

Modernising Commissioning: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery - Cabinet Office Consultation

Response by Adult Social Care Commissioning Services, Leeds City Council

<p>Question 1 – In which public service area could Government create new opportunities for civil society organisations to deliver?</p>	<p>Sub Question: What are the implications of payment by results for civil society organisations? (p9)</p>	<ol style="list-style-type: none"> 1. Cash flow issues due to a mixture of Pay by Results (PBR) and non PBR contracts. 2. PBR could also place entrance barriers to the market as organisations would have to invest in set up costs to deliver services ahead of being paid so this could prevent small organisations that have limited reserves from applying for opportunities. 3. Viability issues for organisations not delivering on one contract and therefore not getting paid in full which will impact upon capacity to deliver other contracts. 4. Procurement issues due to open procurements being accessible to SME's who may not function with PBR, civil society orgs and independent sector contractors. One procurement – three possible financial constructions for payments? 5. There is increased risk for organisations with a PBR approach and it may prohibit some organisations (particularly charities) from applying for opportunities. 6. We have moved to an outcomes based commissioning approach which takes a longer term view with outcomes not necessarily being achieved immediately but over a period of time. This may be difficult to match with a PBR approach which would result in full payment not which could mean a long period of time until providers are paid in full for outcomes. PBR may not also work very well with softer outcomes which are harder to evidence. 7. When implementing PBR we need to be cognisant of the lessons learnt from the NHS to ensure that PBR drives the right provider behaviour, i.e. that providers are incentivised to provide the right outcomes and that all clients are supported, not just those that are easiest to help.
	<p>Sub- Question: Which public</p>	<ol style="list-style-type: none"> 1. Barriers – local authorities seeking most economic prices, may find the

	<p>services areas could be opened up to more civil society providers? What are the barriers to more civil society organisations being involved? (p10)</p>	<p>costs of civil society organisations exclude them from winning contracts. The “extra” value that a civil society organisation may accrue through delivery of service might be valuable to a different agency and not bring value for money benefits required by the purchasing agency. Unless there is a mechanism for trading budgets against benefits between agencies, there will be no appetite for purchasing from organisations which produce a wider benefit ?</p> <ol style="list-style-type: none"> 2. Capacity building cannot equitably be available only to civil society organisations. Independent sector organisations, although profit focussed, are also local employers contributing to local communities, and also need capacity building to maximise their development. Therefore both need support. 3. Some concern has been expressed by civil society organisations in Leeds about the proposed development of GP consortia commissioning. Organisations, particularly small ones, find it difficult to understand how the new arrangements will work and are concerned about having to develop relationships with several commissioners in the same field. Relationships take time to build, and that time has resource implications. Creating multiple commissioning partners increases the time required by small civil society organisations to manage those relationships. This could be another potential barrier to civil society organisations operating in the health field, besides the question of how those costs are supported.
	<p>Sub- Question: 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?</p>	
	<p>Sub-Question: Are there types of assets whose viability, when transferred to civil society management or ownership, would be particularly dependent on a</p>	<p>1. Adult Social Care in Leeds will have a number of council buildings that are no longer needed (e.g. day centres that have been closed due to lack of demand) that could be transferred to civil society organisations. However, initial discussions with a couple of civil society organisations that are interested in taking over these assets have identified a number of</p>

	<p>continuing income stream from service contracts or public sector tenancies?</p> <p>What are the main barriers that prevent civil society organisations taking over asset-based services?</p>	<p>barriers which primarily relate to sustainability. To feel confident to take on a building organisations need one or more long term contract to be able to cover the on-going maintenance costs. Partnerships with other civil society organisations who might want to use the building are being explored (and who could therefore share on-going costs) has been explored but this has also brought up issues around insurance costs and the investment that will be needed on an on-going basis into infrastructure to manage these partnership arrangements.</p>
	<p>Sub- Question: How can we encourage more existing civil society organisations to team up with new employee-led mutuals?</p>	<ol style="list-style-type: none"> 1. There has to be a benefit for organisations to work together as in any partnership arrangements. 2. There will be potentially be some of the same issues in encouraging civil society organisations to work with employee-led mutuals that we currently face in encouraging existing civil society organisations to work in consortia. One key barrier is that in an increasingly competitive funding environment (due to public sector spending cuts) many organisations are in competition with each other for funding and this environment is not always conducive to fostering partnership working. 3. For partnerships to form, there needs to be an appropriate timescales in commissioning processes (particularly at the procurement stage) to enable organisations to identify potential partners, negotiate their relationships and compete for the tenders.
	<p>Sub-Question: What other methods could the Government consider in order to create more opportunities for civil society organisations to deliver public services?</p>	<ol style="list-style-type: none"> 1. An opportunity is of no value unless an organisation has the potential to take advantage of it. To achieve this Civil society organisations require a mix of appropriate values and appropriate business skills and knowledge. Capability can be created by training incumbent organisation leaders / managers or by importing the business management / development skills on a temporary basis, as an organisation might bring in an accountant, solicitor.
<p>Question 2 – How could Government make existing public service markets more</p>	<p>Sub-Question: What issues should commissioners take into account in order to increase civil society organisations' involvement in existing public service markets?</p>	<ol style="list-style-type: none"> 1. Our experience in Leeds is that some civil society organisations still lack the capacity to participate in commissioning, particularly smaller organisations. Some organisations do not fully understand outcome based commissioning and need support to engage with it. In Leeds, over the last 18 months, there has been investment into infrastructure support to help organisations become 'commissioning ready' - this type of one to one support needs to continue. 2. Civil society organisations need to be continued to be supported to

accessible to civil society organisations ?		<p>modernise and respond to a rapidly changing environment.</p> <p>3. Procurement processes need to be reviewed on an on-going basis to understand whether there are unnecessary barriers to civil society organisations participating in tender opportunities. Often it is the smaller organisations that do not have the experience or confidence to tender for work and simplifying process will not only benefit civil society organisations but small businesses as well.</p> <p>4. 'Added social value' should be added to the assessment of a tender.</p>
	Sub- Question: In the implementation of the above mentioned measures, what issues should the Government consider in order to ensure that they are fully inclusive of civil society organisations?	
	Sub-Question: What issues should the Civil Society Red Tape Taskforce consider in order to reduce the bureaucratic burden of commissioning?	<p>1. Increased flexibility in procurement rules would be beneficial to commissioners as well as civil society organisations. For example, there has been a move towards implementing framework contracts, increasing choice for services users in line with the personalisation agenda in adult social care. However, although the framework has increased the number of providers it is in place for a fixed number of years and new providers cannot be added unless the whole framework contract is procured again. This is restrictive and also prohibitive to market development as new providers have to wait for several years until the framework is re-commissioned.</p> <p>2. A lot of work has been carried out recently to support User Led Organisations (ULO) to become involved commissioning and support commissioners to understand the barriers that ULOs face in engaging with commissioning and procurement and how processes could be changed to make participation easier. Learning from this could be used when considering how commissioning processes can be simplified for civil society organisations.</p>
	Sub-Question: How can commissioners achieve a fair balance of risk which would enable	Limitations in liability under certain contracts in certain circumstances to the value of that contract.

	civil society organisations to compete for opportunities?	
	Sub- Question: What are the key issues civil society organisations face when dealing with TUPE regulations and what could government do, within existing legislation, to resolve these problems?	<ol style="list-style-type: none"> 1. Provide guidance and access to independent support on TUPE to increase Civil Society organisation's understanding of the regulations. Local Authorities can not give independent advice on this issue, although we are often approached for guidance. There appears to be limited understanding of the regulations and where they can obtain advice and support on this issue. The danger of not understanding TUPE implications when submitting a tender is that the tender is not appropriately costed and the organisation may not be able to deliver the service for the tendered price. 2. It should be recognised that TUPE is of great benefit to civil society organisations whose staff would otherwise be vulnerable if they a contract they have is awarded to another provider when it is re-tendered.
	Sub-Questions: 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?	<ol style="list-style-type: none"> 1. There is a need for a wider range of simple to use tools to assist civil society organisations to evidence their outcomes. Tools such as the Social Return on Investment are interesting tools but far too complex for most civil society organisations to implement without considerable support and investment.
	Sub-Question: 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?	<ol style="list-style-type: none"> 1. Civil society organisations need support to adapt to the changing market place, for example, the transformation agenda in Adult Social Care. Funding to support business planning, structural change (including mergers, partnership working) would be beneficial. This might also include funding to pilot new ways of working or carrying out market research. 2. Support to fund 'upfront costs' of setting up a new service or funding to assist with cash flow issues would be useful.
	Sub- Questions: What issues affecting civil society organisations should be considered in relation to the extension of the Merlin	To ensure that the commissioning processes to achieve the Merlin Standard are not so restrictive as to preclude a mixture of independent and civil society organisations within a supply chain.

	Standard across central government?	
Question 3 – How could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?	Sub- Question: What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?	<ol style="list-style-type: none"> 1. Civil society organisations, like the private sector, are often competing for limited income sources and therefore can be reluctant to form partnerships with organisations they view as a potential competitor. Feedback from commissioning workshops we held with the sector in 2010 was that procurement processes do not always support partnership working as organisations are reluctant to share good practice which they consider as something which may give them a 'competitive edge' in a tender situation. Many organisations commented that they felt partnership working had negative connotations in the context of commissioning as when the public sector talked about partnership working what they were really talking about was mergers as that was the only way working in partnership saves costs (i.e. if organisations work in partnership and retain their independence they are likely to still have the same level of overhead costs to support). 2. Commissioning and procurement processes need to take into account the time it takes to form partnerships/consortia relationships. A four week turnaround time for a tender is not sufficient to build a robust partnership. 3. Decommissioning processes need to account the partnership approach for the management of the dissolution of partnerships when a service is no longer required. What happens to shared information, a joint marketing profile and shared assets. Clarity regarding dissolution may assist confidence in partnership formation.
	Sub-Question: What approaches would best support commissioning decisions that consider full social, environmental and economic value?	<ol style="list-style-type: none"> 1. Attributing a broadly accepted notional value to social, economic and environmental value to ensure adequate return on investment on the commissioned service can be measured.
Question 4 – How could civil society organisations	Sub- Question: What issues should Government consider in taking forward the Public Services (Social Enterprise and Social	The development of locality based commissioning would facilitate a range of local services, meeting local requirements. This would support the involvement of local people in this process. When deciding upon what might constitute "relevant" value it should be noted that some services

support greater citizen and community involvement in all stages of commissioning?	Value) Bill?	must be commissioned on a larger city wide or regional basis to achieve a consistent and equitable service provision, otherwise there could be a danger of a postcode lottery.
	Sub-question: What role and contributions could civil society organisations place, through Local HealthWatch, in informing the local consumer voice about commissioning?	There are already many pre-existing routes which civil society organisations use to share information with their geographic or interest beneficiary community. This is especially important where information needs some accompanying guidance / analysis in order for it to be “decoded”. It is important that these are built upon, and developed as models rather than require that organisations channel information through an additional organisation.
	Sub-question: What issues relating to civil society organisations should the Government consider when refreshing the Joint Strategic Needs Assessment Guidance?	
	Sub-Question: How could civil society organisations facilitate, encourage and support community and citizen involvement in decision making about local priorities and services commissioned?	<ol style="list-style-type: none"> 1. Civil society organisations could have a key role in this as they are often best placed to reach people who are not able to engage in consultation processes. However, consultation and involvement is not a cost free activity and civil society organisations and service user representative groups need support to be able to do this. 2. Civil society organisations that facilitate or support community involvement need to be clear about when they are representing their community or service users and when they are representing their own organisation and how they separate these two roles – for example when a consultation is leading to the development of new service that will be procured, which the organisation might be interested in tendering for.
	Sub-Question: What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?	<ol style="list-style-type: none"> 1. There is still a need for capacity building of the sector to enable them to engage in commissioning processes. Recent experience has shown that some civil society organisations (particularly smaller ones) do not fully understand how commissioning works which has acted as a barrier. For example, capacity to understand the standard legal contracts or what outcomes.
	Sub-Question: What issues should	<ol style="list-style-type: none"> 1. Market facilitation and engagement is a key role in commissioning but

	<p>the government consider in the development of the future programme of training public service commissioners?</p>	<p>is still a relatively new area which it would be useful to provide guidance and support on.</p> <ol style="list-style-type: none"> 2. As new GP commissioning organisations are created is important that the mixed markets which are being developed are supported by a coordinated commissioning approach rather than a unilateral approach. Therefore commissioners need to understand how providers, whether they be civil society or independent sector, diversify their income streams to manage risk of contract loss. 3. Need to ensure commissioners have a board view of commissioning, including building community capacity and partnership working, not just procurement.
	<p>Sub- Questions: 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?</p>	<ol style="list-style-type: none"> 1. Civil society organisations have three key roles - promoting personal budgets and acting as advocates for individual service users, brokerage and developing and setting up services that individuals want to purchase. 2. The key barrier civil society organisations face is the cultural shift required with moving towards personalisation. For example, where an organisation it is a huge cultural shift to move from an operating model where you have one funder to one where you have many individual funders. There is also risk involved in setting up a service targeted at individuals as organisations need to secure a minimum number of individuals to make a service viable but they cannot guarantee the volume needed when they first set up. There are also implications for set up costs e.g. implementing new financial systems and marketing of services. 3. There is also the issue regarding reducing the dependence of individuals on services thereby developing community resilience. Few commercial organisations actively try to reduce the service delivered to customers as a means to reduce their own charges to the purchaser. New models of outcome based targets need development.
	<p>Sub- Questions: What can civil society organisations contribute to the roll out of Local Integrated Services? What barriers exist to realising this</p>	

	contribution? How can these barriers be removed?	
	Sub- Questions: 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?	<ol style="list-style-type: none"> 1. Civil Society organisations need support with costing of services, marketing and setting up financial systems to support commissioning by individuals with personal budgets. 2. Better market information needs to be provided e.g. numbers of people on personal budgets, what they want to purchase and where there are gaps in the market to help civil society organisations to plan for change.