

# **Herefordshire Public Services Response Modernising Commissioning**

## **Introduction**

Herefordshire has a long history of strong partnership working between the public and voluntary and community sectors. Currently, Herefordshire's voluntary sector support service organisations and Herefordshire Public Services (HPS) are working together to review the services they provide to front-line voluntary and community organisations across Herefordshire.

Herefordshire Public Services recognises that civil society organisations provide a vital role in supporting communities across our county. We are already working with a number of civil society organisations to deliver certain services across the county. We therefore welcome proposals from Government to support the creation of mutuals, co-operatives, charities and social enterprises, and to enable these groups to have a much greater involvement in the running of public services. It is, however, crucial to ensure that those at the front line have the skills, knowledge and resources to in turn support communities to make a difference.

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

- The scope for development is growing and it is clear that there are a wide range of services where civil society organisations may be well placed to deliver four key challenges facing society which are 1) community cohesion, 2) individual and community health and wellbeing, 3) climate change, and 4) financial security. There are also considerations of offering more choice against the reality of value for money.
- Through the proposals outlined in the green paper, there is an opportunity for commissioners in Herefordshire to use civil society organisations to maximise the independence of our older population by giving them more control over the health and social care they receive. In particular supporting long term conditions such as dementia and diabetes.
- In addition to civil society organisations, the opportunity for Parish Councils to take on local services should be explored vigorously. In all cases sufficient resources need to be provided to ensure that organisations have the capacity and competence to take on these services.
- The opportunity to form new employee-led mutuals offers a very dynamic model for renewal and can enable links between existing civil society organisations and public sector workers. This enables skills to be maintained and service delivery to be better able to respond to local

need. Newly formed mutuals should be carefully regulated and encouraged to achieve the Social Enterprise Mark as this can help to demonstrate the integrity of the business. However, we need to ensure there is a level playing field for internal and external organisations tendering for services. It will therefore be important to provide guidance on key steps on how to establish cooperatives and mutuals in an accessible way and how to safeguard against unfair advantage and make them sustainable. However, it should be recognised that 'mutualisation' of vulnerable businesses such as the post office may not prove a success without other supporting measures being taken.

- We recognise the benefits to the market of the proposal to have a set proportion (25%) of services delivered by independent providers, including civil society organizations. This may work well in big conurbations such as London, Birmingham etc. where there is a big presence of independent providers. However, the same may not be true in dispersed rural communities such as Herefordshire, where there are fewer independent providers, where investment will be vital to build the sector.
- We support the idea that the independent providers should have a bigger role in delivering services. However, for independent providers to effectively and efficiently deliver services, they will need resources to increase their capacity, improve organisation structures, management processes and systems. All of this will require additional investment.
- There is also the issue around accountability when delivering services, including statutory services. We are unclear what accountability structure, measures and processes will be required by independent providers. We understand the need to reduce bureaucracy but would recommend that independent providers should at minimum have the appropriate accountability measures to ensure that public money is spent most economically and effectively and that systems, including reporting systems, are put in place.
- We support the idea of payment by results. A high proportion of specific quality public services and good commissioning should not be about inputs and outputs, but should be about outcomes achieved by service users and as such should take into account Social Return on Investment/Social Audit and Accounting (this measures the change undertaken by the individual or organisation). However, the transition to how this is achieved is vital and it is simply not possible to move from one payment model to another without appropriate support over a period of time to change. We are also concerned that there is a danger that the harder to achieve outcomes will be sidelined in favour of quick wins. We would also recommend a robust quality framework is put in place as there is a danger that limited funding could result in a focus on throughput rather than quality.

- We would seek clarification on who will pay for the results: commissioners or users? In an increasingly difficult financial environment in the public sector and the development of a partnership between the state and the individual to meet personal outcomes (such as that being developed in adult social care), any commissioning framework needs to encourage civil society organisations (as any providers) to shape their business model to accommodate self-funding clients as much as publicly-funded clients.
- There is a cost associated with payment by results. Invariably actual results will not be seen until well after a programme completion stage so appropriate long term monitoring and evaluation will need to be in place.
- The Localism Bill will give civil society organisations and local authority employees the right to challenge local authorities where they believe they could provide services differently or better. We would welcome further details including clarification about who will be adjudicating over which is deemed to be the best. It should also be noted that the right to provide and the right to challenge will require resources. Will central government provide the resources to enable this?
- We would also seek clarification about the overall framework to implement and monitor the success of what is proposed and the individual contracts. While we are conscious of the need to minimise bureaucracy, there needs to be transparency and accountability.
- There also needs to be clear guidance on the commissioner's role in managing failing organisations and ensuring continuity/sustainability of service.
- Herefordshire Council has actively supported asset transfer to civil society organisations but, prior to each transfer, we have worked with the organisation to ensure they had the necessary capacity, structures and systems to ensure sustainability and added value. Clear guidance and an asset transfer toolkit/checklist are required to assist both public sector and civil society organisations. Additionally appropriate support should be provided to civil society organisations throughout the process – specifically business planning support. It also needs to be acknowledged that development of appropriate business plans takes time and this should be factored into any future capital funded programmes to support asset transfer as well as the provision of revenue funding to support business plan development.

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

- We propose that information on the bidding round is accessible to civil society organisations. The crucial change needed is to enable a wider

range of organisations to be able to develop a bid and this requires a simple, transparent process that encourages new entrants, some of whom may have a limited track record in public sector contracts.

- We agree that many organisations find it difficult to bid for services due to barriers such as length of contract, transaction costs, inflexibility of specifications, etc. However, if specifications are flexible, there is a danger that it will run counter to the equal opportunity requirement of procurement laws.
- We are concerned that there is an unfair advantage to the larger more established providers. Local commissioners need to have the ability to set local prices to overcome the barriers to market place entry arising from economies of scale enjoyed by large providers. Alternatively infant industry support could be provided to new market entrants.
- Consideration needs to be given to modular commissioning such as the care pathways approach adopted in health. This will allow civil society organisations an opportunity to identify where they can enter the market place and overcome barriers to entry arising from high cost specialist activities.
- Whilst we recognise the barriers to market entry of the civil society organisations, we also recognise that public procurement is governed by the European Procurement Directive which is designed to promote competition and fairness in public procurement. The procurement legislation is highly bureaucratic and frequently a lengthy process.
- It would also be useful to provide resources and guidance to encourage smaller organisations to come together to form consortia, in order to bid for medium-size contracts, to try and obtain best value for money. This is a necessary first step to access public sector portals. However, we need to ensure a level playing field for private sector and civil society organisations in the tendering process.
- We support the proposal to launch a Contracts Finder system. It should be noted that locally we already utilise the Herefordshire Business Portal where all local authority contracts are advertised.
- A standardised Pre-Qualification Questionnaire (PQQ) across local and central government is a practical and useful idea. Any changes to typical PQQs that reduce the known barriers, particularly around financial history and policy and procedure requirements, would be welcome. A form of this is already available in Herefordshire where 'would-be' providers complete a PQQ in order to become part of our approved contractors list. This has proved effective especially for emergency and tight schedule work procurement. From April 1<sup>st</sup> contractors will be able to self register on line through the Council's new finance and procurement software.

- We recognise the importance of TUPE Regulations from an employment law perspective. This protects employees' Terms & Conditions.
- In terms of a Single Quality Standard we are aware of difficulties in the past where single quality standards have been introduced and would strongly recommend that Merlin be rigorously tested/reviewed before being utilised.
- We recognise the value of Compact as a "driver" of transparency between government and civil society organisations. The Compact remains a voluntary agreement between public bodies and civil society organisations.
- We would like to seek clarification on what types of civil society organisations are formally considered SMEs and, if so, whether the target of 25% of government contracts allocated to SMEs will include those civil society organisations.
- As previously stated, we would like to seek clarification on the basis of the 25% target of government contracts allocated to SMES, including civil society organisations. We think that 25% is an inflexible target. In big cities and conurbation areas, there is a big presence of civil society organisations and SMEs which can deliver more than 25% of the government contracts. In small rural areas, this target may be too ambitious.
- We propose the inclusion of a package of support to civil society organisations aimed at increasing capacity to deliver public services.
- We welcome the government's plans to reduce the bureaucratic burden on small organisations. However, the proposed introduction of a Civil Society Red Tape Taskforce appears to be a contradiction in terms and this in itself will create a new layer of bureaucracy for civil society organisations. Additionally there will, of course, be a cost implication for the creation and operation of such a task force.
- Herefordshire has made good progress in the establishment of a shared services organisation for back office function. Potentially this could provide specialist services such as IT and finance for civil society organisations thus minimising overheads and reducing barriers to the market place.

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

- We think that it is essential to establish clear criteria on wider value beyond financial assessment. It would be useful to ensure a full value

approach which includes wider social, community and environmental benefit. In addition financial resources need to be set aside to provide training for commissioners in the application of SROI/SAA.

- We recognise the potential of the Public Services Bill in creating a positive impact of local ownership and delivery as part of the commissioning process. This would enable smaller local organisations to demonstrate a wider value in the community. However, participatory methods can be time consuming and costly. We would urge the government to allocate funding for this process.
- Under the Equality Act 2010, the new Equality Duty requires public bodies to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between different groups across all their functions, including public procurement. The new duty is expected to come into force from April 2011. The government needs to look at how this will be enforced locally to enable civil society organisations to compete actively for funding.
- There is the opportunity to build upon established impact assessments already used under the banner of equality and human rights rather than setting up separate processes and frameworks.

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

- We recognise that there are a number of emerging models that can deliver direct engagement and clear needs assessment. We think that it is important to have a vehicle to enable citizens to prioritise their own needs, through a balanced assessment including a wide spectrum of views. Local forums that include all major parts of a community can act as a basis for assessment of a broad base of needs. However, we also recognise that this participatory process takes time and can be expensive, thereby making the commissioning process more costly.
- We think that participatory budgeting offers a way to engage a spectrum of citizens and to ensure that all views are heard within the process. As budgets are devolved to community/neighbourhood level it is more important to engage communities and service users in the allocation of these services. Pooled budgets can best be delivered by a direct involvement of citizens that draws on their knowledge of local needs. Participatory budgeting is a well-established method for ensuring prioritisation of core services. When carried out across a full budget cycle approach, it enables citizens to understand the decision-making process and engage with local ward members as well as officials. However, we also recognise that participatory budgeting and

planning can be a lengthy process and can cause tension in the community as members can have conflicting interests and priorities.

- We think that the Joint Strategic Needs Assessment is a comprehensive assessment of the needs of the local people as it pulls together and analyses a wide range of information. We propose that the government build on the strengths of the current JSNA. This needs to be complemented by community view such as those expressed through community led planning. Additionally the capacity and demand could be included within the JSNA.
- We would like to seek clarification on whether LINKS, which is implementing the HealthWatch programme, will be abolished to make way for Local HealthWatch. The arrangements should be determined locally taking account of current performance and whatever is put in place should have sufficient clout and resources to deliver its aims and objectives.
- We support the proposal to develop a new package of support to enable local civil society organisations and statutory partners to strengthen their working relationships. We suggest that the package of support be based on training needs assessment of the parties involved. We would also like to stress that their local authorities have been involved in increasing capacity of the civil society organisations and the government should learn from the success of these partnership arrangements.
- In the West Midlands, partners have developed a procurement framework for jobs and skills (attached) and we propose that the government adopt this framework nationally.
- We think that civil society organisations can help identify local priorities and the mechanism to implement these. We are concerned that civil society organisations lack capacity and ability to cash flow expenses. We recommend that a package of support is established in order to increase capacity.
- We agree that the civil society organisations can contribute to the roll out of Local Integrated Services; however they need to increase their capacity and should have guaranteed funding in order to deliver some of the services.
- We are concerned that the civil society organisations lack the capacity to contribute to the development of Free Schools. There is also a question about the loss of big buying power with the move to single independent bodies and the impact on reducing the inequalities gap in educational attainment depending on who these bodies are accountable to and how.

- We think that if local people are going to be actively involved in decision-making around commissioning, it requires flexible structures. The government needs to eradicate market barriers for organisations to bid for funding through local authorities or health commissioners. Accreditation will be needed for organisations with contracts for service delivery, but there should be choices as to what this accreditation looks like. We also propose that commissioners should have monitoring functions to allow service providers to concentrate on service delivery.
- In terms of personal budgets it needs to be recognised that there are challenges here for smaller civil society organisations in that whilst it gives the customer more individual choice it provides less financial security for providers.

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