

Modernising Commissioning

Response to the Green Paper

From Karen Morton of the Capability Company

I spent over 20 years as a manager in the charity sector before setting up as a freelancer trading as The Capability Company <http://www.thecapabilitycompany.com/>. In that capacity I have been involved in setting up new national charities, delivering training in mentoring and leadership to people on personal budgets (to encourage others), being part of a team delivering workshops on procurement for commissioners and potential providers, supporting consortia, and delivering away days and team building for partnerships. I am currently providing the development and initial management for a new charity called Escaping Victimhood that runs residential workshops for people bereaved by homicide. I have also always been involved as a volunteer, and have been a trustee for many organisations, and chair of several partnerships.

I would like to have been able to spend more time putting together a better-crafted and more structured response to the Green Paper. However, this has not been possible, so I hope that the following series of bullet points in response to the paper is helpful.

Community engagement and consultation

- Civil organizations clearly have a significant role to play in encouraging local people to be more engaged and take greater responsibility for local services. Community engagement doesn't just happen; someone, or a small group, generally act as a catalyst, and communication point. Community development worker posts have been drastically cut in the last few years, but are arguably needed more than ever. They are well placed within local infrastructure organizations, such as councils for voluntary service (CVSs).
- Local people taking on greater responsibility means more local understanding of governance issues, and decision-making processes, as well as understanding of how issues affect different communities in different ways. New systems for consultation and education are required if people are to be empowered to fully engage.
- I think it is really important to understand that many (possibly most) people are simply not interested in a governance role; often, people who are brilliant at delivering front line services, working to improve people's lives, do not enjoy the meetings, reading papers, and so on. This means that either a significant group of people (who know stuff) are excluded from engagement, or we must find creative and accessible ways of drawing on locally held knowledge.
- Current mechanisms for finding out what people want can be very poor. For example, I was delighted that my local Parish put together a parish plan (I lobbied for it, and helped in the early days), but wasn't pleased to be excluded from the consultation on the draft plan because it took place in the summer holidays, over a short period when I was on holiday. I don't think there is sufficient understanding within public bodies over how to effectively consult and really engage all those with a stake in the issues.
- When community safety partnerships were originally set up, they worked to prioritise crime issues based on locally stated needs. However, the response of local people attending meetings and replying to consultations did not necessarily reflect the local realities and costs of crime. In a neighbourhood it is likely that the public will identify issues such as poor lighting, young people hanging around, burglary etc as key issues. However, it is equally likely that domestic violence costs more in money and short and long-term harm, but is not seen as a priority by those who don't experience it, and is not talked about by those who do. This is an example of an inherent problem with local people shaping local services, that needs to be balanced with education.

- For local communities to be able to 'shape services' new governance structures must be in place. Local people need to be educated to understand the issues, to recognize their own power, to understand decision-making and governance structures. It is important to recognize that this cannot be achieved without resourced community development work. The third sector may be able to help with this. It has often found new ways of consulting, of ensuring that the inarticulate can still be heard. This community development skill can be used to help promote the thinking behind the green paper. However, it is also important to be mindful of the resource implications of such a role, which can detract from core business of civil society organizations. For example, increased partnership working has brought considerable benefits over the last few years, but has created a new pressure on voluntary organisations (I call it 'partnership stretch') where the time required to be effective on all the partnerships relevant to the needs of your client group has an adverse effect on the time available to get on with the day to day work. This issue disproportionately effects smaller organizations, and there is an inherent problem that the people who are most valuable on partnerships and consortia (and in responding to consultations), are those who are reasonably close to the issues because they have regular contact with users.
- I met someone who told me that her village had been offered the chance to run a community building, but they could not take it on because the village was at capacity; everyone who was available to be on a committee or to be a volunteer, was already doing so. I am concerned that there is an assumption of limitless local capacity. My experience suggests that a great many people are already very busy local citizens
- Important to have 2nd tier organizations who can capture the individual voice, but raises lots of issues around democracy of that voice.
- Civil society organizations will not be able to afford to act as a voice for their users if there only income is from service delivery that is at rock bottom prices. It costs to be a voice, and needs to be paid for; could be within contracts.
- What about risk of disagreement? If different sections of the community ask for funding to meet their needs (for example health problems that disproportionately affect certain sections of the community). Who will have the last say? How to ensure whoever that is is sufficiently credible. Suppose community involvement leads to community antagonism. Skilled community workers to help build effective systems for consultation that enable everyone's voice to count.

Localism

- I am pleased that the Green Paper acknowledges that there are significant areas of social need that cannot realistically be resourced or supported locally, and will not find themselves in the priority list of any local organisation. For example, it is unusual for someone to become a secondary victim of homicide, which is a situation that can lead to very high support needs. But given the infrequency of this occurrence at a local level the strategy and funding priorities must be set nationally.

Payment by results

- I think that payment by results is a very interesting idea. The third sector has got better at identifying and capturing outcomes and impacts, rather than simply describing its services and asking for funding. However, many of the most significant outcomes delivered are long-term and very 'soft'. I don't understand how it will be possible to identify which intervention had the desired impact. It is important to consider how to ensure organisations don't prioritise working with less 'difficult' clients in order to improve overall outcomes.

Personal budgets

- Personal budgets are a powerful way of helping people get control back in their lives. However, choice can also be a burden, and those with personal budgets need

- significant support to make and manage the new choices. I have recently run some successful leadership and mentoring training, to enable those who already have personal budgets to assist others with understanding that decision, which has been very effective, and worked to empower people on many levels.
- For organizations the move to personal budgets brings difficult challenges. Those on a personal budget will not have the choice to purchase a service that has just disappeared because of lack of core funding. There is a delicate balance to be struck between ensuring that services continue because users wish to purchase them, and helping voluntary organizations (in particular) to maintain their core services in a climate where the loss of fees for one user can destabilize the whole organization. It is possible that this could be linked with the thinking behind payment by results; there is a continuing responsibility to ensure a range of provision through core grants; if users do not choose to use a service then the continuance of core funding would clearly need to be reviewed. It is essential that quality services do not go under while waiting to find out if newly empowered beneficiaries will be choosing their services. Unlike the private sector, charities, especially smaller ones, cannot subsidise one activity from another.

Commissioning and procurement.

- I have seen some very poor practice in public sector commissioning in recent years. The increasing shift from grants to commissioning brings benefits. However, there is a lot of critical voluntary sector activity that underpins our society, which is not suitable for commissioning. An example could be a small group of volunteers who run a lunch club for local elderly people, which benefits from a small annual grant from the local authority. This relatively small investment brings significant results, and without it the organisation will cease to function. However, if the local authority decides that funding for such activities must go through a formal commissioning process the chances are that the group will fold. There may not be anyone with the skills or time to manage a bidding process (and the group may not even be aware of the need to bid); the people involved do what they do because they like to help other people and can see what benefits their activities bring, on lots of levels. The volunteers themselves benefit from continued activity and purpose, and are likely to remain fitter for longer as a result. Small organisations have consistently shown that a relatively small amount of public money can provide excellent and important support for vulnerable people. There are thousands of examples like this, which are increasingly at risk because their activities are now seen as a public service rather than charitable activity. It is crucial that small core grants are still available for small volunteer led community groups. There has been some thinking that bigger organisations can pick up the contracts and sub-contract to the smaller groups already doing the work. I have seen no evidence of this being a reality, or financially desirable to either party.
- When designing a commissioning system it is important to consider all the real costs of the process. If relatively small amounts of public money are involved, it is quite possible that the total costs to the commissioners of putting together and publicising the opportunities, selecting, shortlisting etc, and to the potential bidders of responding to the tender (all the bidders have costs that increase the cost of their services) and then the costs of management, far exceed the cost of a simple annual grant. Public sector procurement can be a very useful way of ensuring the best services for local people – but it is not the only way, and is not suitable for small-scale local activities. We have now started seeing small local organisations disappearing as their locally sensitive services are taken over by national organisations who have the infrastructure to make effective bids as part of a procurement process. It doesn't mean they are better positioned to meet local needs; just that they are better positioned to make a successful bid.
- A key issue with regard to procurement of local services has been a misunderstanding of consultation. Frequently those people who really understand

local needs, because their organisation has been working closely with the potential beneficiaries, are excluded from helping to design specifications for services because of concerns about unfairness. Which can mean that no one involved in designing that specification has direct experience of users real needs. This needs considerable clarification.

- It is critical to remember that a major advantage of the way in which the charity sector works is that it can be flexible, responsive to needs and is trusted by users who may not trust the statutory sector. The bigger charities have almost all developed from tiny local initiatives. If small charities lose out now, we may not have the organisations we need in the future. There will be no 'nursery' for young charities, nor new organisations emerging to address new areas of social need.
- It is important to recognize the different layers of value that can be bought through commissioning. A charity may use beneficiaries as volunteers, thus empowering their beneficiaries, having volunteers who really understand the needs of their peers, and this is often a powerful stepping stone to employment. Unless a procurement process allows this to be explained this advantage is lost.
- Business has used the triple bottom line accounting. when considering corporate responsibility. Something similar in procurement would be very useful; added value to the community and to society as a whole. Social impact etc.
- Good that commissioners being trained to understand the issues; lack of understanding has been a significant problem.

Proportionate outsourcing

- The Green Paper suggests requiring proportions of public services to be delivered outside the public sector. We have seen something similar required of the probation service, which was helpful to encourage thinking outside the usual delivery. This obviously would encourage a mixed economy; however, it brings potential pit falls. Uniform proportions are artificial and needs will vary from area to area. What may be more important is that people get the services and support they need to have happy and productive lives; an effort to ensure required proportion is met could result in this not being the case. It may be more important to develop protocols that ensure that commissioning authorities are able to justify why something is being delivered a particular way.

Right to challenge

- Another interesting idea. Right to challenge (e.g. over closure of services) is an important principle; however, there is a finite resource; if there is a successful challenge, will it just mean that another service closes, and that there is still the net loss, but at a greater cost? Supposing one part of a community mounts a successful campaign, and as a result another, less resourced and articulate part of the community loses out.
- It is possible that this will favour bigger organisations, who have the capacity to put together and manage a challenge. If successful this might be at the expense of a smaller organisation and their clients. For example, health provision for service users with a particular condition might be closed. The campaigning organization for those people takes it up as a challenge. The commissioner as a result keeps the facility open, but closes another one that is for people without such an organised user group.
- There is the potential for infrastructure charities to continue to be funded to support the smaller organisations in this situation. For example, an officer within each CVS could take on this speciality; however, this is unlikely to be funded by the local authority because it is not, arguably, in their interest to do so.
- This initiative could generally prove expensive.

General

- The Green Paper is right to identify the inherent difficulties of bigger organisations taking over delivery of services; they can bear more risk, they are likely to employ people specifically to write and manage the bidding process. In smaller organisations the manager is likely to take this on (if anyone). The risk taken by a charity is not just a risk to its own organisation, management and staffing; there is also the risk of the severe potential impact on its current users. This is where third sector is very different from the private sector. Financial risks can also be to individual trustees who are volunteers, who give their time with no remuneration or benefits of any kind; this is very different from the risk taken by a private sector stakeholder, who may stand to lose money but also stands to gain personally.
- I think that the Futurebuilders model was a very good way of changing the financing of voluntary organisations. The way it was set up meant it was effectively very low risk to the volunteers involved in an organisation, but the ability to borrow funds enables things to happen. This relevant to the development of the big society bank.
- I was involved in setting up a new national charity that was successful in receiving development funding and a significant loan from Future Builders. In the end it did not draw on the loan, but knowing it was there enabled it to get on with recruiting staff and setting up the office which was subsequently funded by public sector commissioning. Without the loan it would not have been possible to take the risk. The trustees of the development organisation would not have taken on a normal commercial loan because they would not have been empowered to risk the organisation in that way.
- Merlin sounds interesting; it will be important to ensure that greater monitoring of contracts that are implied does not in fact act as a disincentive to engaging smaller organisations as suppliers (e.g. easier to do it yourself). There is also the risk that the primary contractors offload on to the smaller organisations responsibility for accountability that may then make the opportunity impossible.
- A big barrier to working in consortia is leadership, and the time it takes to pull together a consortium, organise terms of reference etc; which is generally the time of key people within the organisation who are responsible for many other aspects of management. This has been a weakness all along in the desire to encourage consortia; it is difficult and time consuming, even though the benefits may be high; it is also risky. Issues include the disproportionate involvement of different agencies; how does a charity with 2 part-time staff input the same as a charity with a dedicated partnerships officer? There can be an inherent difficulty with potential competitors joining forces. Independent people to help build consortia could be useful, providing external support for this process; this may be a role of CVSs.
- The example of schools catering is a good one; but this is an area of service delivery where the beneficiaries pay; so if it is good there is more money, and it can operate a business model. Many charities operate in an arena where if their services are excellent, more people use it, and the costs are higher. Money does not necessarily follow referrals (for example, help-lines who are effective may receive more calls.)
- LIS good idea; how to find right people to serve on them. Issues of representation – are they there because of who they are and what they know? Or are they expected to represent individuals or groups, if so, how will they gather this?

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Also Chair, Trustee and Development Consultant for other organisations who I have not had time to consult about this response.