of the community.

Civil society organisations have been active in facilitating and supporting service users and residents to inform service reconfiguration. The increasing use of customer insight data can also play a role in identifying where services should be joined together or delivered in tandem to both save costs and provide a more effective service at the point of need. Local authorities and others could share more of this data with their local CVS to enable better strategic planning across all sectors and more strategic joint use of assets such as buildings, outreach workers and websites.

Service user and resident forums should be funded and organised independently from major service providers, so that there is a real and creative space to offer constructive criticism of the status quo, and offer new ideas without fear of reprisal or withdrawal of services from those who feel vulnerable. Existing infrastructure bodies, advice and advocacy services and user led groups would be very able to manage this work, with no need to set up new mechanisms or structures.

Sub-question: What contribution can VCS organisations make to rolling out personal budgets more widely – what are the barriers to more extensive personalised commissioning?

The vast majority of organisations in the voluntary and community sectors (VCS) already deliver tailor-made packages of support to individual children, young people and families. The children, young people and families voluntary and community sector has much to offer in the field of personalised practice – it has experience and expertise in developing person-centred and recovery focused services and outcome measures. The sector is also very strong on delivering services to diverse communities, engaging with and involving those who use their services, including those who may have been disengaged and excluded from statutory services. As such the VCS's work already exhibits the values of the personalisation agenda, including independence, social inclusion, flexibility and citizenship. The key difference between the Government's personalisation agenda and the existing person-centred work being provided by the VCS is the major change to the whole public service delivery system. The entire foundations of publicly-funded services are being re-assessed with moves towards individual-commissioning, brokerage, and entirely new roles for providers, commissioners and the wider children's workforce. However, the VCS is in a strong position to respond to these calls for change, as for many they already understand and work with users in a participatory context, building on the capacities and aspirations of users through tailored support.

There is ample evidence that shows that when there are greater opportunities for choice in public services, these are capitalised upon by the most articulate, system-savvy middle class users and families. Nor is social capital distributed equally. Those who are most disadvantaged are less likely to have the lexicon to exercise voice, the information to exercise choice and the connections to exploit social capital. This is inevitable to some degree. Government at all levels will have to grapple with this problem by ensuring that support and information is available and accessible to the most vulnerable families to make certain they can get the most from any personalised approach. This is crucial as it is likely that those who have suffered the most from standardised approaches – often the most disadvantaged – have the greatest to gain from an approach where they are in control.

Questions also remain about who will be entitled to receive personal budgets. Pilot activity has tended to focus on those children and young people who are at the top end of the need spectrum – those with disabilities, those in care, those with learning difficulties. However, we do not know much about the demographic make-up of those children and families. Going forward, there is a risk that 'easy' families are given the

option of an individual budget for their child, whilst families with multiple and complex needs who are already parenting under pressure are deemed unsuitable to have an individual budget despite the range of deployment options available. If personalisation is about transferring control to families through participation, fairness must be at its core.