

Modernising Commissioning Green Paper
Response by the Voluntary Sector Chief Officers Group, Stoke-on-Trent

The Voluntary Sector Chief Officers Group (VSCOG) is a strategic grouping of 35 voluntary sector organisations all of whom are based in the city of Stoke-on-Trent. It currently provides the main strategic engagement mechanism between the voluntary sector and statutory organisations represented on the Local Strategic Partnership.

VSCOG would like to echo the sentiments expressed elsewhere in our sector about the regrettably short consultation period in regard to the Green Paper. The volume and speed of changes being progressed by the Coalition are such that it is increasingly difficult for the voluntary sector to achieve meaningful engagement with consultations such as this one. Notwithstanding, the importance of the issues in the Green Paper to our sector is such that we would like to comment on some of the issues and questions raised as follows:

1. In which public service areas could Government create new opportunities for civil society organisations to deliver?
 - **What are the implications of payment by results for civil society organisations?**

Payment by results is potentially a disincentive to involvement in service delivery for several reasons:

 - Increased likelihood of necessity to be a sub-contractor, with inherent reliance on prime contractors and increased complexity of delivery relationships
 - Difficulty of agreeing 'results' particularly with some of the specialist client groups civil society organisations support (is someone successfully reintegrated into employment when they have got a job, or when they have held it for 6 months?)
 - Lack of access to capital and inability to draw on reserves while awaiting payment
 - Difficulty of the above issues in particular for smaller organisations
 - Problem of linking specialist or niche services to the overall result – e.g. a debt advice agency may successfully help someone resolve their debt problems to remove a barrier to getting a job/re-offending, but the failure of other parts of the supply chain may lead to a result not being achieved in that case and therefore the advice agency not getting paid
 - Alternatively, if there is no place for niche services then only organisations who can provide the full spectrum of support will be able to participate, which will exclude a lot of civil society organisations
 - **Which public service areas could be opened up to more civil society providers? What are the barriers to more civil society organisations being involved?**

In Stoke we have identified numerous areas in which the local authority (for instance) is providing services that could feasibly be run by local civil society organisations. These include amongst others

 - Social care day opportunities
 - Mental health support including CAMHS
 - Housing options, advice and homelessness services
 - Libraries / community information and advice services
 - Youth services / Connexions / youth offending / teenage pregnancy advice
 - Worklessness services

However we are concerned from experience that several significant barriers exist regardless of the service area being considered:

- Poor understanding amongst commissioners of the way civil society organisations work
 - Continuing poor involvement of civil society organisations in the early stages of commissioning, namely service design and needs analysis to ensure that services will genuinely meet need
 - Lack of understanding by the local authority of the difference between commissioning and procurement and a lack of knowledge around some specialist services they wish to have provided
 - Pressure for significant fiscal savings to be achieved before local civil society organisations are in a position to change their financial models to adapt to the new climate (leading to commissioning bodies contracting with larger national charities or private sector, and greater difficulty in survival for local organisations)
- **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? What are the main barriers that prevent civil society organisations taking over asset-based services?**

Yes – most will require some income streams from public sector contracts if either:

- they host services offered to service users unable to pay for them; or
- there is an insufficient market for commercial opportunities appropriate to the asset (e.g. how many training/meeting/conference venues can an area support?); and
- the market for their use from outside the public/third sector is not strong.

For example, a children's centre will only be viable without public funding streams if there are sufficient families willing to pay for services offered from the centre, or enough groups and individuals willing to pay to use the facilities - which is less likely in areas of significant deprivation (where many children's centres are located).

- **How can we encourage more existing civil society organisations to team up with new employee-led mutuals?**
 - Establish more areas of common interest;
 - Allow employee led mutuals to sub-contract or commission activities from civil society organisations.
- **What other methods could the government consider in order to create more opportunities for civil society organisations to deliver public services?**

Essentially by switching the emphasis from delivering services to achieving outcomes – so rather than commissioners saying “we want you to deliver this service in this way”, saying instead “we want to achieve objectives A, B and C - what can you do to help us achieve that?”

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

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

- a) In Stoke-on-Trent and Staffordshire we are seeing initial moves towards the consolidation of service commissioning across authorities and public sector bodies, with the aim of a centralised Joint Commissioning Unit letting all contracts. No-one argues that commissioning in the past has been over-complex and led to many civil society organisations holding multiple contracts for essentially very similar services with different commissioners. However, we have grave concerns that the rationale behind these moves – to save back office costs for commissioners – is untested and that the true costs of service commissioning are not quantified, thus making it extremely difficult to demonstrate whether or not this will be achieved. We are also concerned that the letting of larger or more generic contracts will effectively run counter to the localism agenda by:
 - Increasing the ability of larger regional or national organisations to compete by undercutting local organisations, potentially to the detriment of local social capital and with the loss of valued local services
 - Removing local relationship management of contracts, which is often the key to successful service delivery and improvement.

We therefore think it is essential that commissioners have absolute clarity on the rationale for changes in service commissioning, and are fully aware of the impact this may have on civil society organisations.

- b) Past experience amongst our members suggests that commissioners have difficulty in comparing civil society organisations' costs with the cost of running a service in-house, particularly as accurate financial information on in-house provision is difficult to obtain and a false impression of lower in-house costs can be created when substantial elements are hidden and/or absorbed elsewhere in the organisation. We are concerned that this will be exacerbated in the difficult financial climate as local authorities may look to retain services in-house to safeguard jobs, when this may not always represent the best value for money or most appropriate delivery mechanism for local people. We think the full costs of in-house service delivery should be more upfront in order to genuinely assess value for money and enable fair decision-making in commissioning.
- c) We believe that in some parts of the public sector it is considered a current truism that civil society organisations must either partner in consortia or merge in order to compete effectively. We think however that commissioners should be mindful both of the time and resources necessary to nurture such collaboration, and also that the best partnerships with the most successful delivery occur where there is genuine understanding and mutual benefit around a shared and clear goal. We would therefore like to see new services commissioned in a fully inclusive way, involving civil society organisations from the outset and allowing for time to form partnerships around need, rather than with the expectation of ready-formed partnerships waiting for the arrival of something appropriate to bid for.

To do this, commissioners need first of all to understand what local civil society organisations do and why they are valuable and to reflect these factors in their commissioning plans. Again, focussing commissioning on achieving outcomes, rather than services, and outcomes which are not just about delivering a service will help.

Local civil society organisations for their part need to be able to demonstrate to commissioners how their particular skills, knowledge and contribution can add value and are worth investing in, and clearly articulate the value of 'local'.

Otherwise there is a danger that big will be seen as beautiful, whether that is in terms of large national civil society organisations taking over from local organisations or of consortia/mergers being the norm. Local management and local governance of civil society organisations and the services they deliver should be encouraged in pursuit of the government's policy of localism. There is a risk that as contracts become larger and suppliers more remote from the communities they serve the local focus of services and their design to meet specific local needs will be replaced by one size fits all, bulk order generic services.

- **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 issue of quality standards has created some difficulty for civil society organisations in the past (differing or irrelevant standards being required by commissioners from the same organisation for different contracts) and we would suggest that Government works with national organisations such as NAVCA in order to fully understand and address these issues.

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

- Over-zealous monitoring, which sometimes appears to create audit trails for their own sake – often created by commissioners lacking specialist knowledge or clear outcomes to measure against;
- Over-complex tendering processes – using lists of approved suppliers to avoid repetitious PQQs and repetitive due diligence;
- Possibly commissioning strategic partnerships to achieve outcomes across a range of activities rather than specific (and often small) services.

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

- Payment by results puts the risk entirely on the supplier, which will be a disincentive to civil society organisations to compete where they are not in complete control of the factors affecting the result. For example, an organisation can work hard to get someone into a job, which they hold for a couple of months, then a major customer of the employer goes bust and the employer has to make staff redundant and the person helped loses their job – so the supplier may not have achieved their 'result' and may not get paid for something that was entirely outside their influence.
- Commissioners could use savings from achieved results to incentivise suppliers while ensuring basic costs are met.

- **What are the key issues that civil society organisations face when dealing with TUPE regulations and what could Government do, within existing legislation, to resolve these problems?**

Public sector pension provision and pay levels are a major issue, as is the conflict between TUPE legislation and Equal Pay legislation – for instance, taking on staff to do the same work at differential pay levels can be discriminatory, but altering terms and conditions of transferred staff can be illegal. Anything Government can do to address this dichotomy will be welcome.

- **What issues should the 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?**

Government should build on the existing advice from HM Treasury in regard to the definition of value for money (as cited on p7 of the IDeA / NEF report 'A Better Return' -

<http://www.idea.gov.uk/idk/aio/9410371>) and ensure this is embedded within local authorities; again, there may be benefits in joint working with e.g. NAVCA to further tackle this issue at local level.

- **What issues should the 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?**

- Many civil society organisations have no assets and therefore can offer no security for a loan;
- Many do not have cash flow robust enough to satisfy most lenders that a loan is repayable;
- Many won't be able to win contracts if they have to factor in loan repayments on top of their costs, unless they are large enough to absorb them across a wide range of contracts.

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

- Poor commissioning often does not allow time for formation
- Costs and resources required to collaborate
- Lack of understanding of legal implications or risk-aversion
- Short-termism of contracts means a lot of work to create a consortium may not be worthwhile
- Pressure from statutory organisations to collaborate (sometimes given as the only option though this may not be best for the organisations concerned – so some may choose to back away)
- Trust and relationship issues between potential partners, which can take time to resolve as do good working relationships take time to build;
- Cultural/philosophical differences (e.g. how to get a substance abuse organisation which advocates/promotes abstinence to work with one which promotes/offers harm reduction?)

Simplification of funding streams and removal of the time pressures associated with monies coming down from Government to be spent in unrealistically short timescales would go a long way towards alleviating these issues. As mentioned above, involvement of civil society organisations far earlier in the commissioning process could still be much improved and would help awareness amongst organisations of forthcoming opportunities, enabling earlier planning for collaboration.

Some organisations rely on a variety of funding streams which may not always be compatible with working jointly – and changing the legal status of an organisation can also impact on the attractiveness of consortia options.

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

- **What approaches would best support commissioning decisions that consider full social, environmental and economic value?**

Again this must come back to outcomes and including outcomes which are about social, environmental and economic value – i.e. not just about the service delivered but about how it is delivered and by whom.

- **What issues should Government consider in taking forward the Public Services (Social Enterprise and Social Value) Bill?**

We think that measures being developed to assess Social Return on Investment (SROI) are promising but that it is far from clear that a consensus exists (or will exist) on the most effective and appropriate way to do so. We think Government should avoid being prescriptive on the use of these measures while they remain in development, but it is important that information about different methods and tools is disseminated widely to inform debate. We also think it must be remembered that whilst some civil society organisations may also be social enterprises, the ways in which the two types of organisation operate can differ greatly and that in order for the widest range of civil society organisations to be able to deliver public services, there must be no presumption in favour of social enterprise as a public service delivery model.

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

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

Many local civil society organisations already inform and consult their service users about developments in health commissioning as part of their remit, and statutory authorities can continue to work with them in this respect. If given opportunity to do so it may also be the case that some such local organisations may seek to bid to run local HealthWatch, particularly in areas where LINKs may have been less successful.

- **What issues relating to civil society organisations should the Government consider when refreshing the JSNA Guidance?**

Local authorities etc. should be strongly encouraged to involve civil society organisations more fully in the preparation of JSNAs. In our experience the local JSNA is largely statistics-led, very health-focused and fails to fully capitalise on active engagement with civil society or the public. We also believe more can be done to encourage statutory authorities to fully embrace the findings of the Marmot report and to tackle the underlying employment, housing and other issues which so inherently influence health – and that a failure to do so will ensure a continuing focus on short term solutions to longer term problems.

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

Civil society organisations already have a good reach into communities that may not traditionally be well engaged-with by statutory authorities. If citizens are to play a more active role in determining local priorities, we can enable, via these existing relationships, those who do not traditionally shout the loudest to ensure they are not sidelined in such processes and work to support their involvement.*

- **What forms of support will best enable statutory partners and civil society organisations to improve their working relationships?**

Local Support and Development Organisations (LSDOs) such as CVS's can play a crucial role in brokering better relationships between the two, and we believe continuing support for this strategic function will be ever more important in this time of rapid change.

- **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?**

See the answer marked * above. We could also look at our potential to mentor and train citizen groups and share our experience of these issues in order to build local social capital and develop skills. However, this will not be able to happen without some level of resource to enable such work to happen and we are very concerned to ensure that Community Organisers will not create a new structure in duplication or competition to those already capable of offering this type of support locally.

- **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?**

Civil society organisations can enable and support service users with personal budgets much as they are already doing in social care and as outlined briefly on p24 of your consultation document. The potential changes they may need to make to adapt are significant, for while entrepreneurialism is not in short supply within the sector, the need to change service delivery models to react to customer demand (and to market services accordingly) will be a huge task for many organisations. Government and commissioners can help in this respect by providing transitional support - for instance, resources could be made available for LSDOs to create new support packages for organisations that might include specialist marketing support, brokering advice from private sector organisations, and other specific support to make the transition easier.

