



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

Fellows' Associates response

January 2011

## introduction

1. Fellows' Associates is delighted to have the opportunity to respond to the *Modernising Commission Green Paper*. Our response builds on the experience we have gained as a public interest company set up to support the development of environmentally and socially responsible organisations and active citizens.
2. We feel, however, that it is important to note our disappointment that the consultation period is extremely short. The government suggests that the "regrettable short" response period will be mitigated by "targetted engagement". It is indeed regrettable that this may mean that many organisations within civil society, particularly those without the means to respond quickly, will be unable to have their say.
3. Since 2000, the government has had a Code of Practice which recommends a duration of twelve weeks for formal consultation. We recognise that sometimes it may not be possible to adhere to these guidelines, however, on a matter as vital as public services reform, it is important that the government is not seen as riding a roughshod approach to the detriment of the smaller organisations within civil society that form the backbone of the government's Big Society.
4. As a first point of action, we believe that the current government should, in the interests of transparency and its commitment to the Big Society, review its current consultation practices to achieve better practice to avoid yet further consultation fatigue and apathy. Furthermore, as a matter of courtesy and best practice, the government should publish individual responses. These would then form part of the debate and individual respondees would have the available evidence against which to judge the objectiveness of any official survey.
5. Given the limited time frame, our response focuses on providing general comment on aspects of the Green Paper, followed by specific answers to the four central questions posed by the consultation. We are disappointed that it could not be a fuller response as we believe that these are important issues.

6. We use social enterprise as the generic terms for mutual, cooperative and other forms of organisations that work with wider social objectives. We adopt the government's definition of civil organisations to include our generic definition of social enterprise and charities.

## general comment

### social enterprise and commercial objectives

7. In our opinion, there is a fundamental misconception at the heart of the government's Green Paper. The document suggests that "many mutuals and co-operatives are profit-making businesses, which operate for primarily commercial objectives."
8. We do not agree with this definition. While we accept that many mutuals and cooperatives have profit making as a core objective, we disagree that they can ever operate for primarily commercial objectives.
9. Mutuals and cooperatives, for example, operate in the interests of their members and the wider community, charities for the public benefit, and other social enterprise for a mixture of triple bottom line concerns. All of these organisations share in common a primary goal which is wider than the having a commercial objective. It is essential that the government recognises this, and the value that these approaches can bring to public services.
10. It is also the case that those companies that do operate primarily for commercial objectives vary tremendously in their wider corporate responsibility management and practice. A failure to link procurement effectively to this wider practice operates against the interest of both social enterprise and organisations who have integrated corporate responsibility into their management and day to day practice.
11. We believe that the government should ask the more fundamental question as to whether the procurement process should more fully take into account those organisations that provide social value and promote community and social well being.

### a level playing field

12. A clear understanding of the wider objectives of social enterprise is crucial to understanding its relevance to public services and the scale of the alternative model that currently exists, as opposed to organisations which operate for purely commercial objectives.
13. Our experience is that, despite previous government assertions that it was not the case, small business and social enterprise without a three year history are unlikely to qualify for public sector tenders or to get on qualifying frameworks. While we understand the risk factors associated with organisations of this sort, this mitigates against innovative start ups and social enterprise participating within public services and also arguably contributes to the failure rates of smaller companies.
14. It is also the case that organisations such as ourselves that divest resources to their charities throughout the year in the form of a donation in kind, as well as reinvesting profits, are sometimes less successful in being deemed financially viable. Our modus operandi is to use profits gained throughout the year to invest in charitable activity, yet the financial framework for the procurement process fails to take this into account.

### outcomes based service delivery

15. We support the government's vision to see a shift towards outcomes based service delivery. However, this may create difficulties in ensuring adequate working capital for organisations, and in establishing what are the proper outcomes that should be measured. Critically we believe that it is essential that user satisfaction surveys are an integral part of measuring outcomes.
16. At the same time, social impact bonds could play a powerful role in redesigning services and ensuring adequate running costs for the duration of a programme. Government should use its influence with the banks to encourage a flourishing mainstream social investment market.

### right to challenge

17. While the right to challenge would, on the surface, benefit some voluntary and community organisations, we are concerned that this may not be the case. As currently drafted, it is unclear whether this challenge would lead to greater involvement in public service delivery or whether the opening up of the procurement process to better resourced private organisations could, in fact, lead to a lesser involvement.
18. It is also unclear as to whether the right to challenge would remedy the problems with a service identified by the voluntary and community sector or other organisation as the procurement process could simply lead to the same, unreconstituted service being opened up to procurement.

### right to provide services

19. A similar argument can be put forward in relation to the right to provide services outlined in the Localism Bill, it is unclear whether assets will be locked if mutuals engage in joint ventures, for example, with the private sector. This then could lead to a diminution of influence rather than an extension of control by the sector.

### specific comment

#### in which public services could government create opportunities for civil organisations to deliver ?

20. Civil organisations have a positive role to play not only in the delivery of services but in their design, the commissioning process, and in giving a voice to the users of services. If services are to be responsive and flexible they must be shaped by those who use them and respond to the problems of local communities.
21. Simply having more of the same services carried out by different sectors will lead to more of the same and not a clear identification of the real problems facing communities. Therefore, it is essential that civil organisations are involved in identifying the issues and problems that services are set up to solve and deliver.

### how could government make existing public service markets more accessible to civil society organisations?

22. Existing public service markets may not be fit for purpose for tackling some of the more long-standing social issues such as inequality. More focus needs to be given to developing a problem-solving and inclusive approach to public service delivery. Involving service users in the design and shaping of services is critical. Therefore, it is essential that civil society organisations are involved in market shaping exercises.
23. We agree with the government that the procurement process is weighted against SMEs. We welcome the proposed standardisation of Pre qualifying questionnaires (PQQs) and the proposed launch of Contract Finders. However, it is clear that Contract Finder will only deal with a proportion of public service contracts. We also welcome the establishment on the Big Society Bank.

### how could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?

24. We agree that understandings of value should be driven by citizens and their communities. This will require new approaches to commissioning as well as monitoring and evaluation processes which are more inclusive of individuals and communities.
25. We believe that the full assessment of social, environmental, economic and ethical value should play a powerful role in the procurement process. While we accept that its measurement requires much further analysis, we believe that such an assessment would help to maximise public value.
26. Chris White's Bill is moving toward an approach which measures the whole cost, yet we are concerned that it is only a partial approach involving local government and with a partial definition of social enterprise.
27. We believe that the government should adopt a wider approach which measures public value not only in terms of the social return on investment but the public return on investment – for every public pound

spent, the public receives value according to public outcomes achieved.

**how could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?**

- 28.** As we have made clear, it is critical to involve individuals and their communities in pre-commissioning decisions and in the commissioning process. This requires empowerment but also enablement. Many organisations do not necessarily have the skills and capacity to engage in the procurement process. Many are currently not regarded as partners in the process but time may be taken up advising with no reward, for example in health commissioning. Commissioners need to adopt a partnership approach to working with civil organisations that recognises and values their particular expertise in a particular field as well as the fact that advice and time spent voluntarily working with commissioners could be resources redirected away from frontline services.
- 29.** We support an approach such as that adopted in the Public Health White Paper for Joint Strategic Needs Assessment (JSNAs), however there is a danger that the procedure may become bureaucratic and it will be essential to ensure that there is a balance between quantitative evidence and qualitative evidence.
- 30.** A package of support for the commissioning process would be a welcome idea. However civil organisations should not be seen as separate from the process, but part of the process. Procurement should change to be more inclusive of civil organisations.

### about Fellows' Associates

Fellows' Associates is a public interest company set up to support the development of environmentally and socially responsible organisations and active citizens and to work towards economic progress and social justice.

We are a small organisation that works on an Associate basis building collaborative partnerships in fulfilling our objectives. We work with organisations in the public, private and not for profit sectors.

Retained profits are invested in our sister charity the Fellows' Trust which was designed to promote better policy making at a national and local level with the full involvement of government, the community and the not for profit and private sectors.