

Green Paper Responses

Sub- Question 1: What are the implications of payment by results for civil society organisations?

A wholesale move to payment by results would be catastrophic for small and medium locally-based providers, who would be unable to accept the risk of paying service costs which they may not get back. These organisations would also by and large lack the reserves to run a service for long periods before results based payments are made. Incentivising work on a “basic + bonus” basis may be a better idea, as this would reduce the size of potential loss on failure to within the scope trustees might take on, while providing the spur to deliver the best results.

Sub- Questions 3: Should Government explore extending the right to challenge to other local state-run services? If so, which areas and what benefits could civil society organisations bring to these public service areas being involved?

Much depends on how the process works with local authorities. There is potential for disruption and delay and extending this across the whole public service could be damaging until its effect on local authorities can be assessed and learned from.

Sub-Questions 4: Are there types of assets whose viability, when transferred to civil society management or ownership, would be particularly dependent on a continuing income stream from service contracts or public sector tenancies? What are the main barriers that prevent civil society organisations taking over asset-based services?

The main issue about asset-based services transfer is once again risk. Many assets are potentially liabilities without guaranteed income streams. Trustees must legally avoid putting their charities in risk of losing charitable funds and must carry out detailed due diligence. Experience suggests that public authorities may be unaware of the full running costs of individual assets and may be unaware of or unclear on major maintenance issues which have been neglected due to funding shortages. Support for the provision of full disclosure on assets to civil society organisations would seem to be an essential pre-requisite.

Sub- Question 5: How can we encourage more existing civil society organisations to team up with new employee-led mutuals?

In any ways, the issue is the same for collaboration between CSOs, or between CSOs and private organisations. Many tender processes are not friendly to complex bidder partnerships and consortia. Simplified design would help. Work should also be done on ensuring that partners can easily find each other. Again, there is a danger that potential local providers, with grass-roots connections and delivery, could be excluded by national level collaborations. Any “matching” service would need to ensure access to local groups.

Sub- Question 10: What are the key issues civil society organisations face when dealing with TUPE regulations and what could government do, within existing legislation, to resolve these problems?

It is difficult to see what can be done. The biggest problem for CSOs is that they have never had the access to the resources to provide terms and conditions that match public sector organisations, so having to take on staff with protected T&C better than existing staff may be very divisive and may form a barrier.

Sub-Question 11: How can commissioners achieve a fair balance of risk which would enable civil society organisations to compete for opportunities?

See answer to above questions. There is an obvious desire of commissioning bodies to shift financial risk from themselves to those they commission. But many small to medium sized CSOs aren't equipped to take on those risks – they have limited cash reserves and those reserves cannot be used for risky ventures, because of the duties of their trustees. The only solution is to enforce a regime in which risk is retained more in the commissioning organisations e.g. that a portion of funding is not results based and is available either in advance or no more than a quarter in arrears, that public organisations preparing to transfer assets produce a detailed summary of running costs and outstanding maintenance liabilities to potential CSO partners

Sub-Question 13: What issues should Government consider in the development of the Big Society Bank, in order to enable civil society organisations to take advantage of public service market opportunities?

Simple access to smaller, local providers, not just to larger nationals.

Sub- Question 15: What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?

Commissioning processes are often consortium-unfriendly. It takes time to pull together a consortium bid and much documentation may be required from each member, rather than simply the lead.

Sub-Question 16: What approaches would best support commissioning decisions that consider full social, environmental and economic value?

All commissions should contain a clause that they contribute to the sustainable development of social capital in their target area or among their target group. This might include areas like local involvement in the design and governance of programmes, the transfer of skills to communities or clients and so forth. This would fit neatly into the Big Society agenda, achieving Big Society outcomes without additional cost.

Sub-Question 20: How could civil society organisations facilitate, encourage and support community and citizen involvement in decision making about local priorities and services commissioned?

A number of experiments in this sort of thing were carried out under the previous government, though obviously not “badged” as Big Society. While some of these experiments were

unsuccessful, others showed ways in which results could be achieved. These project reports should be drawn from the archives as a starting point, to prevent the need to re-invent the wheel.

Sub-Question 21: What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?

Investment in proper structures and infrastructure.

Sub- Questions 26: What contributions could civil society organisations make to the extension of personal budgets across a range of service areas? What changes do both commissioners and civil society organisations need to make to adapt to an environment where citizens are commissioning their own services?

The encouragement of support providers to personal budget holders, to help them manage their resources effectively, help them access information on what is available to them and to assess their options .