

**Isle of Wight Council's Response to the Green Paper:
"Modernising Commissioning: Increasing the role of charities,
social enterprises, mutuals and cooperatives in public service
delivery".**

The Isle of Wight Council would like to respond to questions raised by the Dec 2010 Green Paper on public sector commissioning, by drawing on its recent experience of involving communities and Civil Society Organisations (CSO) in local commissioning.

This Council has a strategy for delivering a greater proportion of public services through CSOs. New forms of procurement, reduced barriers to inclusion, engagement with CSOs and investment in the sector have all begun to deliver the knowledge, experience and capacity of local communities and CSOs.

1. IN WHICH PUBLIC SERVICE AREAS COULD GOVERNMENT CREATE NEW OPPORTUNITIES FOR CIVIL SOCIETY ORGANISATIONS TO DELIVER?

Payment by results (PBR).

PBR may be appropriate in some cases, but there is a role for alternatives such as staged payments and shared cost of service delivery. PBR may exclude small CSOs or partnerships with limited access to working capital or revenue.

Barriers to CSO service delivery.

The Council supports the move to localism and the shift of power to communities. For this reason, the Council does not support service delivery quotas for sectors or markets. Local and inclusive decision-making and the need to demonstrate value should be the main drivers in the selection of service providers.

It is also this Council's experience that CSO bids to deliver public services have been improved through access to business development and infrastructure support.

The government could assist the NHS to recognise the need to enable diverse CSOs of all types to deliver services. The Isle of Wight NHS has adopted the Council's CSO funding process for a number of small services. However, until now, NHS procurement guidance has focused on large scale procurement, excluding small and medium sized CSOs, often local to the PCT's, from much NHS service delivery.

Extending the right to challenge to local public services.

The Council wishes to commission local solutions to local issues in return for value and efficiency. While committed to CSO engagement and community empowerment, including Community Asset Transfers and CSO service delivery, economic pressures that need to be balanced against new rights to challenge and provide.

Barriers that prevent CSOs taking over asset-based services.

Many CSOs have little if any working capital and very restricted cashflow. They therefore find it hard to commit to ongoing expenses in relation to the rental of or maintenance of assets. In the current financial climate Local Authorities cannot afford to subsidise these and there is a need for savings in relation to services.

CSOs and employee-led mutuals.

This Council supports CSOs and employee-led mutuals working together for their mutual benefit and the value that would be created for the taxpayer.

However, this Council is concerned that the relationship between the Council and staff considering a request to deliver their services involves a number of complex accountabilities and responsibilities. This includes TUPE responsibilities, public procurement requirements, the duty to secure the best value from resources and a possible challenge in relation to anti-competitive decision-making or state aid. There are also concerns over the Council's responsibility to tax-payers and the staff concerned in facilitating or supporting employee-led mutuals or the transfer of public assets. In order to make effective local decisions, the Council would welcome greater clarity over the complex issues involved.

2. HOW COULD GOVERNMENT MAKE EXISTING PUBLIC SERVICE MARKETS MORE ACCESSIBLE TO CIVIL SOCIETY ORGANISATIONS?

Increasing CSO involvement in existing public service markets.

The Council and its partners have identified a number of issues that are particularly relevant to small local CSOs:

Early Involvement. A wealth of experience and unique insight into local need, capacity and solutions can be provided by local CSOs. Tapping into this at the first stages of commissioning produces outcomes and priorities that CSOs recognise and can respond to. Involvement at an early stage also attracts the wider interest of CSO providers as well as creating the potential for new CSOs and partnerships.

Build on Provider Strengths. CSO business approaches are usually based on motivating values, insight and experience. Detailed service specifications, designed primarily by commissioners, require CSOs to adapt their approaches to these designs, leading to a loss of effectiveness. This Council has been commissioning outcomes; bidders now design services based on their own best approach and capacity to deliver our outcomes.

Procurement Red Tape. The complexity of public sector procurement regimes, often based around contracting, also present barriers to bidding that deter and discriminate against both CSOs and small to medium enterprise (SME). A typical procurement barrier is a common 25% working capital to award ratio. In response, This Council exercises judgement in order that CSOs and SMEs who often cannot raise working capital or revenue are not disadvantaged by arbitrary ratios and limits.

Flexible Sourcing. The Council and its CSO partners have developed a competitive grant-making programme that uses existing grant-making powers to improve access to mainstream service delivery opportunities for all types of CSO. The Council has advised a number of other Councils and bodies considering similar approaches.

Use of Grants. Extensive public sector grant-making powers can be used in place of complex procurement and contract management arrangements. This has enabled a new focus on the commissioning of outcomes and the management of risk.

Fairness. Plain English, minimisation of bureaucracy, transparency and sector inclusion in decision making all promote CSO interest and involvement in delivery. These steps toward fairness and access also reduce transaction costs.

The Compact. Compliance with the spirit of Compact agreements contributes to creative, effective, fair and inclusive cross sector relationships. An evolving CSO sector needs recognition of the need for advance payment, full-cost recovery, involvement in the commissioning process and longer-timeframes that reflect the structure and nature of CSO governance

Building on Evidence. The government's proposed new rights for communities and employees require commissioners to have fair, accessible and effective means of sourcing services. Evidence-based success should be promoted and shared.

Issues for the Civil Society Red Tape Taskforce.

This Council proposes that the government should consider addressing the complexity of TUPE, the bureaucracy of public sector procurement legislation, and the need to allow localised decision-making, and encouragement to risk management in place of risk avoidance.

Achieving a fair balance of risk to enable CSOs to compete.

In developing the Council's strategy, it was found that the management of risk increases the burden of bureaucracy experienced by CSOs and SMEs. Only large organisations with greater resources can compete with large private sector organisations in competition for the ability to deliver public services.

This Council has therefore re-instated grants, via a competitive Prospectus programme; giving CSOs of all types genuine opportunities. This allows judgement-based approaches to risk management. The Council has also begun using this programme to allocate competitive funding opportunities to private SMEs who can also be disadvantaged by requirements in contracting and tendering.

Key issues faced by CSOs when dealing with TUPE.

Recent grant-making processes have revealed uncertainties about the exchange of TUPE related information between providers. The Council would like the government to take steps to ensure that CSO bidders for public services are able to access the information they require directly from existing service providers. In addition, clarity over the options for resolving TUPE related pension issues would be helpful, particularly where liabilities are at stake for new providers taking on staff.

Assessing CSOs on their ability to achieve the best outcome and price.

The use of commissioning outcomes as the principle framework for sourcing providers has indicated four key questions that when answered satisfactorily will indicate the competence, ability and creativity a CSO will bring to delivering services.

1. How will your organisation deliver our commissioning outcomes?
2. What will the public services that you provide be like?
3. What do you need to achieve your proposal?
4. How will you demonstrate to us your delivering our outcomes and priorities?

In addition, we have found that a commitment to full cost recovery helps to focus on the value and price of a service, as the commissioner and CSO providers are all satisfied that the cost is known and understood.

The development of the Big Society Bank.

The proposed Big Bank will encourage a much needed social investment market.

There is concern that the Big Society Bank will be used to sustain large grant-reliant organisations who often have high brand awareness but poorer roots into communities they are funded to serve. The Bank may be more effective in delivering successful public services if its resources are open to small, innovative or new organisations. It could also be used to de-commission unsustainable services.

The Merlin Quality Standard.

This Council would be concerned that externally imposed standards to small and local CSOs for non-governmental commissioning may create a new cost and capacity barrier. It may be necessary to permit local flexibility.

Barriers to civil society organisations forming consortia.

This Council's Prospectus based grant-making process positively encourages partnership, collaboration and consortia among CSO bidders. However, local CSOs appear less inclined to form consortia when engaged in tendering for Contracts, due to perceived risks inherent in partnership and/or prime-contracting arrangements. Encouragement for sourcing processes that balance the need for risk management against the CSO sectors need and capacity to collaborate would be welcomed.

3. HOW COULD COMMISSIONERS USE ASSESSMENTS OF VALUE TO INFORM THEIR COMMISSIONING DECISIONS?

Approaches to full social, environmental and economic value.

This Council welcomes guidance on evidence-based best-practice. Value will be placed on approaches that enhance local benefit while not complicating or adding cost to the commissioning process.

The Public Services (Social Enterprise and Social Value) Bill.

The Council is reassured that the Government is considering the need for proportionality and the need for value to be paramount. Local decisions should not made more complex by additional processes or costs.

CSO partners bidding for Council funding are asked to identify the communities that will benefit from their service, the social benefits that they can deliver, as well as measures of direct social and financial value. This has proved to be a good indicator of the vision of CSOs and is the basis for identifying measures of value if needed.

This Council has also considered assessment models such as Social Return on Investment. While useful indicators of the factors involved in creating value, they have not been found to be easily affordable or reliable measures of value.

4. HOW COULD CIVIL SOCIETY ORGANISATIONS SUPPORT GREATER CITIZEN AND COMMUNITY INVOLVEMENT IN COMMISSIONING?

The CSO and HealthWatch role in informing the local consumer voice.

This Council supports and recognises legitimate inclusion in commissioning processes. We would however not want to be tied to a single facilitating partner or organisation as a requirement, but will continue to welcome a diversity of interest based consumer and service user partners CSOs.

Refreshing Joint Strategic Needs Assessment Guidance.

This Council will continue to welcome the involvement of CSOs in the JSNA process and will welcome guidance on community inclusion.

Encouraging community and citizen involvement in commissioning.

We welcome the shift in power and accountability to local levels and will consider the most appropriate forms in which the Island's public sector, led by the Isle of Wight Council, will engage with the many communities on the Isle of Wight.

Support for improved working relationships between sectors.

The Isle of Wight has a single CSO infrastructure organisation, funded by the Council and others to provide leadership, co-ordination and a joint approach to a thriving CSO sector. The Isle of Wight Rural Community Council provides expertise, networking, knowledge and infrastructure to communities and CSOs. This helps communities and CSOs maximise and develop their ideas and resources.

For example, the Council's Civil Sector Strategy has been co-produced with our CSO infrastructure organisation with the support of the local strategic partnership. It is our experience that agreement and exchange on key issues and actions has considerably improved relationships and opportunities for both sectors.

Future programmes of training public service commissioners.

This Council supports training and development but asks the government to take note of the benefits of an approach based on local needs and requirements.

The CSO contribution to Local Integrated Services.

The Council supports greater scope for cross boundary working and will welcome further information and evidence on the effectiveness of Local Integrated Services.

CSO contribution to the extension of personal budgets.

Decommissioning popular and familiar, branded services and organisations may be necessary at national and local levels to ensure new investment in personal choice. As power shifts to service users, publicly funded CSOs that cannot adapt to the required shift must be replaced by CSOs with new ideas and approaches to personal service and value.