

**Modernising Commissioning
Office for Civil Society Consultation**

**HAVCO RESPONSE
24th December 2010**

Background

Haringey Association for Voluntary and Community Organisations (HAVCO) is the local support and development agency for charities, voluntary organisations and community groups in Haringey. We “offer support services, promote best practice and develop a collective voice so that the diverse voluntary and community sector can play a full and meaningful role in Haringey.” To this end our services include:

- capacity building and development
- advice on fundraising/financial support
- promotion of volunteering
- strategic representation, networking and partnership
- training and skills development, and;
- community accountancy support

Although Haringey is an outer London region we face similar challenges like inner city areas, such as high levels of deprivation juxtapositioned with pocket areas of affluence. The voluntary and community sector organisations mostly operate from the east where there are many Super Output Areas (SOAs) with high levels of unemployment and health inequalities. Following a mapping of the Borough's Civil Society Organisations (CSOs) it was found that:

- Haringey has 1685 CSOs
- 70% of the CSOs are small/micro bodies: therefore they have little or no funding
- CSOs employ 5000 full-time equivalent staff
- 31,000 volunteers donate 2.6m hours per annum which equates to £25m per annum
- CSOs contribution to the local area equates to £310m

In terms of representation, HAVCO provides the recognised mechanism for community engagement across the Borough's Strategic Partnership Boards. Engagement at neighbourhood level is of particular importance as it strengthens the influence of, so called, ‘hard to reach’ communities. We have a good working relationship with our strategic partners including Haringey Council. HAVCO also engages successfully with the NHS with regard to health and social care. Its involvement includes links with service providers, carers and service users.

Given this background HAVCO welcomes the opportunity to respond to the Cabinet Office consultation on extending the commissioning of public services to civil society organisations.

We welcome the opportunity to engage in this consultation. Here is our response:

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

HAVCO Recommendation:

HAVCO welcomes the government's intention to create new opportunities for civil society organisations (CSOs). CSOs make a significant contribution to public services within their communities; very often targeting those citizens with the greatest need. The proposals will hopefully enhance the resources available to CSOs to deliver services which will benefit overall from improvements in efficiency, effectiveness and innovation. HAVCO is already working very constructively with Haringey Council on the development of a Voluntary Sector Strategy which will include a commissioning/funding framework.

Given that the fundamental purpose is to shift power to local communities, and encourage a flourishing civil society, HAVCO considers that there should be no specific limit to the public service areas opened up for delivery by CSOs. Whilst some public services, e.g. defence, will remain government agencies because of their nature; the default position should focus on opening up public services to ensure that opportunities for innovation etc. are maximised. The commissioning process itself will ensure that all service providers are 'fit for purpose'.

At the local (i.e. borough) level CSOs are most often associated with the provision of a range of social and welfare services to adults, young people and children. There are a number of in-house services provided by local authorities that could be transformed by transferring resources to CSOs e.g. The Youth Service. The quality of local authority advice-related services, such as housing benefit, could be improved significantly by transferring them to more client-oriented CSOs such as Citizens Advice. 'Advice' CSOs very often find themselves as the 'back-stop' to the failure of statutory agencies and would take a *right first time* approach to service delivery.

HAVCO considers that the main implications of payment by results are that CSOs will require substantial reserves in order to maintain their cashflow during the period of delivery. CSOs have often been penalised by having large reserves (n.b. applicants to the current Transition Fund not permitted to have more than 6 months reserves). The Prime Contractor model adopted by DWP is wholly reliant upon the fact that large commercial organisations have significant cash reserves and an ability to borrow against future income. There needs to be a change in attitude to the reserves held by CSOs to ensure a level playing field with commercial providers.

HAVCO considers that a significant number of CSOs would be unable to operate within a payment by results regime as payments may be made up to a year after commencement of delivery. If CSOs are to become significant providers within a payment by results regime, commissioners need to identify interim outcomes and link payments to them. 100% end-loaded contracts will not be financially viable for any but really large CSOs.

HAVCO considers that the statutory **right to challenge** will provide CSOs with the means of ensuring that public services are genuinely opened up to new providers. Without this it is likely that those within local authorities will seek to maintain the status quo and government objectives will not be achieved. HAVCO would wish to see robust systems in place to ensure that the right to challenge exists for all local state-run services and therefore should not be left to local discretion.

HAVCO is also concerned that employee-led mutuals may have an advantage in being awarded public services contracts through preferential treatment. How will this be compliant with European requirements for open and transparent processes? There is a danger that very little will change in regard to efficiency and effectiveness. CSOs could be encouraged to team up with mutuals by imposing a requirement on mutuals to demonstrate a genuine working relationship with the wider CSO sector in the area.

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

HAVCO Recommendation:

HAVCO would like to emphasise the important role of local support and development organisations, such as itself, in enabling CSOs to improve their involvement in public service delivery. The vital role of local support is captured in the recent report from our national organisation, NAVCA, entitled *A Bridge Between Two Worlds*.ⁱ

HAVCO would stress the need to recognise that the capacity of many CSOs to engage in public service markets needs to be developed further. National programmes – such as those offered by BASSAC (collaboration) and NAVCA (procurement) – need to be continued and complemented by local support services. There needs to be an investment in capacity-building and marketing CSOs to match the investment being made, for example, in the creation of GP consortia for the health service.

Following the completion of a CSO mapping study funded by the Haringey Strategic Partnership (October 2009), HAVCO compiled an action plan resulting from a consultation with local CSOs. This included a number of activities related directly to commissioning:

- implement the 8 commissioning principles in IDeA's *National Programme for Third Sector Commissioning*
- develop commissioning frameworks to standardise commissioning arrangements at local level
- provide comprehensive information about future service commissioning to a timescale that enables CSOs to respond positively

A number of the other actions are reflected elsewhere in this HAVCO response. CSOs in Haringey have a very serious interest in entering public service markets.

HAVCO considers that embedding an intelligent approach to the commissioning of public services is vital. Commissioning does not automatically mean an open tendering/contracting route to service procurement. Improved understanding by commissioners of the actual requirements of European and national law would facilitate **intelligent commissioning** which is concerned with ensuring that services are procured in the most appropriate way. This could include, for example, greater use of competitive dialogue to address complex needs at the local level. Supporting service delivery through grant-aid should also be maintained where appropriate and is not incompatible with outcome-based funding. In summary, HAVCO considers that a 'one size fits all' approach to commissioning will exclude a significant number of CSOs and result in the failure to optimise the achievement of government objectives.

HAVCO recognises that open tender procurement/contracting processes will be applied in many instances. Reflecting the intelligent approach, the organisational requirements (e.g. in a PQQ) with regard to capacity, financial status etc. should be appropriate to the size of contract on offer and take account of the known characteristics of providers in the market place. For example, a general requirement concerns the ratio of annual contract value to the turnover of the organisation which can result in a large number of CSOs being excluded from bidding. This can be addressed by a) commissioners accepting a higher level of risk when contracting with smaller CSOs that have the best chance of reaching disadvantaged groups, and b) ensuring that where several services are 'packaged' into a single invitation to tender, it is possible to bid for each element.

HAVCO considers that the minimum period for contracts for public service delivery should be at least 3 years. CSOs face a particular challenge with short-term (e.g. 1 year) contracts as it prevents them from planning to recoup any investment that may be required to secure the contract. Even 5-year contracts are quite short where a CSO may be contemplating investing in property through a mortgage for example. At present there are too many contracts of a year or less which creates a wide range of problems (e.g. staff retention, service development etc) which are ultimately reflected in the quality of service provided. CSOs will be able to make the greatest contribution to improvements in public services if they can operate from a more stable funding base.

HAVCO considers that CSOs providing public services need to be genuinely local if the ambition to involve local communities is to be achieved. Local authorities often contract out services to large national CSOs with no local connection whatsoever resulting in provision which does not take account of local needs and may not mesh seamlessly with other related services provided in the area. Mechanisms need to be in place to ensure that local CSOs have a role in the delivery of local services whilst complying with legal requirements for fair and open procurement.

TUPE has proved to be a significant barrier to CSOs taking on existing public services. This is created in part by the fact that the information required to fully understand TUPE liabilities is not available during the tendering phase. Even when details are given, the nature of the liabilities (e.g. pension commitments) will continue to be a barrier for many CSOs. One means of addressing this within existing legislation would be for the government to indemnify CSOs against the additional costs arising through TUPE. For example, in the case of redundancy a CSO would be required to meet its basic statutory employment obligations but not the enhanced 'package' available, for example, to a public sector employee.

HAVCO welcomes the intention to create a level playing field for CSOs with the commercial sector by focussing on price and value. Far too often CSOs are required to adopt pre-defined management costs even in contracting situations and are subject to a detailed scrutiny of costs that would not be applied to a commercial provider. It should be price, not costs that are taken into account when dealing with both CSOs and commercial providers.

Big Society Bank is a valuable addition to the range of social finance agencies available. However the take-up of loans, and other forms of investment financing, by CSOs, has been limited due to their inability to plan income streams over the medium-long term. This is largely due to the short terms nature of the public service contracts on offer. Longer-term contracts and a more entrepreneurial approach to financing by CSOs go hand in hand.

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

HAVCO Recommendation:

HAVCO welcomes the proposal that commissioning decisions should not be based on price alone. The suggestion that non-price factors could be given increasing emphasis is also welcome. Failure to take this forward will lead to a real danger that price alone will dominate decision-making.

There is a challenge in creating cost-effective mechanisms to assess the value on non-price factors. Much background work has already been undertaken on approaches such as Social Return on Investment but take-up within CSOs has been limited. CSOs do need to strengthen their ability to demonstrate the value of their work and the government should recognise the need for commissioners and CSOs to work together on finding mechanisms which lead to a more holistic approach to identifying outcomes and impact.

HAVCO notes that value for money remains paramount and the Public Services (Social Enterprise and Social Value) Bill proposes that non-price factors should always be considered in alignment with Best Value. Arguably Best Value itself has not always succeeded in achieving genuine improvement in public services and there is a concern that the requirement to consider non-price factors may not be robust enough to effect real change in commissioning practice.

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

HAVCO Recommendation:

HAVCO welcomes the decentralisation of services and the intention to place power in the hands of the local community. HAVCO itself co-ordinates a Community Link Forum which involves CSOs and local citizens in determining local priorities. The impact of the Forum will be strengthened through the proposals in the Green Paper. HAVCO would stress the importance of its links at neighbourhood level which facilitate engagement with 'hard to reach' communities.

HAVCO considers that CSOs are uniquely placed to support greater citizen involvement. The majority of local CSOs are led by individuals from the local community and their constituents represent a particular segment of that community often labelled as hard to reach. Some CSOs are service-user led and are particularly well-placed to advocate for the priority needs of their constituents. All CSOs generally have close and positive relationships with service users and the community at large and are generally regarded much more positively than statutory agencies.

The excellent relationship between CSOs and local citizens means that such organisations can provide a means of brokering engagement between the public and commissioners. However such brokerage needs to be resourced and the notion that CSOs can deliver this function within existing capacity is rejected. This will not necessitate additional resources, merely the redeployment of resources (e.g. marketing and PR) from statutory agencies to CSOs.

HAVCO welcomes a strengthened and properly resourced role for CSOs in supporting greater citizen involvement in commissioning.



Naeem Sheikh
CEO – HAVCO

For more information contact:

Officer Name and Title:

Telephone:

Email:

Facsimile:

Address: HAVCO, Unit 336, Lee Valley Technopark, Ashley Road, London N17 9LN

Charity No: 1100710

Company No: 4720872

¹ NAVCA (2010) A Bridge Between Two Worlds: A study of support and development organisations and intelligent commissioning. Visit: <http://www.navca.org.uk/NR/rdonlyres/4F0FDFA8-3013-473B-B6B3-CD258C11E70C/0/AICreportsinglepages.pdf>