

Modernising Commissioning consultation December 2010

Co-operatives UK response

About Co-operatives UK

1. Co-operatives UK works to promote, develop and unite co-operative enterprises. It has a unique role as a trade association for co-operative enterprises and its campaigns for co-operation, such as Co-operatives Fortnight, bring together all those with a passion and interest in co-operative action.

The co-operative economy

2. There are already over 4,990 co-operatives in the UK, owned by more than 11 million people – and these numbers keep on growing.

3. Co-operatives are business that exist to serve their members, whether they are customers, employees or the local community. They work in all parts of the economy including retail, banking, food and farming, design and renewable energy. Co-operatives also deliver a range of public services including housing, social care, sport and leisure, recycling and health care.

4. In a co-operative, the members are the owners, with an equal say in what the co-operative does. So, as well as getting the products and services they need, members help shape the decisions their co-operative makes.

5. Further information about Co-operatives UK and the co-operative sector can be found on our website www.uk.coop.

General Points

6. As suggested in the consultation document, we have restricted our response to those areas in which we have specific expertise or knowledge and have not responded to all the questions.

7. In discussion with our members an important point that was raised by many of them is that commissioning from CSOs should not be thought of as simply broadening the pool of providers who could potentially deliver a fixed range of services to meet predetermined needs. Rather, an opening out of commissioning will – and should – lead to a reshaping of the services themselves as innovative ways of delivering services emerge and new needs are identified.

In which public service areas could Government create new opportunities for CSOs to deliver?

8. No areas should be excluded unless there is a well argued justification for their exclusion. Our short period of delivering the Mutuals Information Service for the Cabinet Office, with Local Partnerships and the Employee Ownership Association, has uncovered interest from a remarkable diversity of service areas. Therefore we recommend that Government should concentrate on establishing a favourable environment for co-operative and mutual public service delivery rather than trying to second guess where the interest might come from.

What are the implications of payment by results (PBR) for CSOs?

9. Although we can understand the appeal of PBR, it is fraught with difficulty:

- Cash flow: delivery organisations need working capital to see them through to full payment.
- Assessment of results often comes a long time after the service has been delivered
- Results may be multi-causal and hard to link to a specific service delivery
- Considerable resources may be required to assess results, and therefore must be factored in at the beginning.

10. The appropriateness of PBR will therefore vary considerably across different services as a result of the significance of these, and other, factors.

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

11. This question and the text which precedes it posits a model in which co-operatives and mutuals have membership drawn exclusively from employees, and that these bodies then enter into a relationship with organisations representing the users.

12. That is one model, and it could work. Measures to encourage it could include providing standard templates for partnership and joint venture agreements. The benefit of such an arrangement is that it clearly delineates the roles and responsibilities of the stakeholders. However, we would also recommend encouragement of multi-stakeholder structures for the delivery bodies themselves, in which the users – and other interests – were part of the governance of the delivery body rather than being at arms length. That is a simpler arrangement and brings the need to reconcile different interests into the heart of the delivery body's operation.

How could Government make existing public service markets more accessible to CSOs?

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

13. Many of the issues and obstacles have already been identified in the consultation document: timescales, legal documentation, risk, cost, inflexibility, opacity and TUPE. In addition we would point to:

14. Duration of the contract: contracts should be for a minimum of three years, and preferably five years, subject to satisfactory performance, to allow new entrants to establish themselves and to justify the initial investment.

15. Legal form: all legal forms should be eligible, including the Industrial and Provident Society, which is a very attractive legal form and is favoured by many co-operatives and community benefit organisations. We often find that not enough attention has been given by commissioners or by the people who draw up regulatory frameworks to the range of legal forms that a business can take.

16. Pensions: an issue that comes up all the time. Public sector employees are naturally concerned about preserving their pension rights. There is a great deal of confusion on the matter. Government should:

- Issue definitive clarification and guidance on the topic
- Ensure that wherever possible public sector employees are entitled to remain members of their existing pension scheme when they transfer to a co-operative or mutual and that new recruits have the same entitlement.
- Consider sponsoring the creation of a new national pension scheme for those people who for some reason are not eligible for existing public sector pension schemes.

17. EU procurement and state aid rules: these are a source of confusion and worry, on the grounds that they threaten to force the opening up of any public service contract to open market competition and to rule out justifiable assistance to CSOs delivering public services. Co-operatives UK has worked on the topic with its partners in Europe and has some expertise on the subject. We suggest that a working group be set up to consider the issue and publish authoritative guidance. We would be willing to be part of such a group.

18. Our experience is that an important success factor in any business is that it does not rely on a single customer but instead has diverse sources of income. Commissioners need to recognise this and not insist that CSO providers deal exclusively, or even predominantly, with them.

19. Some areas of public service require professional indemnity insurance, which can be difficult, or even impossible, to obtain. One example is midwifery. Government should ensure that this insurance is readily available for co-operatives and mutuals.

20. Business support: guidance and information on these and other aspects of setting up and running a co-operative or mutual business should be available to CSOs delivering, or contemplating the delivery of, public services. The proposed Mutual Support Programme should go a long way towards achieving this, with national coverage and a range of communication channels - telephone helpline, web, etc. However, it will always be the case that many - possibly most - CSOs will use people and organisations they are familiar with, especially those that are local, as sources of help and as their entry point into national information and support services. It is therefore essential that this local support infrastructure continues to thrive and that the Mutual Support Programme connects with it. It is also important that these local and sub-regional intermediaries are equipped with the necessary information and understanding about co-operative and mutual business models, and about further sources of support. Co-operatives UK would be keen to work with Government on this.

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

21. We have already referred, above, to some of the issues, such as preservation of pension rights. In general, we do not favour relaxing the rights guaranteed by TUPE. Nor do we favour the development of a two-tier workforce, where new recruits have worse terms and conditions of employment than their colleagues who transferred from the private sector.

What issues should Government consider in the development of the Big Society Bank, in order to enable CSOs to take advantage of public service market opportunities?

22. The Bank should be encouraged to innovate and develop a wide range of financial instruments to meet the correspondingly wide range of CSOs' financial needs. These might include, for example, equity investment, invoice discounting, equipment lease finance and guarantees.

23. The Bank should be encouraged to use its resources to lever additional finance, for example through EU schemes such as Jeremie and Jessica. This is particularly attractive in view of the reported difficulties in finding match funding for EU structural funds in the UK and the imminent demise of the RDAs, some of which have established funds which use these schemes and which may be looking for new partners.

24. It is important that the Bank complements, and does not compete with, existing finance providers such Co-operative and Community Finance. In order to ensure this, Government should discuss its plans for the Bank with those organisations.

What barriers prevent CSOs from forming and operating in consortia? How could they be removed?

25. Co-operative consortia are a well-established form of co-operation, both in the UK and abroad. Perhaps the best known and most successful examples are the Italian social co-operatives, which form consortia to provide range of common services to members including: payroll, accountancy, training, management consultancy, marketing, preparing joint tenders and fundraising for bigger projects. They also act as strategic advisors and agents in supporting social co-operatives taking on contracts from municipalities. Some act as the primary contractor and sub-contract operations to their members.

26. More information should be available to CSOs about the advantages of forming consortia and the practical steps required. We would be happy to work with Government on this.

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?

27. Co-operatives UK fully supports effort to capture the full value of public spending, including its social and environmental benefits but considers that this should also take into account the effectiveness of an organisation's stakeholder involvement and its espousal of democratic values & principles. We have been doing this with our members, in developing a set of Co-operative, Environmental and Social Performance Indicators.

28. Much of the problem in assessing the social and environmental benefits of a particular service are not a result of any inherent difficulties but stem from the narrow remit of the commissioners: so that, for example, an education commissioner will only be seeking educational outcomes and not, say, environmental or health outcomes. More joint budgeting and commissioning between disparate parts of the public sector would go a long way to solving the problem. The roll out of Local Integrated Services should help to address this issue.

How could CSOs support greater citizen and community involvement in all stages of commissioning?

What issues relating to CSOs should the Government consider when refreshing the Joint Strategic Needs Assessment?

29. As already stated, full inclusion of CSOs in public service delivery is bound to lead to a reshaping of the services themselves as innovative ways of delivering services emerge and new needs are identified. The priority should therefore be to involve CSOs in the preparation of JSNAs. CSOs should be paid for this role to ensure their full and effective participation.

What forms of support will best enable statutory partners and CSOs to improve their working relationships?

30. CSOs should be paid to take part in the commissioning process and both they and the Commissioners should take part in capacity building programmes to develop mutual knowledge and understanding.

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

31. Commissioner training should include a thorough introduction to co-operative and mutual forms of organisation. Co-operatives UK would be happy to work with the training providers on this.

32. As already alluded to above, we often find that commissioners are not aware of the full range of legal forms available to public service providers, and in particular are ignorant about Industrial and Provident Societies. Future training should therefore pay more attention to legal forms.

What can CSOs contribute to the roll out of Local Integrated Services?

33. As stated above, Co-operatives UK supports the proposition that LIS should help to alleviate the problems of commissioners having too narrow a remit. However, this will only happen effectively if CSOs are included in membership of the bodies that implement LIS and are paid for this role.

What can CSOs contribute to the development of Free Schools?

34. We will submit a separate comment on this with our educational charity the Co-operative College, which has been working with Government for many years on a range of educational issues.

What contribution can CSOs make to the extension of personal budgets across a range of services?

35. Co-operatives UK sees enormous potential for the development of what are essentially consumer co-operatives amongst recipients of personal budgets and direct payments. We have commissioned research on the subject, including the attached report *Self-managed Care – a co-operative approach*, funded by the DoH. Key findings are that it is indeed a viable approach; that it takes a long time to establish the co-operatives; and that there are a number of issues around CQC registration.

36. Co-operatives UK has also recently worked with Manchester Metropolitan University on personal budgets in health, which are of course at an even earlier stage of development than those in social care. The research report is not yet published, but findings are similar to those of the earlier study: there is potential within social care and health for different types of co-operative and mutual enterprises, including employee and user owned co-operatives; the central tenets of personalisation, choice, empowerment and involvement are firmly rooted in the origins of the case studies and inform their operation and values; customers /users who are members can shape the service provided according to their needs and employees benefit from being able to influence the organisation, with opportunities for innovation. However, a number of challenges have been identified that could increase in the light of cost cutting and budget reduction.

37. Co-operatives UK is keen to collaborate with government and other interested parties on ways to remove barriers to this exciting area of work.

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