

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

Sub-Question: What are the implications of payment by results for civil society organisations?

Payment by results transfers risk from the state to civil society organisations (CSOs). Outcomes (results) in complex social issues are always interrelated and never fully within the control of a single service provider. There is a danger of focussing on what is measurable rather than what is important. However, payment by results allows greater freedom for the CSO to choose its own method of delivery, allowing for greater innovation and flexibility.

Sub-Question: Which public services areas could be opened up to more civil society providers? What are the barriers to more civil society organisations being involved?

The idea of setting proportions for 'independent' delivery recalls CCT but arguably goes further, with no in-house option. CSOs could be involved in most areas of public service; traditionally oriented towards the direct 'social' aspects, once co-ops and mutuals (for example of ex-staff) are considered areas like finance and HR could be included. However, this might also encourage larger 'for profit' businesses to set up operations on a 'mutual' basis, with the aim of winning as many service delivery contracts as possible.

A CSO's lack of capacity and experience in newer public service areas may well be a barrier. A responsible commissioner would focus on these aspects, especially since public services carry high risks, especially to vulnerable people, and so standards need to be enforced. This can appear bureaucratic, but cannot be optional. CSOs need help and support to build capacity (and develop experience). This is often done with the help of local authority funding, where grants are used to build longer-term capacity. Unfortunately, with the pressure on public finance, this sort of support is now being reduced across the country.

Reliable and open data about public services is vital, as information is one of the tools that CSOs require in order to engage with public services. Whilst central and local government collect performance data, much of this is not generally available except through Freedom of Information requests.

Sub-Questions: Should Government explore extending the right to challenge to other local state-run services?

The current financial difficulties faced by public services mean that, in many cases, they are already looking at ways in which they can work in partnership with CSOs in delivering services. Whilst this continues an existing trend in which public bodies become commissioners of services, the right to challenge must be underpinned by a fundamental change in culture, away from a position where services are developed and delivered by a public body. The work involved in developing an alternative

<p>way of working with all the necessary safeguards is very considerable. Public services have little resource to carry out this work – responding to challenges could take up a disproportionate amount. Also understanding the links between services, which would have to be retained or recreated if parts of the service were provided elsewhere (the implication being that the challenger decides the packaging of service he wants to deliver, rather than the authority). If by ‘other’ is meant ‘other than local government’, this is not likely to happen, particularly in the case of local agencies of central government.</p>
<p><i>If so, which areas and what benefits could civil society organisations bring to these public service areas?</i></p>
<p>The arguments for and against would be similar. Health provision is an obvious example.</p>
<p><i>Sub-Questions: Are there types of assets whose viability, when transferred to civil society management or ownership, would be particularly dependent on a continuing income stream from service contracts or public sector tenancies?</i></p>
<p>Unless transfer of assets is done as a purely commercial transaction, the transfer would imply delivery of community benefits in some form. Most ‘public’ assets are not readily able to generate profit and could not easily do so. Car parks are an exception. Small community centres are not.</p>
<p><i>What are the main barriers that prevent civil society organisations taking over asset-based services?</i></p>
<p>We believe that there is a real danger of raising the expectations of CSOs, it being one thing to have the opportunity to take over asset-based services and quite another to raise the funding to successfully purchase and manage and asset. Barriers include:</p> <ul style="list-style-type: none"> • A lack of guaranteed revenue streams to cover staff, utilities and maintenance costs. • A lack of skills or experience in asset management, including the relevant regulations governing these services.
<p><i>Sub-Question: How can we encourage more existing civil society organisations to team up with new employee-led mutuals?</i></p>
<p>This has not really been tried yet, so there is no evidence of what the barriers might be.</p>
<p><i>Sub-Question: What other methods could the Government consider in order to create more opportunities for civil society organisations to deliver public services?</i></p>
<p>In order to be effective, CSOs need to work in an environment that supports long term sustainability, with access to long terms and sustainable funding being critical. Public services are important to people. Demand for services has risen through the recession and the funding environment has got even harder. Badly handled public sector cuts could significantly alter the ability of the voluntary and community sector to nurture social capital and support some of the most vulnerable people in society at a time when we need to build the social capital and encourage local support networks.</p>

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

Sub-Question: What issues should commissioners take into account in order to increase civil society organisations' involvement in existing public service markets?

There needs to be a balance of risk – given the serious consequences of public service failure, ultimately it is the reliability and cost-effectiveness of the service that is more important than creating wider provider involvement.

Some key ways to assist CSOs would include involvement in developing the process and specification, with a suitably long time to allow the development of a well thought-through approach, setting up consortia etc.; using outcome-based specification so that organisations can innovate on delivery; ensuring that the skills and understanding of commissioning are in place within the commissioning authority.

Sub-Question: In the implementation of the abovementioned measures, what issues should the Government consider in order to ensure that they are fully inclusive of civil society organisations?

The issues would be the same for CSOs as for SMEs.

Sub-Question: What issues should the Civil Society Red Tape Taskforce consider in order to reduce the bureaucratic burden of commissioning?

The 'bureaucracy' is generally there for a reason, to help ensure high standards of commissioned public services, to guard against malpractice, protect individuals and the public interest, and ensure compliance with the law. It can be made more proportionate to the size and risk of the service – i.e. less stringent controls and requirements where small sums are involved and the risks and consequences are low. However, the requirement to demonstrate fairness will be even greater with the stress on transparency and challenge, and many of the rules are there to ensure this.

Sub-Question: How can commissioners achieve a fair balance of risk which would enable civil society organisations to compete for opportunities?

The public interest should be the guide here. Embarking on a commissioning course which increases the financial or other risk to the public solely to broaden the range of providers is putting the priorities in the wrong order. There may be some opportunity for a public authority to 'underwrite' a service, especially in its early years. One issue is the risk of failure of major assets (for example, building heating systems) where the arrangement could share the risk if that were in the public interest.

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?

Generally what is needed is greater understanding of what the regulations mean and when they apply – without having to

<p>rely on case law each time. There is generally a lack of understanding of TUPE. Access to appropriate independent legal advice can be an issue for CSOs – not least the cost.</p> <p>The cost of transferring staff is sometimes not clear when bids are submitted, often resulting in prices that are too high or too low.</p> <p>It is difficult for smaller CSOs to provide the same sort of level of staff benefit as the public sector (for example pensions or redundancy).</p>
<p><i>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?</i></p>
<p>CSOs should not have their cost structure scrutinised any more closely than a commercial business in bidding for a commissioned contract. Questions about the level of overheads are legitimate in awarding grants, where there is not necessarily a competitive benchmark to ensure value for money.</p>
<p><i>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?</i></p>
<p>Assuming that the core business of the Big Society Bank will be making loans to CSOs, the key is a lending policy that encourages medium- and long-term investment rather than short-term return. It too would need to have a policy relating to risk that did not create impassable barriers for (especially) new, small and/or innovative CSOs.</p>
<p><i>Sub- Questions: What issues affecting civil society organisations should be considered in relation to the extension of the Merlin Standard across central government?</i></p>
<p>No views on this.</p>
<p><i>Sub- Question: What barriers prevent civil society organisations from forming and operating in consortia? How could they be removed?</i></p>
<p>Consortia take time to set up, and that needs to be built into an open commissioning framework. Commissioners might be less wary of consortia if there were standard and accepted ways of regulating the relationship between the partners, especially if those relationships start to go wrong, to protect the service. Dialogue between commissioners and potential suppliers should emphasise that consortia will be looked on positively, especially where they can demonstrate how smaller or more specialised organisations can contribute to a larger, wider contract.</p>

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

<i>Sub-Question: What approaches would best support commissioning decisions that consider full social, environmental and economic value?</i>
One benefit of commissioning from a local authority ought to be its ability to consider the wider implications across different aspects of community wellbeing. Elected members have a role to play in reviewing outcomes and judging how well they meet local priorities as arrived at through the democratic process. Equality Impact Assessments will be a standard feature of decision-making, but could be widened to cover other impacts (eg environmental). However, the introduction of such requirements brings with it the need for a suitable process, which could be categorised as ‘bureaucracy’.
<i>Sub- Question: What issues should Government consider in taking forward the Public Services (Social Enterprise and Social Value) Bill?</i>
As above - the role of democratically elected representatives is nowhere referred to in the Green Paper.

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

<i>Sub-question: What role and contributions could civil society organisations place, through Local HealthWatch, in informing the local consumer voice about commissioning?</i>
We have no comments, insofar as this question relates to social care and health.
<i>Sub-question: What issues relating to civil society organisations should the Government consider when refreshing the Joint Strategic Needs Assessment Guidance?</i>
We have no comments, insofar as this question relates to social care and health.
<i>Sub-Question: How could civil society organisations facilitate, encourage and support community and citizen involvement in decision making about local priorities and services commissioned?</i>
The Green Paper paints a false distinction between national and local government on the one hand, and “those who use services, and other interested citizens” on the other. Participation in the democratic process – locally or nationally – is the key way in which people have a share in decision-making. Local organisations cannot ‘represent’ people in the democratic sense, although they can represent people’s interests as they see them, and often do so effectively. It is also a mistake to

expect a unified consistent 'community' to exist (except in the technical sense of being a group of people living in a defined area) whose view can be discovered. Having said that, a requirement for the CSO to show wide, inclusive community involvement in the development, delivery and monitoring of services can supplement and enrich the democratic outcomes.
<i>Sub-Question: What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?</i>
One element will be support for the infrastructure organisations which assist CSOs in various ways, and also act as a conduit of information and engagement for what is a very dispersed and diverse sector. Financial support for civil society infrastructure will remain essential.
<i>Sub-Question: What issues should the government consider in the development of the future programme of training public service commissioners?</i>
Whilst we agree that this is important, we have no specific comments.
<i>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?</i>
This vision of community budgets seems to be closely allied to the Total Place concept. CSOs can certainly hope to bring perspectives from parts of the community, indeed one of their strengths is their ability to distil the views of specific interest groups which may otherwise be lost in more general consultation, but (as outlined above) they cannot provide <u>the</u> community view.
<i>Sub- Questions: What can civil society organisations contribute to the roll out of Local Integrated Services?</i>
CSOs have three potential roles. They can contribute intelligence to building up a picture of local need, because they have members or clients with specific experience. They can help the engagement process, providing opportunities for dialogue, feedback and participation in decision-making. And they can be commissioned to deliver outcomes or services to address the issues. However, local authorities will continue to have a crucial role in the 'integration' component of this programme, and in giving legitimacy to choices between competing priorities.
<i>What barriers exist to realising this contribution? How can these barriers be removed?</i>
Barriers to operating in a commissioning framework have already been discussed.
<i>Sub- Questions: What can civil society organisations contribute to the development of Free Schools?</i>
Presumably most free schools will be constituted as CSOs. Other CSOs will have an interest in ensuring that sections of the community are not disadvantaged or have access limited to schools.

<i>What should Government consider in order to realise this contribution?</i>
Setting up standards to ensure that the interests of children are paramount and are protected regardless of the provider. Schools and schooling have an impact on the whole community, and that holistic impact needs to be assessed – it is not just for the parents' benefit.
<i>Sub- Questions: What contributions could civil society organisations make to the extension of personal budgets across a range of service areas?</i>
For individuals to make sense of personal budgets and use them wisely will often require considerable support, which CSOs are well placed to provide. CSOs can also advise local and central Government on where and to what extent personal budgets would work or be welcomed. Other CSOs will feature on the menu of choices available to the individual – the wider the range of high quality but distinctive providers available, the better the system will work.
<i>What changes do both commissioners and civil society organisations need to make to adapt to an environment where citizens are commissioning their own services?</i>
Understanding the issues around communicating the options available effectively to non-experts; the competitive environment for services, the risks to the individuals and the support they may need in making choices.