



Response from the National Children's Bureau (NCB) to the Cabinet Office consultation on Modernising Commissioning

Summary

NCB welcomes the opportunity to provide evidence to the Cabinet Office on modernising commissioning. We welcome the direction of the Green Paper and urge the Government to ensure that:

- any shift towards community commissioning of local services allows for the involvement and input of children and young people who are part of those communities and who will be users of those services;
- small civil society organisations be able to compete in the new environment;
- the Government allows for the development and deployment of independent audit systems so as to provide reliable data on changes in outcomes and in savings made due to commissioning decisions; and
- young people with complex and rare needs are not marginalized by new commissioning arrangements.

About NCB

NCB's mission is to advance the well-being of all children and young people across every aspect of their lives. As the leading national charity which supports children, young people and families, and those who work with them, across England and Northern Ireland, we focus on identifying and communicating high impact, community and family-centred solutions. We work with organisations from across the voluntary, statutory and private sectors through our membership scheme, and through the sector-led specialist networks and partnership programmes that operate under our charitable status.

NCB has a history of working to promote the voices of children and young people and to enable them to influence the quality and choice of health services they receive. In collaboration with Participation Works, NCB has produced a pamphlet on *How to: Involve Children and Young People in Commissioning*ⁱ, which makes the case for the benefits of involving children and young people in commissioning processes.

Commissioning Local Children's Services

NCB believes that the *maximum* range of services for children and young people – including local authority children's services as well as the majority of children's health services – should be coordinated by a single body at the local level. Services should be commissioned in a coordinated way to ensure they operate seamlessly across: health, social care, early years, education and other services; local authority, NHS and non-NHS boundaries; and universal, targeted and specialist levels.

Although this may sound ambitious, it is the most likely way of ensuring that services are better matched to local needs and thus meet local demand. A single commissioning source should be better able to avoid the costly duplication of services and – being a single point of contact – help encourage new providers navigate the complexities of the commissioning and procurement processes.

NCB believes that the local Health and Well-being Board, proposed in the Department of Health's NHS White Paperⁱⁱ, would be well placed, working alongside the local Children's Trust, to ensure coordinated commissioning takes place. With the participation of GP commissioning consortia, the NHS Commissioning Board, local authorities and other partners, the Health and Well-being Board should have responsibility for ensuring the development of local commissioning strategy across children's health, education, early years, social care and other services. NCB believes that such an approach would help to secure seamless provision to children, young people and families through effective partnership structures. With its complementary responsibilities for adult public health and social care, the Board would also be well-placed to identify and respond to the need for transition services for young people transferring from child to adult services, and ensure coordinated support for children whose parents face challenges (such as mental health or substance misuse problems).

While we welcome the fact that Health and Well-Being Boards will now be statutory and will include the membership of the Director of Children's Services, we remain concerned that government must put in place mechanisms and incentives to ensure that local boards prioritise children's health and well-being. In such a partnership there is a danger that children's health and well-being will be marginalized – this must be avoided.

Submissions by Section

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

It is important for the government to recognise that civil society organisations do more than just deliver public services. It should not be a pre-requisite for civil society organisations to deliver public services for them to be involved in other elements of public service and decision-making, such as Local Strategic Partnerships and Joint Strategic Needs Assessments.

1. What are the implications of payment by results for civil society organisations (CSOs)?

Payment by results would have negative implications for civil society organisations, in particular for smaller ones. Civil society organisations run on tight budgets and many have limited or no reserves. The move from grant funding to commissioning, the tendency for funding to be granted in order to deliver a particular project or outcome and 'claw back' clauses whereby funders ask for monies unspent to be repaid to them has made it increasingly difficult for civil society organisations to gain core funding and reserves. Consequently, for most civil society organisations, the appointment of members of staff to carry out pieces of work and all costs associated with a particular piece of work can only be paid on receipt of funding, prior to delivery. For many organisations, particularly smaller ones, payment by results would result in significant cash-flow problems, meaning that they would simply be unable to compete for contracts as they would not be able to do any work without first receiving payment. Payment by results would exacerbate a split within the voluntary sector between large organisations who would be able to function under a payment by results regime, and small ones who would not.

NCB welcomes the government's move away from outputs and targets. Whilst some outcomes – recidivism, attendance at school, GCSE grades – are easily quantified and monitored, many are not. For example, how do you measure an increase in confidence, or an improvement in family relationships? Furthermore, how do you attribute a monetary value to these outcomes in order to undertake a value-for-money evaluation? Many outcomes which civil society organisations work towards are difficult to measure and extremely difficult to quantify in financial terms. Additionally, many outcomes would only be measurable over a period of a number of years, which is not compatible with a payment by results approach.

Payment by results must not become a bland exercise in anonymous data. There should be an expectation that a commissioning authority, before it entered in to a payment by results arrangement would, ideally, have its notion of 'results' and 'monies saved' validated by independent audit. (For a useful example of how 'spend to save' might be audited, see C4EO's *Outcomes & Efficiency*.ⁱⁱⁱ) Such a system of checks will be necessary because payment by results inevitably involves an investment of public money over a protracted period – there are therefore considerable human and financial costs to failing to deliver appropriate outcomes. Failure to do this could lead to CSOs taking contracts to deliver services which provide the 'correct' data, but poor outcomes.

How will results be measured? Presumably according to value-for-money? Civil society organisations lack the skills, knowledge or capacity to undertake value-for-money/Social Return on Investment analyses of their work at present. This will further disadvantage micro, small and medium-sized organisations; many larger organisations also lack the skills, knowledge and capacity to undertake such an analysis but would at least be able to invest in training and/or consultancy to upskill them. If value-for-money analysis becomes the norm, it is essential that government provides:

- i. A transition period allowing for organisations to learn how to undertake a value-for-money analysis
- ii. Funding to infrastructure/support organisations who can deliver training to other civil society organisations on value-for-money analysis.

There are other ways of ensuring a focus on successful outcomes than payment by results. Moving away from inputs, outputs and processes is a positive step and something which civil society organisations have long been advocating. It does not have to equate to payment by results. Payment by results **may** result in 'greater innovation and flexibility in delivery models' (p. 9), but the link is certainly not causal. There are other ways of ensuring greater innovation and flexibility in delivery models. Government should follow the rhetoric of the Big Society and be less prescriptive in how to reach the aim of greater innovation and flexibility.

2. What are the barriers to more civil society organisations being involved (in public service delivery?)

- Funding cuts taking place at the local level. Some local authorities are cutting funding to civil society organisations as a quick way to cut costs. Others are bringing services back in house. There has been much press coverage in recent months looking at this, as well as studies by CSOs themselves,^{iv} and such is the extent of the problem that the Prime Minister himself had to urge local authorities not to cut voluntary sector contracts.
- Unrealistic expectations of the capacity of CSOs to deliver cost savings. For example, an assumption that using volunteers has no associated costs, when in reality volunteering costs time and money in order to cover the costs of insurance, recruitment, training, supervision and expenses.
- Excessive bureaucracy, specifically long and complicated application forms and burdensome monitoring/evaluation/reporting requirements.
- Lack of understanding of the commissioning process, including expectations of commissioners and what is needed to be 'commission ready'.
- Lack of understanding of the nature and challenges faced by CSOs on the part of commissioners and other civil servants.
- Lack of understanding of the added value of CSOs as opposed to private or public sector organisations in public services. Benefits include:
 - Being based in the local community
 - Being set up and/or run by service users (staff, trustees, volunteers)

- Being set up in order to address a gap in delivery from public services
 - High levels of trust from the public
 - Working across government silos, e.g. health, education, transport, justice, leading to a holistic approach to a person or community's needs
 - Innovation and flexibility
 - Commissioning arrangements which favour large organisations. 85% of CSOs have a turnover of under £100,000 p.a..^y These organisations are excluded from the delivery of public services for a number of reasons, including:
 - The (large) size of contracts
 - Lack of capacity to engage in the bidding and monitoring processes
 - There is a vicious cycle in relation to small CSOs and public services, which runs as follows:
 - Lack of representation of small organisations in strategic decision-making bodies → their needs and voice being un-represented → barriers they face in involvement in commissioning continue to go unnoticed and are not addressed → their continued exclusion from commissioning
 - Claw-back clauses, whereby organisations have to return to the funder any money left unspent, add to the difficulty of funding core activities such as fundraising, training, service innovation and development, preventing some organisations from developing the capacity to engage in public service delivery.
 - Competition/being crowded out of the market by private sector providers, who have a greater capacity to deliver in terms of monitoring/evaluation and value-for-money analyses. Private sector companies and CSOs bring very different sets of skills and benefits to the table. The added value that VCOs bring, which cannot be provided by private providers, must be considered when awarding contracts and monitored at the outcomes stage.
 - Small, black and minority ethnic CSOs have told NCB of their experiences of stereotyping and being labelled a 'high-risk funding group'.
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?*

The Government should explore extending the right to challenge to almost all local, state-run services. This should not simply mean giving CSOs the right to challenge councils to let them deliver public services, but allowing community groups to challenge councils to find better providers.

NCB would argue that it should be open to citizens of all ages with evidence of competence to comment. In particular there would be great value in having formal processes allowing for young people to challenge on the provision of public care services, child protection services that they are receiving. These are instances in which children and young people are at the centre but as yet have no clear route through which to personally challenge the quality of provision (e.g. placement

moves, school changes; removal from home – except at the level of court and with CAFCASS support). This could be extended to schools where, in specified circumstances, like their parents, pupils ought to be able to trigger an Ofsted inspection if one was not scheduled.

Further detail is needed on the status of services that were successfully outsourced following a right to challenge: would other CSOs subsequently be able to challenge the provision and, if so, how would that competition work?

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

In a society in which we expect CSOs to run more public services, one of the most significant factors will be the ability of small, local CSOs to compete against larger private sector companies capable of absorbing overheads, set-up costs and losses. As discussed in the previous section, the Government should be careful not to insist on value-for-money analysis, or payment by results, and will need to address existing bureaucratic issues, simplify systems, and improve the quality of and training for commissioners.

Those working in CSOs will require a level of financial literacy that they may not typically have. The management committees and trustee boards of small organisations or those without any finance specialists will find working in this new competitive climate a challenge, and will require information, advice and support from membership organisations like NCB.

NCB has found that there are high levels of demand for training in commissioning amongst small CSOs. Over the last year NCB has provided a series of regional training workshops on commissioning to small CSOs who work with children and young people, at no cost to the participants. The workshops have been extremely popular, with many sold out months in advance and with large numbers on the waiting list. Feedback from the sessions has been positive; in the first year 71% of the 115 delegates felt that the course had increased their knowledge of commissioning, 67% felt that it had increased their knowledge of what commissioners are looking for and 69% felt that it had increased their understanding of what is needed to be commission ready. Government could make public service markets more accessible to CSOs by funding training such as this, in order to address the barriers faced by civil society organisations of lack of knowledge and understanding of commissioning.

Additionally, local commissioners require a greater depth of expertise and understanding about CSOs. In 2008, the Audit Commission found that nearly three-quarters of local authority inspections had raised concerns about commissioning capacity or expertise, and found that lack of staff ability in procurement systems was perceived by local authorities to be 'the single largest barrier to improving [the system]'.^{vi} Therefore, any attempt to improve the current system must have this

consideration at the front of its mind. Removing the bureaucratic obstacles that prevent some CSOs from either tendering to deliver programmes or challenging agencies that are failing to consider and meet the needs of their clients, will be worthless unless commissioners are themselves in a better position to make clear decisions for the public good.

Some clear messaging is required about what commissioners ought to expect of CSOs and what CSOs ought to expect of commissioners. It is vital that there are clear guidelines on how CSOs should prepare their evidence of value through Social Return On Investment (SROI) in advance of applying for Social Investment Bond (SIB) resource. Consequently, it would be useful to have officially recognised evaluation bodies, such as C4EO, whose quality could be trusted by both the sector and CSOs.

In short, central Government will need to create a playing field in which CSOs can meaningfully compete (or cooperate) with larger voluntary and private sector players.

- 1. What issues should commissioners take into account in order to increase civil society organisations' involvement in existing public service markets?*

Despite the Compact, there remains a perception that local authorities expect CSOs to provide services at cost price. This means that CSOs have no scope for generating additional money in order to invest in growing or developing their organisation and so limits the ability of the sector to grow into a larger share of the market. CSOs must not just be seen as the cheap alternative. Whilst we must expect commissioners to take the best offer available to them, this should follow simple market conditions.

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

A simple way to ensure that risk was fairly balanced would be to consider obliging more / all non-CSOs to partner with a CSO. This would allow private companies to take on both the risk and the experience and credibility of local CSOs.

- 6. 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?*

There is a need to find reliable benchmark assessments which are respected and cheap to perform. There is a clear need for data to be subject to independent audit as there is a risk that they could be subject to manipulation by bodies that – for example – were being paid a percentage of the savings their provision of services

was making. Organisations such as C4EO should be 'approved' to validate the outcomes achieved by CSOs.^{vii}

7. 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 central concern with the Big Society Bank will be the speed at which it operates and the demands it places on CSOs seeking finance. At present, many bidding processes are so costly that small CSOs lack the capacity even to enter them. As a recent report by Respublica has said: *When tendering costs approach 20 per cent of the cost of the service as a whole, there is something seriously wrong with the system*^{viii}

Reducing this cost is obviously integral to engaging more CSOs in public service provision. Nevertheless some cost will always remain and given that this cost will fall disproportionately hard on smaller CSOs, the Big Society Bank may have a function to play in helping them through the tendering process. However, if the Big Society Bank is to help this change, its own application process must be straightforward, quick and, most importantly, inexpensive – otherwise it will automatically exclude those CSOs most in need of assistance.

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

- Competition and lack of trust between organisations, which has been exacerbated by the competitive nature of commissioning
- Lack of capacity; working in consortia requires additional time and human and financial resources
- Short timescales for responding to tenders; building a well-functioning consortium takes a long time, particularly between organisations with no previous history of working together
- Different values/mission and/or organisational culture
- Lack of knowledge of how to form and operate in consortia
- Logistics, e.g. concerns about intellectual property, geography etc.
- Increased bureaucracy
- Lack of awareness of potential partners
- For smaller contracts, working in consortia is not practical as each organisation would not receive enough money to cover their staffing and other costs, and leave money left to deliver the service

These barriers could be removed by providing:

- a. Training for civil society organisations on how to form and operate in consortia
- b. Extra funding for CSOs to cover the additional costs of working in consortia

- c. Information about potential partners and networking opportunities for them
- d. Long lead times for the completion of bids, in order to allow organisations the opportunity to build relationships and establish consortia

Points a) and c) could be provided by support organisations such as NCB.

NCB supports the idea of Co-Commissioning Hubs to act as points of coordination between different CSOs seeking to achieve common aims. In response to the proposed changes in the health sector, the Royal College of GPs have postulated that the market for commissioning support will consolidate around 'one-stop shop' solutions from large outsourcing companies and organisations with a track record of delivering 'best in class' solutions for the various aspects of commissioning. The College suggests that a small number of external organisations could evolve to support large numbers of commissioning consortia.^{ix} The creation of Co-Commissioning Hubs would provide CSOs with their own one-stop shops, foster cross organisation working and the sharing of costs and experience.

Value

1. *What approaches would best support commissioning decisions that consider full social, environmental and economic value to inform their commissioning decisions?*

It is vital that the next generation of public services – in neither their provision nor their assessment – are not placed in silos. Ultimately commissioners will only seek to consider the full social, environmental and economic value of provision if there is a system of inspection broad enough to allow this holistic approach to communities to flourish.

It is vital that local commissioners (and CSOs) can rely on a number of nationally recognised bodies to validate value in the round. As previously mentioned, organisations such as C4EO will need to become responsible for providing recognised assessments of outcomes, potential and scaleability. These assessors could also take account of the relative social, environmental and economic values of proposed work – both in advance of contracts being signed and as part of a process of ongoing assessment of value for money.

Citizen and Community Involvement: How could civil society organisations support greater citizen and community involvement in all stages of commissioning?

NCB wants to see the involvement of children and young people at every stage of the commissioning process as both the recipients of services and as members of

the local community. Including children and young people in commissioning leads to:^x

- Better services – driven by feedback from people who know and use them;
- Not wasting money on services that do not work – children and young people know what works;
- Making the process child and young person friendly and accessible;
- Gaining expertise from children and young people who represent the diversity of the local community;
- Improved accountability to children and young people as stakeholders and citizens;
- Direct benefits to children and young people themselves – including increased knowledge of services, confidence, skills and networks;
- Inside knowledge – children and young people know a lot about their wider communities and families.

For a useful example of the positive effects of including children and young people in commissioning, see the results of Newcastle's involvement of children and young people in the allocation of its 2009 Children's Fund.^{xi}

Past experience shows that services put in place to engage all members of the public will rarely engage effectively with children and young people, unless there is a specific requirement to do so. The experience of Patient Advice and Liaison Services (PALS) and Local Involvement Networks (LINKs) suggests that children are often an after-thought.

1. What role and contributions could civil society organisations play, through Local HealthWatch, in informing the local consumer voice about commissioning?

It is proposed by government that HealthWatch support the involvement of patients in strategic decisions about local services (currently the role of LINKs) and provide information and advocacy to support patients to exercise choice and make complaints (currently the role of PALS). However, NCB's work with LINKs and PALS suggests that they will need additional support, tools and resources in order to effectively involve children and young people in their work.

A current NCB project aims to build the capacity of LINKs to engage with children and young people through children and young people's voluntary organisations. Early research has given a mixed picture of the level of engagement of children and young people within LINKs^{xii}. Those that failed to involve children and young people said this was due to: a perception that this was not part of the LINKs remit; lack of capacity; and limited resources.

Research with PALS found that 75% were not actively involving children and young people in their service, because they did not have the necessary resources, skills and support from managers.^{xiii} Consultations with children and young people reveal that most did not know what PALS are, but thought it could be really useful, once

the service was explained to them.^{xiv} Through our PALS project, NCB has provided training to 174 of the approximately 500 PALS in the country, many of whom have since reported increased involvement of children and young people.^{xv}

Consequently, ensuring the engagement of local voluntary and community sector (VCS) organisations within the work of HealthWatch will be key to securing commissioning decisions that reflect the views and the needs of the most marginalised. VCS organisations often work with the most excluded and vulnerable members of society – those who are often reluctant to engage with statutory services. Commissioners must be required to work in partnership with these VCS organisations when assessing local need and engaging service users/providers. There needs to be a strong expectation that statutory bodies such as HealthWatch boards will cooperate with the CSOs.

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

Local, regional and national voluntary sector support organisations are in an excellent position to ensure the above. As demonstrated in NAVCA's recent publication *A Bridge Between Two Worlds*,^{xvi} these organisations are already playing a vital role in facilitating, encouraging and supporting CSOs to get involved in commissioning. They also host a number of LINKs and represent local civil society organisations through Joint Strategic Needs Assessment processes, Local Strategic Partnerships and other mechanisms.

More specifically, these organisations can and could:

- Providing evidence to commissioners, to show that there is a local need for (and local support for) the services they are seeking to provide. NCB would, naturally, insist that these surveys of local opinion should take account of children and young people who live in the area.
- Draw attention to local issues in specific neighbourhood settings which might not be reflected in headline data and which, consequently, local communities might not be aware of (or lack the information to support the 'word on the street'). In doing so they may be able to construct a clearer picture of the consequences of social interventions (e.g. fall in local youth crime rate linked to new sports club for young people), providing evidence for both their continued support and, potentially, their roll-out elsewhere.
- Provide information to raise awareness of how to get involved in decision making about local priorities and services commissioned
- Work with smaller organisations and their communities who lack the capacity to engage in decision making; listen to their views and report them back through engagement processes
- Work with commissioners, raising awareness about the needs and views of CSOs and the people they work with.

7. *What can civil society organisations contribute to the roll out of community budgets? What barriers exist to realising this contribution? How can these barriers be removed?*
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?

The Local Integrated Services model is welcome. There is, however, a need to re-educate commissioners and local government staff and public servants to see community members – including young people – as competent, otherwise there is a risk that commissioners will not be governed by the desires of communities.

8. *What can civil society organisations contribute to the development of Free Schools? What should Government consider in order to realise this contribution?*

CSOs can play a key role in contributing to the development of Free Schools by helping those schools fulfil their obligations towards potentially marginalized children – such as those with SEN and disability. In order to realise this potential it would be extremely useful if government (local or national) would consider maintaining a register of experienced CSOs to whom Free Schools could turn in order to ensure that they could help such pupils achieve optimal outcomes.

9. *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?*

NCB broadly welcomes the extension of personal budgets. We have particular expertise in personal budgets with reference to children with SEN and disability and have been working the Department for Education on these issues in the forthcoming Green Paper. Our expertise is gained from working with a wide range of CSOs and parents and children themselves. The widespread introduction of personal budgets will also present a range of challenges.

In some areas there will be a number of potential challenges:

- due to patchy coverage of services, there will be substantial differentials in cost between authorities (perhaps even within authorities)
- because of their child's needs, families will often already be under immense pressure and should not be expected to have to handle personal budgets if they do not wish to.

Any movement in this direction would need to consider first the scope for joint commissioning of services across several areas in order to make provision cost effective. The Government should therefore take whatever steps are necessary to

ensure that commissioning by consortia of authorities to consortia of CSOs, is as straightforward as possible. Without this support it will be very difficult for, say, the parents of children with profound difficulties to access services in a timely and effective fashion.

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ⁱ Cutler, P (2008) How to: involve children and young people in commissioning. London: Participation Works.

ⁱⁱ Department of Health, Equity and excellence: Liberating the NHS (2010)

ⁱⁱⁱ <http://www.c4eo.org.uk/costeffectiveness/>;

http://www.commissioningsupport.org.uk/cs/groups/18_nov_commissioning_for_better_outcomes_and_efficiency/media/p/1618/download.aspx

^{iv} For example, NCVYS produced two publications in October and December 2010 called 'Comprehensive Cuts' highlighting the impact of the cuts on the young people's voluntary sector <http://ncvys.org.uk/UserFiles/Comprehensive%20Cuts.pdf>

^v Office of the Third Sector *Key Facts on the Third Sector* March 2010

^{vi} D. Julius, Public Service Industry Review (2008), p. 54.

^{vii} See, e.g., C4EO, 'Can I afford to? Can I afford not to?'

^{viii} A. Singh, *The Civil Effect*, Respublica (2010).

^{ix} RCGP, Update on Commissioning Activity, (Sept 2010):

http://www.rcgp.org.uk/pdf/Update_on_Commissioning_Activity.pdf

^x Participation Works, *How to: Involve Children and Young People in Commissioning* (2008).

^{xi} Involving Children and Young People in Commissioning Early Intervention and Prevention Services (Newcastle): <http://www.commissioningsupport.org.uk/idoc.ashx?docid=d3cb9ff3-e10f-4962-bc02-95cdc194d116&version=-1>

^{xii} 12% of LINKs who responded to our survey said they had not involved children and young people in their work via voluntary organisations. The percentage of children and youth organisations as a proportion of LINKs' members ranged from 1 to 90%, with an average of 30%.

^{xiii} Pobi S (2007) PALS: Getting it right for children and young people – A report on the results from NCB's PALS survey in July 2007 <http://www.ncb.org.uk/default.aspx?page=605>

^{xiv} Pobi S (2007) PALS: Getting it right for children and young people – Consultations with children and young people <http://www.ncb.org.uk/default.aspx?page=605>

^{xv} The PALS resources are available at:

http://www.ncb.org.uk/resources/free_resources/pals_project.aspx

^{xvi} NAVCA and Reshenia Consulting *A Bridge Between Two Worlds: a study of support and development organisations and intelligent commissioning*: November 2010

