

Modernising Commissioning: response to the Green Paper by the Association of Charitable Foundations

Background

The Association of Charitable Foundations (ACF) is the professional membership association for charitable Trusts and Foundations across the UK.

Trusts and Foundations exist for public benefit and make grants to charities and other civil society organisations for this purpose and further to the charitable objects, policies on giving and programmes of funding which each funder has.

There are about 8,800 Trusts and Foundations in the UK and over 300 are in membership of ACF. Our members range in size from large, national and well known Foundations distributing in excess of £20m a year to small, local Trusts distributing no more than £100,000 annually and often much less than that. ACF's members give about £1.2 billion a year and overall Trusts and Foundations provide around 10% of the income which charities and other civil society organisations receive annually.

ACF is pleased to respond to the recent Green Paper on behalf of its member Trusts and Foundations. We welcome the opportunity to comment on the Government's important initiative to improve the way in which the public sector commissions services from civil society organisations. We comment as organisations whose grants, mainly awarded to charities, often complement funding from the state whether central or local government or another part of the public sector. We also make grants in partnership, not just where charitable foundations have shared objectives in common but also where these are shared with public sector funders.

The four questions in the Green Paper

Our comments range across all four of the questions and are based on our members' experience of delivering grant programmes to civil society organisations working in many areas of social care and also penal reform, covered by commissioning processes in the public sector.

The commissioning process

- We appreciate that public bodies may not be able to include more than the price and key quality considerations in their tenders, but value for money should be concerned with more than just the basic price of services.
- Commissioning should start with what people need and want and not just consider what organisations can provide, which may well be different things. Charities are close to their users and can identify how best to meet their needs, develop and deliver appropriate services. Therefore, commissioning should not be a purely tendering process with tightly defined specifications, constraining both innovation and responsive delivery.

- We believe bidders for public sector contracts should be judged on their ability to deliver for the intended beneficiaries and on their financial standing, rather than on the size of organisation or other factors which may be arbitrary and not relevant to the contract in question. The tendency is for larger organisations with a strong and established infrastructure to win contracts without necessarily having a proven track record of delivering the service in question to the beneficiaries. We also know that sometimes bidders have to have a high annual financial turnover in order to qualify which does not permit those skilled charities with a lower but significant turnover and sound finances to bid.
- Changes to the process of commissioning provide the opportunity for charities and other civil society organisations to sell their services more and frame what they offer around the things they do well rather than just waiting for prescriptive tenders to be issued. Therefore, pilot projects to test innovative approaches are important so that in due course the results and learning can be built into improved commissioning processes and also future proposals to deliver services. This will encourage an outcome rather than input oriented approach with continuous improvement and a commitment to research and development. Trusts and Foundations have a strong track record in promoting innovation and so can have an important role where new ideas need to be tested.
- Bidding processes must be transparent and accountable. Commissioning should include equality of both opportunity and outcome as key considerations.
- We understand and support the emphasis on localism and the Big Society in the Green Paper but from the point of view of the beneficiaries, principles around inclusion and equality should be safeguarded. These are important to charitable foundations where they are funding civil society organisations and their projects. The experience of some charities is that where commissioners build social value clauses into tender documents, this can help them compete effectively against commercial organisations.

The contribution of smaller civil society organisations

- Often smaller organisations are in a position to deliver the best services to communities but may lack the infrastructure to do this effectively. It will be essential to consider in parallel to this consultation, how support for infrastructure development can be offered. If this is achieved, it will help avoid a situation in which those organisations offering only the cheapest price but not necessarily good quality services are more likely to win contracts at a time when public finances are under pressure.
- The Northern Rock Foundation's *Third Sector Trends Study* by the University of Teesside demonstrates very clearly the diversity in scale, nature and capacity of the voluntary sector and this must be understood by public sector commissioners if the full potential of civil society organisations to support

public sector delivery is to be realised. Evidence from this research shows that in the North East of England there are still relatively few organisations with the capacity to engage in the commissioning process. So, capacity building and infrastructure support will be needed to allow more organisations into the commissioning system.

- The Government should therefore consider market development further, with ways to invest in civil society organisations, so that more can be involved. The Government also needs to consider how to encourage public sector bodies to identify and share best practice to ensure improved quality of bidding and service delivery in future. This is an issue many Foundations are thinking through and we realise there are no easy answers here without some investment.

Partnerships and collaborations

- We believe there is scope for bidders to work in partnership to deliver effective services and therefore commissioning processes should encourage this where it is practicable so that what each partner will deliver is made clear. The encouragement to commercial bodies to involve charities meaningfully in their proposals would be a positive way of allowing them to be involved and play to their strengths in delivering for their beneficiaries.
- The other advantage is that collaborations would prevent cumulative top-slicing of management fees at each stage of sub-contracting and a situation where (as happens now), civil society organisations are at the end of the process and being paid far less for front line delivery than may be economical.
- To help partnerships and collaborations happen and to allow charities with complementary skills to join together, public bodies might wish to consider a two-stage bidding process (as several grant-makers do in their funding programmes), where the first stage asks for expressions of interest. This would enable potential collaborative partners to identify each other and work together on the second stage of the tender process. Public bodies could be encouraged to broker appropriate arrangements after the first stage. Trusts and Foundations have plenty of experience to offer in how to manage bids for funding in this way.
- Trusts and Foundations already support cross-sector partnerships both financially and as brokers. An example is the work by the Gulbenkian Foundation in the “Making Every Adult Matter” coalition (see www.meam.org.uk) where the Foundation is supporting pilots of joined-up services locally. Another example, mentioned in the Green Paper, is the Social Impact Bond work which involves a number of funders (including the Barrow Cadbury and Esmée Fairbairn Foundations as well as the Big Lottery Fund and others) with the Ministry of Justice and Social Finance, delivering the pilot project at Peterborough Prison. Similarly the Corston Independent Funders Coalition of 22 charitable trusts, foundations and individual philanthropists works together to secure and sustain a policy shift from

imprisonment to community sentencing for vulnerable women offenders. One element of this work is the funding partnership with the Ministry of Justice through the joint £2million Women's Diversionary Fund to support women's community provision (in addition to the £34million granted by coalition members to charities working with offenders whether in or out of prison).

- All these approaches require investment in learning and information exchange where Trusts and Foundations have a role, both as investors in organisational capacity and as honest brokers in bringing organisations together to share good practice. There are useful models to look at and the experience gained provides important learning for the commissioning process.

Financial issues

- VAT is a major issue for charities so Government needs to look seriously at a level playing field here. Commercial organisations can cost the same service 20% cheaper than charities because they can reclaim VAT which charities cannot.
- We believe that moves to “payment by results” will be challenging if charities are carrying most if not all the risk but with little or no scope for reward. There may be a need for charities to access more working capital to support them through moves to payment by results where returns at the outset cannot be guaranteed.
- It is also important for Government to appreciate that charitable Foundations will not underwrite or cross-subsidise the cost of public sector contracts because this will fall outside their charitable objectives and policies. They will not want to see charitable funds paying for a service the public sector should be paying for in full. However they may have a role in helping to capitalise charities and other civil society organisations alongside the Big Society Bank and have financial investment models available which they can use to meet that need. An example is the involvement of several Trusts and Foundations in Social Impact Bonds.

Personalisation

- In this context we know that many local authorities will be moving away from block contracts for services to having them paid for through personal budgets (personalisation). This may well have an effect on the cash flow and resilience of charities managing a difficult transition (and possibly impact on the ability to deliver other projects which Foundations are supporting through grants). Again Foundations should not be expected to bridge any gaps here. We welcome the Government's £100m Transition Fund and note it is intended to help charities make changes to their funding and service delivery models, but not to provide continuity directly for existing services.

- We welcome personalisation because of its potential to enable beneficiaries to have real choice in selecting the services they want. But, they need to understand the process too. Civil society organisations have the skills to provide the support that service users need in order to take up individual budgets effectively, so that they do this on the basis of full information and understand the choices they have.

Training and learning

- Evidence from the Northern Rock Foundation study referred to above shows there are real gaps in organisational and cultural understanding between the public and voluntary sectors with which both need to deal if civil society organisations are to be fully involved with commissioning and service delivery. We welcome the Green Paper's proposals on training for public sector commissioners and see it as a useful step, but the voluntary sector will also need training to understand public sector requirements as well.
- We have referred as well to the role which Trusts and Foundations have in supporting innovation, research and development as well as learning from pilot projects all of which will promote better commissioning over time.

Conclusions

- Trusts and Foundations are not going to be major funders of service delivery in the context of commissioning by public sector organisations, but as this response illustrates they can and do play an important role. They do this by support for innovation, research and development, learning and partnerships across different sectors. Trusts and Foundations can also have a role in capitalising charities and other civil society organisations.
- We would welcome and look forward to the opportunity to discuss our comments further with Government, particularly in view of the constrained timescale for replies to the Green Paper consultation.

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