



CFDG response to the consultation 'Modernising Commissioning: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery'

The Charity Finance Directors' Group (CFDG) is the charity that supports charities in their finance-related functions, promoting best practice in charity finance, driving efficiency and helping organisations to make the most out of their money. CFDG's circa 1,700 members – all senior financial professionals in the voluntary sector – are responsible for managing around £17.53 billion in charity funding. Our members work at the heart of the strategic development of their organisations, and are at the forefront of delivering a sustainable and efficient charity sector.

Introduction

- 0.1. Broadly speaking, CFDG welcomes the Government's commitment to improve the commissioning process for civil society organisations (CSOs) and make public service markets more accessible to the sector. As the consultation document highlights, a large proportion of the sector's income comes from statutory sources, specifically for delivering public services. As this source of income comes under pressure from implementation of the Comprehensive Spending Review and wider austerity measures, it is vitally important the commissioning process is improved and existing barriers to CSO involvement are removed.
- 0.2. This is an area of extreme importance to our members. We have expressed our concern regarding the significantly reduced consultation period and its impact in a joint letter with the National Council for Voluntary Organisations (NCVO) to the Minister for the Cabinet Office, the Rt Hon. Francis Maude MP¹. It is vital that this short consultation period should not be permitted to have a detrimental effect on the subsequent stages of the policy making process.
- 0.3. We would urge the Government to engage with charities and umbrella bodies extensively and continuously throughout the later stages of

¹ CFDG & NCVO joint letter to the Minister for the Cabinet Office, Rt Hon Francis Maude MP:
http://www.cfdg.org.uk/cfdg/files/policy/policy_CFDG&NCVO_Joint%20letter.pdf

policy development; both before and after the publication of the Public Service Reform White Paper. We would stress that the role of charities within public services provision is an area which will need significant attention and development if the Big Society agenda is to reach its potential.

- 0.4. CFDG would be happy to provide guidance or information to Government relating to charities and the commissioning process beyond this consultation period. Our members have a wealth of knowledge and experience in this area which could be utilised to great benefit. Whilst we could not arrange a workshop of our members with the Minister in the time available we repeat this offer as Government finalises its approach to modernising commissioning.
- 0.5. In the time available we have we have answered the questions in this Green Paper selectively. We have provided generalised responses to each of the four overarching questions and have provided further detail on some of the more specific themes and sub-questions in the document where appropriate. For ease of reference, we have added the page numbers to which some of the sub-headings refer to.

Question 1: In which public service areas could Government create new opportunities for civil society organisations to deliver?

- 1.1. There are a wide range of public sector areas that have the potential to be taken on by wider civil society; including areas not traditionally delivered by charities and social enterprises. We stress the overarching need for charities to be involved in the identification of these opportunities. With their high level of understanding of local needs and the trust of service users within communities, charities will be pivotal in finding ways to unlock opportunities for collaboration between the state and the sector in ways that have real social impact. It is worth noting the high levels of trust which charities have within communities. A recent survey carried out by the Charity Commission² found that public trust and confidence in charities is high when compared to other organisations, third only behind doctors and the police.

Charities as part of the commissioning process

- 1.2. Government is right to seek greater utilisation of the benefits that can arise from having an active charity sector. The key to reaping these potential benefits will lie in giving the sector a more active role at all stages of commissioning, from identifying needs to service design. This will aid the delivery of services that are better tailored for communities. Charities should not just be expected to pick up the reins of services previously designed and delivered within the public

² Charity Commission. 2010. 'Public Trust and Confidence in Charities'. http://www.charity-commission.gov.uk/Library/About_us/ptc_survey_2010.pdf

sector, but should be allowed the flexibility to shape services which focus on providing maximum benefit to the beneficiary.

- 1.3. Research conducted by Government in collaboration with NCVO has shown that when charities deliver services these often have benefits across different service areas, and that the full value of this work is not recognised³. We support NCVO's position in this area and agree that commissioning processes need to be made more flexible to take account of these complexities and to drive for a more holistic view of public service provision. This will inevitably include areas of newly identified need that the public sector has not traditionally served.

Payment by results (p.9)

- 1.4. There are examples, including the Social Impact Bond pilot at HMP Peterborough, where a numerical measure of social impact can be, to a certain degree, produced and therefore payment by results models can clearly incentivise investment. However, as we detail below in our response to question 3, in many circumstances measuring social value is not a simple activity. These investment and payment models are unlikely to be successful in all cases, and Government should recognise that a number of different approaches should be accepted if payment by results is to become a driver in raising standards. Furthermore, if implemented inappropriately there is a high risk that payment by results programmes could inhibit the evaluation and learning process which is so important to maximising the impact of service delivery.
- 1.5. Currently, monitoring and evaluation practices are heavily outputs based. CFDG would advocate a move to outcome and impact based review, which would allow more flexibility in service delivery models. As we outline in our response to question 3, there are problems associated with outcomes based monitoring, such as complexity in finding measurements.
- 1.6. The Social Impact Bond being piloted is an exciting and unique development. However, upfront working capital from investors will not be possible for all public service delivery situations. Approaches which could jeopardise the ability to involve charities (particularly smaller charities) in service delivery should be avoided. We urge Government to recognise that upfront funding is essential for many charities as, by their very nature as charities, large reserves will not be held. Deferring payment entirely on the basis of results will rule out a number of (mainly smaller) charities and social enterprises who will be unable to stand the cost and risk of delivery, particularly in the current economic climate. There should be greater engagement with smaller charities to understand their capacity, operations and approach, and to ascertain how payment by results may affect them.

³ This research can be found here: <http://www.ons.gov.uk/about-statistics/methodology-and-quality/measuring-outcomes-for-public-service-users/mopsu-reports-and-updates/index.html>

Right to challenge (p.10)

- 1.7. We support the Government's measures to open up new opportunities for charities to deliver public services and for public sector procurement to become more transparent and accountable. The 'right to challenge' should not mean simply replacing the provider. Instead this initiative should be part of wider reforms to substantively improve the commissioning process, by increasing the negotiating powers of charities and communities with regards to public services.

Proportions of independent services (p.10)

- 1.8. While we recognise the rationale behind such proposals, CFDG would like to echo concerns set out in NCVO's response to this consultation regarding plans to set proportions of services to be provided independently. The objective to '*improve outcomes and performance by stimulating and growing a diversity of provision across public services*,⁴' should be met by the transformation of commissioning, to break down the barriers to market entry that charities currently face. Services should be transferred from the public sector when there is a better quality service to be achieved elsewhere, not in order to respond to prescribed proportions or targets for outsourcing.

Asset transfer

- 1.9. CFDG members have expressed concern at the complexity and risk associated with the transfer of assets and liabilities to charities and other civil society organisations in the delivery of public services. The points below have also been formulated through collaboration with CAN⁵, an organisation providing a range of business support services for civil society organisations.
- 1.10. When a service or asset has been in receipt of a supply-side subsidy, or requires additional income to cover operational costs, there could be significant liability. Therefore, viability of the asset will be dependent on a continuing income stream from service contracts or public sector tenancies, which brings a significant amount of risk. Examples may include local leisure centres, or local authority gyms and libraries that receive grants or membership fees).
- 1.11. Charities are not constituted to maximise profit, consequently reserve levels and cash-flow will contribute to the significant financial constraints in taking on and managing an asset. This is especially a problem for smaller organisations. Furthermore, in some cases limited financial acumen can act as a barrier to organisations. Many do not understand the opportunities from having an asset and the potential for it to raise additional capital for growth or to improve performance.

⁴ 'Modernising Commissioning' Cabinet Office 2010, p.10

⁵ <http://www.can-online.org.uk/>

- 1.12. Risk aversion and fear of mission drift can also be a barrier to many organisations considering taking on the management of an asset, regardless of the potential opportunities. In some cases there is the fear that in owning and utilising an asset, potential donors and stakeholders will not see its potential for fostering growth and increasing the charity's mission, but instead only that resources are being channelled in to, for example, running a building.
- 1.13. Lack of access to, or understanding of, asset-based capital can be a significant barrier to sustainability and growth. Government should encourage local authorities to release assets to community organisations where appropriate. Steps should also be taken to minimise the risks and ensure that organisations managing assets associated with public service delivery are protected in the wake of public spending cuts.

Question 2: How could Government make existing public service markets more accessible to civil society organisations?

- 2.1. At present, charities face a number of barriers throughout the commissioning process and do not operate on a level playing field when compared to the public and private sectors. These barriers often inhibit charities from entering into the tendering process at all. This asymmetry needs to be addressed if there is to be greater involvement from charities in existing public service markets.

Costs associated with regulation and administration

- 2.2. Cost is a significant barrier to entering existing public service markets. Many charities cannot afford the costs associated with bidding or starting up, even on a basic level such as the staffing to complete the administrative requirements. Charities are therefore frequently unable to achieve full cost recovery. In a 2010 survey⁶ conducted amongst CFDG members, only 39% of respondents made full cost recovery on public sector contracts. This is a significant material deterrent to delivering public services, and in some cases prohibits charities who simply cannot afford the losses.
- 2.3. Steps should be taken to reduce the bureaucracy associated with procurement and monitoring. While there is recognition of the need for performance monitoring, excessive reporting requirements require significant resource. The impact of this cannot be underplayed. Administrative requirements bring costs that many charities simply do not have the capacity to take on.

⁶ CFDG and PKF 'Managing Risk: Moving towards the vision'.
http://www.cfdg.org.uk/cfdg/Risk_survey_results_2010.asp

- 2.4. The tendering, monitoring and evaluation processes associated with delivering services vary considerably between local authorities and Government departments, exacerbating the bureaucratic burden on charities. While this may seem like an inevitable result of having individual funding bodies, this inconsistency often means duplicating work in order to adhere to various different specifications. Efforts to standardise bidding and monitoring forms and processes across Government would free up significant resources, and development of a consistent approach/form should be a priority.
- 2.5. There is the need for more streamlined, light touch regulation in general. While regulation is essential to build public trust and engender greater confidence in the sector, in many cases it places a disproportionate burden on charities. With regard to the commissioning process, Government should consider:
- Reducing unnecessary duplication of activities. Public funding bodies and Government departments should liaise where appropriate to share information and paperwork.
 - Streamline the documentation associated with bidding. Our members have indicated that in some cases paperwork is superfluous to requirements and requires significant resource without any benefit.
 - As outlined in paragraph 2.3, monitoring should be effective yet minimal. Public bodies should not apply arbitrary monitoring requirements which are disproportionate to the risks involved with funding.
- 2.6. Part of the reason there is not full cost recovery more widely is that many public funding bodies do not recognise the full cost of services, associated overheads and the start-up *and wind-up* costs. There have been many charities forced to subsidise services with funds from other sources e.g. donations. Continued underfunding will jeopardise both the future of individual charities and capacity of the sector as a whole to provide public services.

Sustainable funding

- 2.7. It is important that all processes associated with public service provision aid sustainability and stability for charities and the sector more widely. As well as ensuring the full recovery of costs, this can be done through longer term contract lengths and multi-year funding. While we recognise that the current economic climate may make this difficult, we would urge Government to fund on a longer term basis wherever possible to drive out the inefficiency inherent in the short term funding approach. Charities are less able to take the risk of investing the initial time, resource and costs needed to start up a project if the longer term prospects to make a meaningful difference are uncertain.

Low cost vs. value for money

- 2.8. Government should consider more carefully the balance between quality and cost, particularly when assessing the ability of charities to achieve the best outcomes for the most competitive prices. Charities must prioritise the quality of service for their beneficiaries above pure cost considerations. This is not recognised in the commissioning process and inevitably makes it difficult to compete with for-profit organisations. However, it should be recognised that charities, many of whom operate on narrow margins and often do not recover all of their costs (see paragraph 2.2) are already providing the best service at its lowest possible price. We urge Government not to confuse "best value" with "cheapest".
- 2.9. Anecdotally, CFDG have heard of many cases where independent cost brokers have been brought in by local authorities in order to assess social care services and seek cost savings. This external consultation has often been conducted by organisations with little knowledge or understanding of charities or social care services.

Consortia (p.17)

- 2.10. Operating in consortia is an effective solution for many charities, but these inevitably take time to set up and organise arrangements for a bid. Steps should be taken to ensure that there is a fair amount of time between releasing documents at the beginning of the tender process and the deadline for applications to allow arrangements to be made.
- 2.11. While there is value in operating in consortia, and public bodies have greater inclination towards larger contracts to keep costs down, funders should recognise the value of having providers of various sizes who can supply more specialised services. Where appropriate, Government should consider reducing the size of contracts and breaking them down to make them more accessible to smaller charities. Many small charities find it difficult to compete with larger organisations (who may have economies of scale) and it may not be appropriate or feasible for all to consider joining up with other organisations to bid in consortia.
- 2.12. Implementation of the cost sharing VAT exemption is an important step in helping charities to work in consortia. If charities are able to share services without the additional VAT charge, it is likely that there will already be connections and shared arrangements which can be fully utilised, making the process of grouping and bidding much easier. Implementation of the exemption will also allow charities to cooperate and cut costs while still maintaining their independence.

VAT

- 2.13. More widely, irrecoverable VAT is a significant problem for the sector, particularly when delivering services. While both the public and private

sector can recover the VAT associated with bought in costs, either through reclaiming or passing it on to the end user, charities cannot. This asymmetry needs to be addressed more broadly and should also be taken in to consideration by commissioners when looking at the costs of providing services.

Risk allocation

- 2.14. Unfair allocation of financial risk is a major barrier to charities entering into public sector contracts. In a recent survey of CFDG members that participate in public service delivery, 84% felt that there were significant risks in taking on public sector contracts. 48% of respondents also said that they have been deterred from even bidding for public sector contracts because of the risk of liabilities, with almost all citing pensions risk as the greatest. Alarming 35% had only discovered some of the risks after signing the contract. Many commissioners are failing to be upfront and transparent about the financial risks and liabilities involved, despite the disproportionate degree of financial scrutiny applied to charities within the same process.
- 2.15. The pension issue has proven to be significant deterrent to many of our members, and the Government should address this as a priority. Providing the pensions required under TUPE regulations is often unaffordable for charities, and can lead to unfair pension provision within the charity. Many charities already have deficits from their own closed schemes and do not want to add to them. It is also worth mentioning that pension liabilities, in some cases, have stopped charities being awarded contracts.

Cutting services and funding

- 2.16. As well as in the area of procurement, there needs to be greater accountability, transparency and communication between public funding bodies and charities regarding the removal of services and funding. Clear and open dialogue throughout the commissioning process is essential, as is clarity as to where and by whom decisions are being taken. There have been cases of charities receiving standardised letters indicating that funding may be cut, with no indication of where the decision is coming from.
- 2.17. Commissioning public services is an all round process which should include provision for ending contracts as well as awarding them. In the coming year, public funding bodies must administer cuts with due care, and should not simply 'turn off the tap' to sector funding. There are huge knock on effects from delays to funding, sudden cuts and cutting services short. The way that cuts have been administered by some local authorities (e.g. terminating contracts with very little notice immediately after signing) has threatened the future of many charities, putting them under huge financial strain. Irresponsible funding cuts weaken the sector and its ability to deliver public services, and also negatively impacts on the relationship between charities and local

commissioners. As reported in the Guardian on 29th December 2010⁷, David Robinson, the founder of Community Links who last year advised David Cameron on how to support the sector, warned that uncoordinated and poorly implemented cuts will threaten the future of local voluntary organisations, undermining the Big Society.

Question 3: How could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?

- 3.1. In our submission to the Comprehensive Spending Review, CFDG argued that the Government should make spending decisions based on value for money rather than simply on lowering costs⁸. We have also approached this issue in our response to question 2 above (see paragraph 2.8).
- 3.2. CFDG is pleased that the need to approach procurement more holistically, with greater consideration of the overall value that services deliver, is being reflected in Government policy. In particular we support the reference to social, environmental and economic value in the new Compact, and in the recent *Public Services (Social Enterprise and Social Value) Bill*⁹, tabled by Chris White MP.
- 3.3. While there may be a wider appreciation of the social, environmental and economic value of charities delivering services, it is still not recognised by many commissioners. Feedback from our members has suggested that consideration of social value by commissioners is deteriorating not improving, particularly in light of the widespread public spending cuts.
- 3.4. Commitments to recognise social value need to be taken seriously at all levels of Government. This should be coupled with work in conjunction with the sector aimed at determining the best ways in which this objective can be delivered. Without wide-ranging Government commitment, consideration of social value runs the risk of being perceived as a 'nice to have' rather than a necessary part of the process. This risk is ever more pertinent in the context of widespread public spending cuts and pressure to make cost savings. Making the right decisions at this juncture will ensure that commissioning will be more intelligent and effective, and that money will be more efficiently spent.
- 3.5. CFDG supports the proposal made by NCVO in their response to this consultation – that commissioners shown to be making meaningful consideration of social value should be given more freedom in decision making. This would reward and demonstrate confidence in commissioning that prioritises value for money and need above cost.

⁷ <http://www.guardian.co.uk/society/2010/dec/29/david-cameron-big-society-criticism>.

⁸ 'CFDG Submission to the Comprehensive Spending Review' CFDG, September 2010

http://www.cfdg.org.uk/cfdg/files/policy/Policy_CFDG_CSR_Submission_2010.pdf

⁹ <http://services.parliament.uk/bills/2010-11/publicservicessocialenterpriseandsocialvalue.html>

Monitoring and reporting social value and impact

- 3.6. Unlike other public service providers, charities are driven by their mission. Monitoring their progress in terms of outcomes and impact is increasingly being seen as important within the sector and many organisations are making great efforts to report on their impact in creative ways.
- 3.7. As an organisation promoting best practice in charity finance, CFDG welcomes a greater level of impact reporting amongst charities. Recent research by CFDG and CASS Business School (due to be released in early 2011), has shown that levels of true impact reporting are relatively low but that charities do collect outcome and impact data for internal use. There is also interest in improving skills in transferring this information into external communication.
- 3.8. The research identified a range of barriers to impact reporting, not least the high costs (which are not generally perceived to outweigh the benefits), and the significant difficulties associated with finding appropriate measures of impact. In light of this increasing Government emphasis on 'value,' we would expect the level of demand for impact reporting to rise proportionately. Charities may need to look more closely at the tools available to them to demonstrate impact. CFDG has a significant role to play in supporting charities in this endeavour.
- 3.9. CFDG would strongly disagree with any 'one size fits all' assessment of social value. We would urge the Government to tread carefully in this area in order to avoid any prescriptive measures of 'value' which may be flawed with regard to some services. Our research has further highlighted that there is often confusion around the difference between outputs, outcomes and impact. Whilst we would support a move to commissioners reducing burdensome requirements for output monitoring in favour of greater outcome and impact based service evaluation, this should be implemented proportionately and allow for flexibility of approach.

Question 4: How could civil society organisations support greater citizen and community involvement in all stages of commissioning?

- 4.1. Charities have long been highly valued by Government in public service delivery largely because of their close proximity with their communities and the unique relationship they hold with service users and volunteers. Driven by their mission, charities and community groups are adept at empowering their stakeholders. For this reason, commissioners can become closer to the beneficiaries of the service they are designing simply by involving the charity sector in the wider commissioning process.
- 4.2. In many cases charities and community groups are staffed or founded by service users, and often there is further engagement with the community through volunteers. Needs assessment and service design through consultation with relevant organisations therefore enhances the credibility of commissioned services. Not consulting with such providers may serve

to alienate those that the Government wishes to involve. In our General Election Manifesto¹⁰, CFDG argued for increased levels of sector engagement at all stages of the commissioning process, including service design. We are pleased that this approach is being advocated in this Green Paper. However, charities will need to be provided with sufficient time to input into needs assessment and consultation to maximise the benefits of their inclusion.

- 4.3. There are really commendable ideas regarding inclusive commissioning within this Green paper. If they are to be realised, steps will need to be taken to raise the awareness of commissioners regarding the functions, demographics, governance, financing and operation of charities and other civil society organisations. This will encourage better communication, greater engagement and fairer negotiations between the sectors. It will also enhance charities' ability to be innovative and flexible in the delivery models through which they achieve social value and impact.
- 4.4. CFDG would welcome the opportunity to work with Government in order to enhance understanding of the way charities function financially. We believe that a great deal could be achieved if services were designed in a way that recognised the differences between the public, private and charity sectors' finances. This could contribute towards creating a more level playing field in the future.

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¹⁰ http://www.cfdg.org.uk/cfdg/files/policy/policy_cfdg_2010_general_election_manifesto.pdf

