



## **Response to the *Modernising Commissioning* consultation**

**Submitted by:**  
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**Young Lancashire** provides a wide range of support services to a network of registered voluntary youth organisations across Lancashire. The network consists of 153 organisations working with 94,000 young people supported by over 9,500 volunteers. Young Lancashire's core services enable Civil Society Organisations working with children and young people to; operate, develop and grow.

Our offer includes:

- **Information:** About policy developments, funding, resources, events and training opportunities, plus all the latest news through an interactive web portal and by e-mail.
- **Support:** Services including: Youth Work training; Young Peoples' Accreditation Schemes (AQA & Youth Achievement Awards); Quality Systems (PQASSO); Consortium Development (business planning and fundraising) plus back office support, including: provision of CRB disclosures and access to a low cost insurance scheme.
- **Representation:** Young Lancashire provides opportunities for engagement and representation on behalf of the voluntary sector on strategic bodies across the County, including Children's Trust Partnership Boards, to ensure that the voice of the sector is heard, particularly on commissioning, integrated youth support services and the development of a comprehensive Youth Offer across Lancashire. In addition, it provides a lobbying service, to ensure issues of participation and representation are picked up with the Children's Trusts across Lancashire.

In its role as a support organisation for the voluntary community and faith sectors (VCFS), Young Lancashire hosts a Strategic Engagement Project which facilitates a large, representative and proactive group of VCFS organisations, including local and national charities, delivering services to children and young people. Because of its membership and reach across the Lancashire region, Young Lancashire is well placed to provide a view on behalf of local front-line organisations serving Children and Young People, making up Civil Society.

### **Our consultation activity**

Young Lancashire has been proactive in forming a joint task and finish Service Re-design group to look at issues of modernisation, communication and engagement between voluntary community and faith sector (VCFS) organisations (including local and national charities) and the local authority commissioning team. And this consultation and response will be discussed at the next meeting of this group on 19 January.

This response, amended where appropriate, has been informed to large extent by the response being submitted by VSNW (Voluntary Sector North West).

## **Commissioning Green Paper consultation response**

Lancashire has already taken steps to develop the right conditions for consortia and commissioning arrangements, in particular the implementation of a Commissioned Outcome Fund by Lancashire Young People's Service in 2008/09 to which Young Lancashire responded positively. This was by implementing a consortium of VCFS providers, which has effectively delivered a wide range of activities over the last three years by supporting young people from across the county to achieve recognised awards through single outcomes monitoring framework.

This consortium with 38 partners, represents only a beginning on the 'consortium and commissioning journey' and provides, through the independent evaluation conducted in July 2010, an opportunity to learn about how best to take such a model forward on a larger scale, as commissioners will want consortia to tender, realising the benefits, reach and scale that a consortium could offer.

Young Lancashire recognises that procurement process has often created an uneven playing field which more and more supports larger and larger single providers. Reduced resources within local authorities make singular, large contracts across several local authority areas the norm and necessary; this in turn makes contract management and review less costly.

We agree with Government that a diverse market, which includes a diverse range of VCFS suppliers is preferable: it is more competitive, often better for users, more innovative and means more public sector money going back into the local economy.

And yet this diversity and the growing scale of tenders are often at odds.

The main solutions for us as a sector are:

- Grow into large delivery organisations
- Grow into large delivery organisations and subcontract local VCFS providers
- Sub-contract from large private sector prime contractors
- Build consortia and deliver together
- Build consortia and subcontract internally
- Dissolve

### **Build big local economies:**

- Increase the emphasis on equality-proofing within the commissioning cycle
- Seek to outsource monitoring requirements onto consortia support leads, that don't deliver themselves, but seek to build in accountability to local communities and users - - this should be done in order to make consortia more appealing and less burdensome to public sector procurement staff
- Encourage success of consortia that incorporate VCFS providers, users and community groups alongside internal support hubs delivering an effective voice and development support role.

We want there to be a distinction between the transformation of public services (i.e. where VCFS involvement in service delivery and design revolutionises a service) and straight-forward transfer of public services from the public sector to VCFS providers.

**The importance of local infrastructure organisations (LIOs):** We also believe that key to supporting effective VCFS<sup>1</sup> engagement in a modernised commissioning process is the need for LIOs<sup>2</sup> to assess their own priorities and modify some of their support services. Although funding is always an issue, **consortia support**, for example, may need to be a standard LIO service, as we have demonstrated in managing a local Youth Support consortium over the last three years.

Our response outlines a range of activities that could easily be bundled together and delivered through existing LIOs.

It will be vital, if we are to provide services in our and our beneficiaries' best interests to develop strong relationships with local authority and other public sector partners that can support a balanced and equal approach to identifying the best way forward. We might want to challenge local authorities and other public sector agencies that have a blanket policy to maximising in-house delivery, as we would prefer to offer to develop strong partnership working with them to generate real accountability, continuity of service and effective risk management.

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<sup>1</sup> By VCFS we mean voluntary, community, and faith groups including social enterprises.

<sup>2</sup> By LIO we mean local VCFS infrastructure organisations.

## **NEW OPPORTUNITIES**

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

VCFS groups operate in areas right across the spectrum of public service delivery. The most pressing areas for new opportunity include the new and newly redefined areas of public service delivery:

- Services that some but not all local authorities commission out, including specific services for children and young people, community transport, or neighbourhood management (some of which may be done through local arm's length agencies)
- New local Public Health Agenda
- Schools and Colleges
- GP commissioned services,
- Community organisers programme and empowerment activity in general, as well as:
- Preventative services that can be upstream of current commissioning objectives

#### **1.1 The implications of payment by results**

Payment by results is not a natural model for the vast majority of VCFS groups.

There are two ways for groups to engage with a payment by results model: (i) In its purest form by self financing the upfront and ongoing costs, (ii) Through gaining upfront funding. The latter may even mean that the incentive-format of payment by results is not directly linked to VCFS and other specialist service delivery.

Payment by results, therefore...

- Puts cash-flow poor groups at a particular disadvantage
- Is a high risk model that is generally not acceptable to trustees of charities:
  - The Charity Commission and the charity model are focused on avoiding financial risk; the consequences of going 'bankrupt' are very different for charities and the reputation of charities
  - Trustees are strongly discouraged from endorsing the take up of loan finance. Private sector directors are very different to trustees, and, where loans are concerned, would take two very different types of risk. Trustees can lose out financially, and damage their financial reputation, but cannot gain; trustees have signed up to support their community not to lose their home.
- Means a reliance on up-front investment. Where this comes from prime contractors this could mean added complications including much reduced bargaining power for sub-contractors. Payment by results may result in poorer contract terms.
- Financial rewards may not reflect, or vary with, the amount of work done. The strength of VCFS delivery lies in its "journey travelled" capabilities: not only are we better at reaching those who are further away from mainstream, large-scale delivery mechanisms, but at supporting people through complex personal journeys.

## **Recommendations**

- 1.1.1 Encourage payment by results as part of a 'payment framework' that includes up-front funding. Payment by results need not be an all or nothing funding model but part of a mix.
- 1.1.2 Explore the implications of payment by results for the charity model
- 1.1.3 Explore ways of reducing the financial risk placed on Trustees including a recognition in the procurement process that trustees are not the same as private sector directors.
- 1.1.4 This may include support to form arms length subsidiary companies which could generate income from wider trading activity.
- 1.1.5 Payment by results has already been feature of other investment programmers such as ESF and Learning and Skills Council contracts. So, there is already experience in the sector of such an approach and lesson from such programmes can be cascaded.
- 1.1.6 Big Society Bank measures to include:
  - Development of an internal Big Society Bank charity credit rating system that is not connected to the larger financial sector's credit rating system, linked to the organisation and not the trustees, so that risk-taking is encouraged not discouraged.
  - Use of up-front grant funding that could be (partly) repaid if payment by results were adequate: a student loan style repayment triggered at a set benchmark, which would encourage a gradual, achievable shift to more entrepreneurial activities.
- 1.1.7 Review ongoing prime / sub – contractor relationships, with particular reference to:
  - How will the risk be shared?
  - How will the reward money be shared?
  - How will responsibility for successful results be measured and rewarded?
  - How will the work be shared?
  - How will the monitoring burden be shared?

## Barriers

The growing scale of tenders inevitably precludes the development of a diverse supply chain.

We need to find ways to build a diverse supplier base through

1. seeking to break tender pots down
2. modernising our use of local grant pots
3. supporting effective consortia development that
  - (a) **fairly**<sup>3</sup> supports a diverse supplier base and
  - (b) eases or *prevents the headaches of dealing with consortia* that are faced by public sector staff who handle the commissioning, procurement, and monitoring processes.<sup>1</sup>
4. radically rethinking how we equality-proof procurement processes

**Consortia:** It is vital that we support ways for local commissioning, procurement and monitoring processes to be able to simply and effectively engage with consortia in a way that is comfortable, efficient and straight-forward for relevant public sector staff. Consortia do not thrive under the current public sector procurement and reporting systems.

Consortia may be disadvantaged within the current procurement system which favours the single entity provider and are a best-avoided headache for those managing any aspect of the contract. There is no incentive to deal with consortia.

**Consortia and equality:** It may be that the way in which good consortia truly equality proof their activities (as an internal part of their make-up) could make them far more attractive if this were a core requirement. Is there a way in which outsourcing aspects of the procurement and monitoring process could increase equality alongside quality? A significant worry for much of our sector is that outsourced procurement and monitoring activity will increase inequality and poverty and create a system for monolithic winners which fail local communities. The concept of equality, *radically used*, would be a significant driver of change that could build up a diverse supplier chain and support grassroots economic growth. The public pound is in short supply and must be used to be *build a big local economy* driven through local, equality.

The consortium developed and lead by Young Lancashire has been independently evaluated – for a copy please visit: <http://www.younglancashire.org.uk/content/riding-wave>

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<sup>3</sup> **NB** We must find ways of equalities proofing successful consortia.

### **Overcoming the barriers: the role of local VCFS infrastructure organisations (LIOs)**

The central importance of local VCFS support organisations will be paramount in bringing about change. We need to find ways to support them to:

- support local consortia development
- advocate for the better engagement of small groups in the commissioning cycle

These need to become day to day core activities of LIOs.

### **Recommendations**

- 1.1.8 Radically use equality-proofing processes to build a big local economy.
- 1.1.9 Explore means of better helping VCFS providers to engage in delivering new public health services
- 1.1.10 Explore means of better helping VCFS providers to engage with GP consortia and schools
- 1.1.11 In light of the forthcoming end of the VCFS Engage programme, set up a commission to explore cost effective ways of supporting local VCFS provision of Children and Young People's Services that builds skills and provider markets across all local authority areas.
- 1.1.12 Explore ways of supporting local consortia development, especially through local infrastructure agencies.
- 1.1.13 Find ways of making consortia less unwieldy to commissioning, procurement and monitoring professionals.



## **Mutuals working with VCFS groups**

The commissioning process could be used to encourage mutuals and VCFS groups to work together.

### **Recommendation**

1.1.14 Positively score community engagement in the commissioning process.

1.1.15 Positively score accountability to the local community and to users in the commissioning process.

## **1.2 Other methods**

Besides building consortia there is considerable need to provide relevant tender advice and training.

### **Recommendation**

1.2.1 Fund start-up costs for consortia

1.2.2 Fund a Tendering and Support Portal package through LIOs.

## **MORE ACCESSIBLE**

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

#### **2.1 Issues for commissioners**

Commissioners should find ways to build a diverse supplier base through

1. seeking to break tender pots down
2. investing in the use of local grant pots
3. encouraging fair, effective, and timely consortia development
4. embedding a radical rethink about how to equality-proof procurement processes

#### **Recommendations**

2.1.1 Explore with public sector staff ways of making consortia more suitable to the pressures of the commissioning, procurement and monitoring processes

#### **2.2 Measures to improve VCFS access to public sector markets**

The two key measures for improving access to public sector markets, that cut across the outlined list (responses below), are:

- appropriate training to focus and gear up LIO development work;
- commissioners and chief executive departments should be encouraged to work with LIOs in order to assess local markets, including VCFS capability

**Procurement process:** increase time lead in time for submission of tenders

**Transparency:** Develop transparent notification process for contracts ending in 6 or 12 months time.

**Prompt payment to sub-contractors:** introduce late payments legislation or enforced penalty mechanism in contract as a means to encourage prompt payment.

**PQQ:** make all public sector PQQ consortia-friendly

**Contracts Finder:** include notification of forthcoming end of current contracts

#### **Recommendations**

- 2.2.1 Introduce appropriate training to focus and gear up LIO development work;
- 2.2.2 Encourage commissioners and chief executive departments to work with LIOs in order to assess local markets, including VCFS capability
- 2.2.3 Include notification of the end of forthcoming contracts within Contracts Finder
- 2.2.4 Introduce penalties for late payment of subcontractors
- 2.2.5 Issue guidance to make all public sector PQQ consortia friendly

### **2.3 Achieving a fair balance of risk**

The procurement process should recognise that trustees have a very different role to private sector directors. See 1.1 above. Charities are not set up to handle risk and have a tendency and duty to avoid such risk.

#### **Recommendations**

2.3.1 Review the role of trustees in relation to financial risk

2.3.2 Seek appropriate ways forward for the charity model

### **2.4 TUPE regulations**

TUPE is a valuable protection for employees that should be upheld. However, VCFS providers should be aware of pension liabilities that they may face or may be concerned that they may face.

#### **Recommendation**

2.4.1 Clear guidance on the best way of protecting pensions and addressing VCFS concerns about potential pension liabilities.

### **2.5 Best outcomes for the best price**

#### **Recommendation**

2.5.1 That additional local economic, environmental and social value outcomes are also considered.

2.5.2 That additional activities to support the development of a diverse supplier are considered in the scoring process.

### **2.6 Big Society Bank**

Recommendations as stated in 1.1.4, Big Society Bank measures to include:

- Development of an internal Big Society Bank charity credit rating system that is not connected to the larger financial sector's credit rating system, linked to the organisation and not the trustees, so that risk-taking is encouraged not discouraged.
- Use of up-front grant funding that could be (partly) repaid if payment by results were adequate: a student loan style repayment triggered at a set benchmark, which would encourage a gradual, achievable shift to more entrepreneurial activities.

Plus the following **Recommendations**

2.6.1 Use of lower than commercial rates of interest

2.6.2 Strong remit to support consortia e.g. pump priming finance

2.6.3 Must be less risk averse than high street lenders; flexible on securities

2.6.4 Use of micro-finance

## **2.7 Merlin Standard**

We support the extension of the standard. Its significance, however, will depend on whether it makes a difference. Will it be enforced? When will the requirement to subcontract be triggered? How will sub-contractors seek enforcement or challenge poor enforcement?

### **Recommendation**

2.7.1 Cabinet Office to monitor use of the Standard across departments: regularity and enforcement

## **2.8 Barriers to consortia**

Besides formal recognition by commissioners of bidding consortia, there are a number of recommendations relating to consortia throughout this response.

### **Recommendations**

2.8.1 Up front funding to establish consortia

2.8.2 Encouragement to increase LIO's prioritisation and capacity to support consortia development

2.8.3 Identification of the issues that make consortia hard work for public sector commissioning, procurement and audit professionals

## VALUE

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

#### **3.1 Considering full social, environmental and economic value**

Community involvement in assessing value and ensuring accountability is important.

##### **Recommendations**

- 1.1.1 Prescribed use of formal calculation models (e.g. LM3, SROI, FSquared's Balanced Scorecard<sup>4</sup>, etc)
- 1.1.2 Encourage community involvement in the scrutiny process when assessing commissioned services.

#### **3.2 Public Services Bill**

Participants in our consultation workshop and our members fully support the implementation of the Bill's social value requirement. We also believe that strong consideration be given to aligning aspects of an equality proofing process. Community involvement should also take place during the review or scrutiny stages.

##### **Recommendations**

- 3.2.1 Enact the social value aspects of the Public Services Bill
- 3.2.2 Seek means to engage communities in the service design **and** review/scrutiny parts of the commissioning cycle
- 3.2.3 Build in a strong equality-proofing process (as per 1.2: Consortia and equality)
- 3.2.4 Incorporate environmental value within the Public Services Bill

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<sup>4</sup> This version of the Balanced Scorecard, which can be used to score tender bids, could be designed in partnership with local communities. It offers service or locality specific flexibility as well as the ability to fully consider how to measure social, environmental and economic value. It could easily be integrated with an equality-proofing process.

## **CITIZEN and COMMUNITY INVOLVEMENT**

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

#### **1.2 HealthWatch**

In terms of local voice, Local HealthWatch need to engage effectively with VCFS user-led organisations and VCFS groups that deliver health services at a community level.

#### **Recommendation**

4.1.1 Cabinet Office and HM Treasury should support direct VCFS engagement with GP consortia's commissioning processes.

4.1.2 Cabinet Office should encourage effective Local Health Watch engagement with relevant community, local VCFS providers and user-led VCFS groups.

#### **1.3 JSNA Guidance**

Local Health and Wellbeing Boards should include formal representation from VCFS providers, VCFS infrastructure and community groups.

#### **Recommendation**

4.2.1 JSNA Guidance to recommend formal VCFS representation on local Health and Wellbeing Boards.

#### **1.4 Community involvement in decision-making**

This is a key brokerage role that VCFS LIOs in the North West have been engaged in, to some extent, over the last ten years. Young Lancashire has developed a county wide Children and Young People's VCFS Reference Group which involves local people in decision making.

#### **Recommendations**

1.4.1 Contract LIOs to engage communities and relevant VCFS providers in commissioning and procurement processes.

#### **1.5 Local partnership**

Our network has indicated through our recent impact survey the significant role that LIOs can offer in brokering strong local working relationships. We recognise that VCFS infrastructure services need to refocus and reprioritise to suit the needs of local groups in a changed working environment, many of which are highlighted by this Green Paper.

## **Recommendations**

4.4.1 That LIOs are a significant part of the new package of support to strengthen working relationships between local VCFS groups and statutory partners.

4.4.2 Cabinet Office supports LIOs shift in direction through supporting development of new skills and services

## **1.6 Training commissioners**

Key training for commissioners could be around social and environmental value, recognising the value of supporting consortia, what **fair** Merlin Standard consortia and prime contractors might look like, considered use of grant pots, appropriate ways of engaging communities (e.g. using a Balanced Scorecard process) and radical implementation of an equality-proofing process.

## **Recommendations**

4.5.1 Incorporate the above suggested elements of training

4.5.2 Expand the programme to incorporate prime contractors and public sector procurement and auditing professionals (especially for social value training).

## **4.6 Community Budgets roll out**

Where Community Empowerment Practitioners' remain in post, there may be highly expert capacity to support this activity. Unfortunately, this capacity is expected to be hit by significant and overwhelming cuts in the next few months in the North West, although we do expect some remaining development worker capacity within some LIOs.

## **Recommendation**

4.6.1 Cabinet Office to discuss with the NW Community Empowerment Practitioners' Forum capacity for supporting the roll out of community budgets.