



# **A response to the Green Paper on Commissioning**

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## Introduction

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### About Community Matters

Community Matters is the nation-wide federation for community associations and similar multi-purpose community organisations, with a growing membership of over 1,200 organisations across the UK. Community Matters has played a key role in promoting and supporting action by ordinary people in response to social, educational and recreational needs in their neighbourhoods and communities.

Our vision is for active and sustainable communities in which everyone is valued and can play their full part. We aim to:

- Deliver a range of services that will support and develop the capacity of community organisations
- Ensure that community organisations' interests are effectively represented at a national level.

### Our services include:

- Information and advice
- Consultancy services and technical support
- Training and development
- Publications
- Operating standards
- National representation for community organisations
- Youth work advice and consultancy
- Specialised development projects

### Our membership

There are an estimated four to five thousand community associations in England and Wales making it one of the most widespread networks of multi-purpose community organisations in the country.

They:

- usually manage a community building
- act as a neighbourhood infrastructure body (or 'community anchor') supporting formal and informal community groups and activity
- provide formal or informal services to local people
- bring together residents, community groups and other groups to identify and meet local need.
- provide a voice for local concerns and for people whose views may not always be heard.

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

More local services are now being formally commissioned, including small-scale and informal community services formerly delivered through grant funding. Government must therefore ensure that the principles of good commissioning apply widely to contexts beyond formal public services to commissioning of non-statutory services, where appropriate through grant funding. It would be helpful to clarify in the Public Services Bill any distinction intended between formal, larger scale public services and more informal services, and to clarify where the proposed measures (such as payment by results) are intended to apply.

### **Q. What are the implications of payment by results for civil society organisations?**

Where payment by results is implemented through social impact bonds and similar mechanisms, we would anticipate that investors will emphasise the importance of an established track record of delivery, which may disadvantage newly formed consortia or groups new to the provider market. This may disproportionately affect smaller organisations, (even established organisations if they have never previously delivered under contract). It might also lead to a lack of innovation as investors may prefer established delivery models over untested solutions.

One solution would be to incentivise investors through the pbr model to take more risks on small untested civil society groups or newer delivery models.

Another risk of social impact bonds is that that of a public backlash if private investors are seen to make substantial bonuses from high performing civil society groups in sensitive service areas (such as care services). The delivery groups may also express concern if they take no share of the benefits of 'over-performing' on contracts. We would recommend profit sharing between investor and delivery agent for any bonuses earned.

We would also suggest a voluntary donations scheme for both private and social investors to contribute a percentage of any bonuses earned to the very micro civil society groups in the area served. This would be in recognition of the fact that while they may play no formal part in the delivery of those services, the social capital they generate has a key role in underpinning the effectiveness of those services. (For example local lunch clubs usually add enormous value to formal care services for elders but may otherwise be unrecognised/unrewarded by this system).

### **Q. 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?**

The point in the Green Paper about the separation of the right to buy a public asset from the right to bid for the services within it is a critical one. Communities must not be saddled with unviable public buildings. Further thought must be given to developing legally compliant mechanisms to give rights or preferences to groups running assets for the services normally delivered within those assets. Holistic, place-based commissioning models, such as Community Budgets may offer a potential

solution. Where this is impossible, the community must be clearly warned of the dangers of taking on liabilities.

Any asset is potentially vulnerable. Larger buildings and/or those with substantial management, maintenance and insurance costs could be a particular drain on the community's time and resources if the public services on which they depend are lost to external providers. Most will also trade for social purpose within (and beyond) their community, but few current community buildings, (from Village Halls to large Development Trusts) are able to cover all their costs in this way.

**Q. What are the main barriers that prevent civil society organisations taking over asset-based services?**

Many of the groups with an interest in local assets will be very small and the main barriers are then lack of capacity and concern about personal risk and liability. Some groups occupying Council owned premises also express concern at the loss of relationship/partnership with the local authority when buildings are transferred. The culture of trust and co-production built up when Councils retain an interest in local assets can be lost and this may be further diminished where services are then formally commissioned.

Those that do have the capacity to manage the services may still have concerns about competitive tendering, which they sometimes see as a waste of community/charitable funds or fear that they don't have the skills/resources to compete with larger players.

Grant funding and in-kind support (such as rates relief, shared maintenance responsibilities etc) are an efficient, community-friendly mechanism for resourcing civil society groups to run asset based services. Grants do not have to be 'without consideration' and may have parallel service agreements to ensure delivery of outcomes. Contracts are a legal mechanism that transfers considerable risk to the provider. They may also be complex and onerous and dissuade many community groups from engaging.

An escalation in the length and complexity of monitoring, reporting and due diligence requirements in recent years acts as a significant barrier to entry of all but the largest providers.

Aggregation – transfer of multiple assets or aggregation of services into larger scale contracts is probably the most significant barrier to more civil society involvement in delivery. Engagement is then through sub-contracting, where the organisation has less control or through bidding consortia which are still not sufficiently widespread.

**Q. How can we encourage more existing civil society organisations to team up with new employee-led mutuals?**

This is an important new opportunity that will take some time to establish. The new rights must be better known and understood so that civil society organisations recognise the opportunities and the benefits of partnering with employee-led mutuals. It will be important for those who advise them to consider the possibilities in some detail and use all channels of information to publicise these.

**Q. How can commissioners achieve a fair balance of risk which would enable civil society organisations to compete for opportunities?**

Commissioners should seek every opportunity to apply less onerous or proportionate procurement requirements. Where possible and appropriate, these include:

- alternatives to competitive tendering
- grant-aid with formal service specifications rather than contracts
- proportionate monitoring, reporting, security checks, risk assessment procedures and due diligence requirements
- less onerous contract terms
- plain English text, minimising of requirement for organisations to seek expensive professional advice
- recognition that VCS clients may have additional support requirements
- payment in advance (rather than in arrears) which has a disproportionate impact on smaller organisations

Commissioners should also ensure that their Prime Contractors likewise seek to minimise these risks and burdens throughout their supply chain.

At present:

- inexperienced or risk averse commissioners (or their departmental heads) sometimes ignore the EU thresholds for CCT and competitively tender smaller programmes anyway.
- the flexibility of the procurement regulations is not always used to best effect
- competitive tendering is sometimes used as a tool to demonstrate 'best value' where no real market exists, and a grant may have been more appropriate

**Q. What issues should Government consider in order to ensure that civil society organisations are assessed on their ability to achieve the best outcomes for the most competitive price?**

One measure that would be consistent with Government's Big Society aims, would be to ensure that all public services are assessed against their ability to generate community benefits as well as benefits to individual service users. This is also consistent with encouraging more place-base, holistic provision.

A second measure would be to ensure that all public service providers are required to demonstrate their impact on the social, economic and environmental wellbeing of the area served, (not just their general social, economic or environmental credentials).

**Q. 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?**

The most significant issue is the degree of risk the Bank will be encouraged to take in relation to social impact bonds and local, civil society providers. The bank should be charged with ensuring that the delivery market is not overly distorted by the Public Services and Localism Bills and that civil society organisations remain fully involved.

**Q. What issues affecting civil society organisations should be considered in relation to the extension of the Merlin Standard across central government?**

Merlin could be used to address occasional sharp practice from prime contractors (eg stripping the value from contracts and then sub-contracting to smaller groups to deliver at considerably reduced costs on rolling short term contracts).

**Q. What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?**



Some Commissioners have discouraged bidding consortia, considering the model cumbersome despite it being the best/only means for small organisations to engage as delivery partners. It will be important for good commissioning standards to emphasise the value of consortia.

Internal VAT issues within consortia can be problematic and can apply even when the accountable body is grant funded. This needs better advice from Government on ways to minimise losses and bureaucracy.

Commissioning timescales can work against the formation of consortia and early warning to the potential provider market would help significantly.

Lack of negotiation skills/partnership skills and fear of loss of control can be significant barriers to organisations in forming consortia. This may be particularly acute in charities and unincorporated associations, where the degree of personal responsibility of trustees is higher.

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

The scale of the VCS and the fact that the majority of it is still very small is a barrier to the widespread adoption of more complex, monetised social value models, such as SROI. The costs of such assessment at scale being prohibitive. A different approach is therefore required in order to ensure a level playing field across the sector. One that is easy to operate by the smallest organisations. It may not be possible to identify a single simple and universal model, although a handful of models may be achievable. Mechanisms for comparison between them may also be possible to achieve nationally and commissioners must then be prepared to make judgements across these different models and not seek to transfer the burden or comparability to the sector.

**Q. What approaches would best support commissioning decisions that consider full social, environmental and economic value?**

In our experience, commissioners that are interested in social value are in practice often seeking a combination of social or impact measures and harder-edged output measures (often expressed as numbers). For the former, a set of verified statements about the social value produced by an organisation within a defined set of parameters may be at least as useful to them as any other model.

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

Most small and micro civil society organisations have a keen interest in the quality of local public services and are well positioned to influence them and engage local people. A much smaller proportion of civil society organisations will ever become involved in delivering public services under contract, so commissioners must consider other ways of involving them in order to get maximum benefit from their unique position.

The commissioning cycle starts with scoping and shaping exercises to ensure that services meet public need. This is an excellent way to involve micro organisations in particular and their involvement should be properly resourced. Commissioners should

specify the information and intelligence they require and this function should be performed to a high standard so as to ensure resources are well spent.

Recruiting and supporting service users, hosting and facilitating their feedback, and helping to evaluate services are additional ways in which very small, community based organisations can play to their strengths and these too should be sought and resourced by Commissioners.

**Q. How could civil society organisations facilitate, encourage and support community and citizen involvement in decision making about local priorities and services commissioned?**

- They may host public meetings or collect local views through other consultation exercises
- They may produce briefings for local people on wider issues such as public and community value
- They may seek to bring together existing evaluations of a number of services in order to help the community understand the benefits of holistic delivery
- They may consult the community on location of services
- They may consult the community on their expectations of participating as volunteers
- They may work with their community to evaluate services and delivery

**Q. What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?**

Community Matters has both VCS members and local authority members and seeks to foster good working relationships between them through its work with both parties. Similar engagement could be sought from other national and local bodies.

It is important that a spirit of partnership between them prevails, despite the formality and 'distancing' effect of procurement regulations and asset transfer. Local 'wicked' issues can only be effectively solved through both state and civil society working hand in hand.

**Q. What can civil society organisations contribute to the roll out of Local Integrated Services? What barriers exist to realising this contribution? How can these barriers be removed?**

Multi-purpose community based organisations may have a particular contribution to make to the roll-out of Local Integrated Services and community budgets by virtue of the holistic, one-stop approach to local services.