

Commissioning: A Better Way?

The impact of commissioning on the children and families voluntary sector



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SUMMARY REPORT

INTRODUCTION

The growth of commissioning as a means of providing public services has been one of the most significant developments in children's services in the past decade. It has had a major impact on all organisations involved in procuring and providing services, whether in the public, private or voluntary sector. Some voluntary organizations have embraced it enthusiastically, emphasizing the opportunities it can offer for both growth and influence. Others fear voluntary organisations turning into an 'annex' of the public sector, losing their independence and becoming increasingly reliant on contracts for their survival. The sustainability of small voluntary organisations in a commissioning environment is a particular concern, with the combined effect of reduced grant funding and the requirement to commit ever-increasing resources to the process of procurement, tendering, contracting and reporting.

This study was commissioned by Children England to provide evidence on the impact of current commissioning and procurement processes on the sector. It was designed to explore the experiences of a sample of voluntary organisations over a two year period. The study involved thirteen voluntary organisations, differentiated by size, geographical location and type of work and selected to be representative of the sector. Interviews were carried out with a key informant from each organisation at two time intervals (in early 2009 and again in early 2010).

This report summarises the key findings from the study.

FUNDING OF THE SAMPLE ORGANISATIONS

Without exception, all the organisations in our sample reported major changes in their funding arrangements over the last three years, in particular the shift away from grants and towards contracts. Irrespective of size, all the organisations involved in our study depend heavily on income from contracted services. The largest estimated that around 90% of its income came from contracts and fees; the smallest (in terms of turnover) estimated that contracts made up 41% of its income. The voluntary funds of the majority of organisations make up less than 30% of their income.

In our first round of interviews, some respondents commented on the relatively gradual pace of the shift, and described a mixture of funding arrangements during what appeared to be a transition to commissioning. By the time we interviewed respondents again in 2010, it was clear that commissioning arrangements had become more firmly established, and even where organisations still received some grant funding, the requirements attached to these were similar to contracts.

In 2009, only one interviewee referred to the impact of the economic downturn as having affected funding. By 2010, the effects of the recession were more evident. One smaller organisation in our sample was facing a budget deficit for the second year in a row. Another larger organisation had managed to make a surplus in the previous year but had needed to close some of its services and make significant cost savings. This was partly achieved by putting new staff onto different pay scales. Most respondents expressed concerns about future funding. Almost all organisations have contracts ending in 2011 and are viewing this as a major watershed.

Several organisations have made changes to their structure or staffing in response to the new funding environment. Some have recruited staff specifically to identify and develop contracting opportunities. Others have made changes in order to reduce their costs. Several aspire to diversifying sources of income in order to be less dependent on contracts, to maintain an independent financial cushion and to allow them to develop activities that contracts do not fund. Generating voluntary income, however, is also a major challenge as traditional sources, such as trust funds, are themselves affected by lower interest rates, public donations decline, and there is increasingly stiff competition for the resources they have available.

HOW COMMISSIONING IS IMPACTING ON THE VOLUNTARY SECTOR

FINANCIAL IMPACTS

For a number of organizations, the impact of the new commissioning environment has been profound. In 2009, most reported that the changes were already having an impact with some losing services to competitors. In some cases the result had been a stark overall reduction in the organisation's funding and a poorer service to their clients. At the same time, others described new opportunities presented by the commissioning environment which had contributed to the growth of their organisations.

In 2009, interviewees reported that whilst the financial situation was more challenging, their organisations were generally maintaining their levels of service provision. By 2010, there were more examples of service losses and several examples of local authorities making changes in contractual requirements at short notice.

Uncertainty of future funding was described as having a negative impact on the strategic planning of many organisations, with some interviewees commenting that their organisation was being forced into a different shape by the necessity of chasing commissions. One of the challenges faced by voluntary organisations working with several local authorities is the inconsistency of commissioning practice.

In one authority there is £7 million spent on support services and monitoring with £19 million of funding for Children Centre services. In a neighbouring authority, all the funding is spent on Children's Centres with just four officers monitoring 88 Centres. This means that if you took an equivalent area in that authority there would be one-third more money per child.

In the current climate, interviewees recognized the pressure on Local Authority commissioners to reduce spending while maintaining services in a context of significant public spending cuts. However, the approach being taken by some local authorities was described as having negative consequences for voluntary organizations. For example, one strategy being employed by commissioners is to minimise risk by restricting the length of contracts. One interviewee summed up the impact of this as follows:

One of the outcomes is that services are subject to short-term contracts resulting in uncertainty for users and to staff providing the service. Reliability, consistency and the quality of the service are crucial to our children and families and yet current the contracting system makes this extremely difficult apart possibly for the very large voluntary organisations.

'Rationalizing' services by packaging them into single contracts is another increasingly common approach. This clustering of services into larger contracts tends to disadvantage smaller, specialist organisations.

All our interviewees referred to the amount of time consumed by the tendering process with much more time spent on development and management than before, with costs going up accordingly. Interviewees described the 'hidden costs' associated with fulfilling demands for monitoring information which were sometimes disproportionate or inappropriate to the service being delivered. Again, the variability of practice between local authorities was highlighted.

Related to the cost of tendering is the issue of financial risk inherent in contracts. Some local authorities, for example, issue contracts containing penalty clauses for 'failure to deliver' which in effect transfers all the risk of something going wrong onto the voluntary organization. In some cases, these clauses are entirely disproportionate to the size of the contract, and have the potential to bankrupt a small organisation. The cost of substantial indemnity insurance cover can also be considerable.

Attention was drawn by two interviewees to the mismatch between the priorities of grant making bodies, who often want to fund new projects and local authority commissioners who generally only want to fund in their core priority areas. This means that innovative projects set up with short-term grant funding will often struggle to get continuation funding, unless a local authority recognises the service as meeting a priority need it has already identified. Some services are particularly hard to get funding for as they don't fit anyone's priorities, or fall between the responsibilities of different commissioning bodies.

WORKFORCE

There were three major implications for the VCS workforce described by interviewees as having arisen from the new commissioning environment. The first was the impact on the senior staff team, who spend much more time preparing tenders and managing the application processes. Some organisations have had to create designated posts to manage these very time consuming duties, instead of employing senior practice focused managers. In addition, and somewhat paradoxically, the time taken to develop, submit and manage tenders reduces the time available to apply for other sources of charitable funding or earned income.

The second was the knock-on effect of cutting costs. In order to be competitive, organisations said they have had to reduce costs, and that meant paying staff less, employing fewer staff or using staff with lower levels of qualification. Interviewees pointed to the lack of any funding for staff development built into contracts being particularly problematic at a time when investment in workforce development is needed to ensure that staff are equipped to meet changing demands. As one interviewee put it:

We're driven to reduce costs with little recognition of the investment needed in the staff to provide high quality frontline services to vulnerable children or the resources consumed by the tendering and contracting systems. Organisations are repeatedly tendering in competition with each other every few years. It is a process that has become over-bureaucratized, detracting time and resources away from the delivery of services to children.

Several organisations were concerned about the impact on staff retention. Despite steps taken to avoid making staff redundant, there have been job losses. Small organisations found managing uncertainty particularly challenging, though in some instances interviewees were grateful for the longer contracts commissioning had brought – three years rather than year on year funding. Short term contracts create instability for staff, who have no long-term security. In larger organisations there may be other jobs to transfer to at the end of a contract; smaller organisations are often left with no option but to make redundancies when funding ends. Well qualified and experienced staff will quite reasonably begin to search for their next job in advance of the contract ending, with the obvious difficulties for delivery if they are successful. This in turn has very considerable costs for the voluntary organisation.

The third important issue has been the effect of TUPE (The Transfer of Undertakings (Protection of Employment) Regulations 2006). These regulations are not well understood by some commissioners who can give misleading or no information at all to guide applicants. If there is an existing service the new provider has to take on the current staff on their existing terms and conditions and this can be problematic on a number of counts:

- The revised budget within the tender may be inadequate for the previous staff structure;

- The previous staff structure may be seen as inappropriate for the revised service;
- The cost of any staff consultation, restructuring or redundancy falls on the new provider;
- When tendering it is very difficult to understand the full implications of TUPE and it often presents a high level of risk for smaller voluntary organisations;
- Organisations are obliged to take on staff they had no part in recruiting from a service provider who may not have been offering a good enough service. The staff morale and training implications are far-reaching.

Furthermore, when a voluntary organisation loses a tender for a service it has been running, TUPE also applies – i.e. existing staff have the right to transfer across to the organisation which has won the tender. This can have a host of implications. For some small organisations the loss of key staff through TUPE means their work becomes untenable – they've lost both the funding and the staff skills, which may well have played a vital part in the other services they provide

In addition, pensions can be a particularly significant challenge for charities required to honour the local authority scheme or schemes operated by other voluntary or private providers with substantial historic liabilities. This is unmanageable for small charities without the substantial reserves/assets required to meet the long term financial and legal obligations this entails.

RELATIONSHIPS

The ways in which the commissioner/provider relationship has evolved clearly varies from one local authority to another. Some organisations felt that commissioning had put more power into local authority hands and reduced opportunities for involvement in planning, or for developing innovative services unless they had access to unrestricted funds. In many cases, it was felt that relationships had become more distant and formal. Some interviewees pointed out an inherent contradiction in a relationship which involved both lobbying the local authority about its shortcomings and asking for money from the same source. While these tensions had been present under the grants system, the commissioning regime has, in some cases, made it feel harder to openly challenge the local authority.

A few interviewees commented on a more suspicious and secretive culture with relationships becoming more difficult in the current financial climate because local authorities want to retain funding and keep or bring services in house.

Commissioning was also seen to be having a negative impact on the relationships between voluntary organisations, particularly between larger and smaller organisations. This deterioration in relationships across the voluntary sector does not bode well for the development of collaboration and partnership or consortia working.

One interviewee suggested that the impact of commissioning on the whole culture of the sector needed to be acknowledged:

Equally important are the internal culture changes that have come about as a result of commissioning. I'm from the private sector but most people didn't enter the voluntary sector in order to turn it into a variant on the private sector – but that's what's happening. We could lose our Unique Selling Point as a result, but worse we could lose our value base which is why people are willing to accept our help in the first place.

This uncomfortable consequence of increasing competition between voluntary organisations is, of course, partly related to the motivations and histories of bodies which were not set up or managed in ways which enable them to adopt private sector thinking very easily. But equally it is a sign of how young the market is in many of these service areas. Local commissioners face a difficult challenge in effectively nurturing this market to enable excellent VCS organisations to thrive and compete on an equal footing with more 'market savvy' competitors.

EXPERIENCE OF THE TENDERING PROCESS

In 2009, all 13 organisations had experience of tendering for contracts and most said that they were 'very' or 'extensively' involved. This held true for both the very large and for those with a turnover of under £1 million. By 2010, most organisations were even more intensively involved in tendering processes.

Respondents reported variable experiences of the tendering process including application requirements, short-listing, interviews and feedback. A recurring point was that these are not consistent from one authority to another. Some organisations praised those tendering processes which were particularly transparent, but usually contrasted them with examples of opaque, secretive, high-handed and poorly designed ones.

Interviewees described some very poor processes, including situations in which bids had been submitted and then the tender withdrawn, or in one case:

We recently tendered for a service: the tender had been completed and budget submitted. The LA then stopped the process and reviewed what they had done. They decided to rewrite the questions for tender in such a way as to require the entire tender to be re-written, for which less than two weeks turnaround was given.

Decisions sometimes seemed arbitrary and the feedback provided on unsuccessful bids was rarely sufficient to be helpful.

In 2009, several interviewees commented that everyone involved in commissioning was at the beginning of a learning curve. There was therefore some optimism that tendering

practice would steadily improve, and become more consistent, as local authorities developed their processes. However, our interviews in 2010 suggested that the variability of practice is still a major problem. Some informants commented on the amount of time spent fulfilling different authority's requirements. Others highlighted fundamental differences between local authorities in what they actually put out to tender. Concerns were also expressed about the lack of understanding among commissioners about the nature of the services they were commissioning and the particular contribution of voluntary sector providers.

In 2009, there were no examples given of regional commissioning. In 2010, collaborative approaches to commissioning were a little more common though were not always seen as bringing advantages.

Few organisations are tendering in partnership with other voluntary agencies, although most have considered this option. Some are deterred by the complexities of different constitutions, policies, structures and organisational ethos. Our interviews suggested a degree of mistrust between smaller and larger organizations. There was concern that when larger organisations won contracts on the basis of a bid which included a commitment to work with smaller organisations, there was rarely any attempt to hold contractors to account in relation to this commitment.

Competition from private sector providers has increased, with some private providers, in fields such as children's residential care, experiencing major growth and undercutting the voluntary sector with their ability to make economies of scale.

Reflecting on their successful bids, interviewees most commonly put their success down to the following factors:

- Being known to the commissioner;
- Demonstrable quality and expertise in the field;
- Attractive fees for the services;
- Ability to demonstrate success achieved on a similar project;
- Using referees who are previous 'satisfied customers';
- Writing very good bids using the right language;
- Sticking to what they are known for and good at.

Conversely, failed bids were most frequently attributed to some combination of the following factors:

- Not being known;
- Cost;

- Unfair competition with existing statutory providers, or from larger voluntary organisations using voluntary funds to subsidize bids;
- Lack of openness and transparency within the process e.g. a pre-existing 'favourite';
- Insufficient time to prepare bids.

Cost was mentioned several times as a reason for not winning tenders. In particular, interviewees expressed frustration at local authorities' interpretation of 'full cost recovery'. Several interviewees gave examples of service elements they regarded as essential which local authorities were not willing to fund. Others gave examples of organisations submitting widely varying costs for the same kind of service, raising serious questions about the quality of some of the proposed provision. There was concern that for some contracts local authorities expected a significant financial contribution from the voluntary organisation, which precluded smaller organisations from bidding.

It appears that the organisation is increasingly required to demonstrate how it will subsidise the tender- no question of full cost recovery. We may have to learn how to ensure that that costs are met within the bid. LAs tend to restrict core costs to 10%- we believe 20% would be more appropriate.

SUGGESTIONS FROM INTERVIEWEES FOR IMPROVING COMMISSIONING

Commissioning at its best is about understanding the needs of an area and putting together plans to address those needs, to provide the most appropriate services and offer choice for individual service users. All the voluntary organisations who contributed to this study are committed to providing high quality services to children and families and the views they expressed revealed no opposition to the best principles of commissioning. Most recognised that local authorities are also often frustrated by a lack of flexibility within the procurement rules and the imperative to go to open tender, when there were many occasions where this did not produce the best outcome, or simply used up resources in a process which led to the same provider being commissioned again.

In addition, it was acknowledged there were several government sponsored initiatives which sought to improve the commissioning process, including World Class Commissioning in health, the Commissioning Support unit in DFE and the Third sector Commissioning Programme funded by the Cabinet Office. However, these attempts to refine commissioning and procurement have concentrated almost wholly on the purchaser needs, systems and processes. Without a whole systems approach, this risks shifting costs to the other side of the relationship rather than freeing up resources for the front line.

Interviewees were asked for their suggestions for how commissioning could be improved. They made several suggestions for changing the system to improve the consistency and quality of services and sustainability of those services provided by voluntary organizations - to reduce bureaucracy and transaction costs and move the money to frontline delivery, to the benefit of all parties.

The most common improvement suggested was for longer contracts. Although some respondents commented that three year funding was better than some of the grant arrangements they had previously, there was consensus that three years was not long enough to get work effectively established.

Some respondents also observed that for many small organisations the loss of grant funding had been catastrophic and that the retention of some grant funding was essential to maintain the diversity of the sector, and the ability to innovate.

A common theme was that commissioning, as a system, could work well if local authorities were given the right encouragement and incentives, employed skilled staff, and there was greater consistency between local authorities. The current expectation on voluntary organisations to continually adapt to different commissioning requirements was described as time consuming and wasteful, with little benefit for service users

Some specific suggestions were made for each stage of the commissioning process, and these have been augmented by recommendations put forward at the multi-agency roundtable debate on the report findings held on 5th November 2010. (See Appendix 1 for a note of the discussion.)

THE PLANNING STAGE

Although it sounds obvious, the specification put out to tender needs to be appropriate. Before services are put out to tender there should be a transparent assessment of need involving commissioners, service users, voluntary and other organisations currently providing services in the area about the most appropriate service models. It is also necessary to have input from senior/ specialist managers within local authorities, alongside procurement staff.

This initial phase should undertake some realistic costing of the proposed service so the level of resource is transparent and expectations about quality and quantity are clear to service users, commissioners and potential providers.

THE TENDER PROCESS

- A clear system for advertising tenders with an accepted standard about where notices should be placed and for how long, including establishing a single source of information as to where tenders are to be found. Ideally, this standard should be agreed nationally so that voluntary organisations working across several local authorities do not need to waste resources adapting to inconsistent processes;
- Giving longer timescales for submitting tenders – at least 3 months would help. Some are very short and if they come together, particularly at certain times of the year (e.g. December/August), it places un-manageable pressures on organisations, especially those where there are no dedicated staff for tendering/fundraising;
- More streamlining of the process both within local authorities and across local authorities for similar services. – it should be possible to provide the same core information for every tender to address financial probity and other issues covered in the pre-qualification questionnaire;
- The amount of form filling and volume of information required should be linked to the value of the contract. Even very modest tenders can have as many as 30 attachments;
- Published criteria for choosing the provider with an open weighting system. The weighting should not be dominated by cost but give due weight to quality and a focus on outcomes for service users. The weighting of these criteria should give due regard to the added benefits offered by voluntary organisations: factors such as grassroots involvement, engagement of local communities and volunteers are not always sufficiently taken into account;
- Better organized briefings and mandatory feedback;
- Greater guarantees for the protection of the material provided to support a submission to tender – some organisations are aware that their ideas and material have been used even when they haven't been successful in winning the contract;
- An independent element, such as a provider with no conflict of interest on the assessment panel;
- Learning from efficient, effective processes.

THE CONTRACTS

The most important change needed which would benefit service users, greatly reduce transactional and other process costs, improve staff retention and investment in workforce development is longer term contracts. A norm of 5 years with a 5 year option for renewability without re-tendering is suggested as a much better model than the current 12 to 36 month time-frames.

Contracts could also be improved by:

- Reducing bureaucracy – there’s a huge amount of documentation – contracts are often the size of a thick book;
- Sharing the risk – many contracts attempt to place all the risk of something going wrong on the provider organisation – this could potentially bankrupt an organisation and is hardly fair or realistic, given the level of interdependence between services serving vulnerable children. The burden of risk also entails major additional insurance costs;
- More clarity and honesty about what constitutes the true cost of the service and how these need to be apportioned within the contract;
- A better shared understanding of what is “good enough” quality: some commissioners have a limited understanding of the services they are commissioning – if they make judgments based largely on cost, they may be procuring very low quality services, which in some cases may be dangerous for children and young people, and in many more do not produce the desired outcomes, leading to further cost to the taxpayer down the line.

REPORTING AND MONITORING

The reporting and monitoring required needs to be appropriate for the level of service and reasonable within the time frame being paid for by the commissioner with a focus on outcomes expected. While some simple counting measures may be appropriate the reporting should reflect the quality of service offered and use feedback from children, young people and families.

Recommendations for Commissioners:

1. Greater adoption of place based budgeting and strategic cross agency commissioning

2. Consensus on the tools used to gather evidence of outcomes for similar services
3. Reduce costs through longer contracts, with appropriate review points. Five year contracts as standard (possibly with three year review)
4. Retain grant funding as part of the commissioning mix, and use other funding tools, not just competitive tendering.
5. Valuing soft outcomes and working proactively with providers to agree and measure these
6. Increased two way accountability through the development of mutual understanding and a focus on service user experiences.
7. Develop a greater understanding of the cost, benefit and impact of ceasing to provide services due to cuts, both on service users and other services
8. De-politicisation of commissioning and challenge the macho culture which has grown up around commissioning.
9. Reduce procurement bureaucracy
10. Honesty about the costs of the whole commissioning system, where these costs fall and how risk is apportioned.

Recommendations for VCS providers:

11. The VCS needs to further its understanding of local democracy and the political pressures on commissioners
12. The VCS should be more willing to challenge commissioners and offer solutions
13. Work to increase awareness amongst commissioners of the capacity of the VCS
14. VCS groups should be more willing to work with each other in meeting needs more efficiently.

Recommendations for both;

15. Increase constructive dialogue between commissioners and VCS to challenge each other and build joint solutions
16. Challenge universal services to deliver better value as well as commissioned services.
17. Remember the user; they should be involved at every stage.
18. Accurately assess the costs of commissioning for both local authorities and VCS
19. Investigation of what enables relationships to work
20. Focus on priorities. The VCS needs to be more vocal in trying to set these and commissioners to use VCS evidence as a key part of decision making.
21. Develop lighter evidence requirements, which meet the needs of commissioners, providers and recipients of services. Trust and verify is much more cost effective and transparent than complicated monitoring systems.

FOREWORD FROM MAGGIE JONES, CHIEF EXECUTIVE OF CHILDREN ENGLAND

Children England commissioned this report in response to concerns by members involved in public service commissioning processes. Over the past few years we have seen the growth of commissioning, at both local and national levels. It has been used as a key tool in driving up quality and achieving value for money via the competitive practices of the market place. National and local government, the NHS and a variety of NDPB's have been encouraged to outsource existing services and commission new service configurations from the private or voluntary sectors. In some cases, where no ready market existed for such services, public sector bodies have been given the responsibility of 'stimulating' the market in order to create an environment for competitive tendering.

While laudable in its aspirations of achieving better outcomes for children, stimulating innovative solutions and increasing efficiency for the tax payer, these new mechanisms for procuring and delivering public services have had far reaching repercussions for commissioners and service providers. Children England has seen several of its smaller members close, as their specialist funding is combined within bigger contracts which they lack the capacity to bid for. Larger members are increasingly in competition with each other, have had to slim down to achieve a competitive unit cost make reductions in the resources available for workforce development, training, research and innovation. Local authorities have, in many cases, lost the flexibility of grant funding and in order to reduce transaction costs have had to package contracts together in ways which do not necessarily assist transparent evaluation or the delivery of outcomes. Some expert local authority colleagues have little control of preferred quality indicators for their area of service, as authority wide contract and procurement systems are applied across the board. Some have seen cherished, leading edge local authority services put out to tender and have lost the skills and experience of valued colleagues as a result.

Feedback from Children England members over the past two years has highlighted concerns about a number of (largely unintended) negative consequences of commissioning and procurement processes:

- **Increasing instability in service provision** as providers change sometimes each year; staff transfer between employers, premises and management systems: Service users lose continuity in the type, configuration and often location of services; trust and confidence is damaged as a result, and services disrupted.
- **A decline in investment in infrastructure** support both within organisations and in the tendering process, the effects of which can be cumulative over time e.g. lack of funding for training or professional development costs; under investment in I.T and other equipment, reduction in 'expensive' face to face models of

service delivery, lack of investment in research, evaluation or service development and innovation.

- **Increasing management resources being allocated to the tender and contract management processes on both sides** at the expense of strategic planning and front line service investment.
- **Challenges to the voluntary ethos** of some VCS organisations, whose mission, traditional ways of working and value base are difficult to sustain within the confines of delivering to contract and competitive bidding against local partners.
- **A squeezing out of the capacity and motivation** to take risks and develop innovative service models on both sides of the commissioning relationship, since all efforts are focused on delivery or monitoring of the contract outputs as efficiently as possible.
- **Less cross sector partnership and learning** as an “in our image” commissioning process seeks to replicate the structures and delivery mechanisms of existing public services in new provider organisations

Of course, alongside these concerns, it is also the case that great progress has been made in some areas in achieving a coherent planning framework for children’s services within which local authorities and their voluntary sector partners have a much clearer shared understanding of need and priorities. Joint working arrangements have been established and open dialogue drawing on the grass roots knowledge of the voluntary sector and the strategic overview provided by the authority. It is important to recognise the benefits that can be achieved by bringing together all organisations with an interest in improving the lives of children young people and families to plan and provide the right balance of services for their area. Good commissioning structures have contributed to improvements including:

- **Increased sharing of data** and intelligence about the needs of children young people and families, leading to earlier identification of need and service gaps
- **Greater mutual understanding** between voluntary sector groups and local authority planners and commissioners.
- **Reconfiguration** of historic service models leading to greater integration and reduced duplication
- **Opportunities for co-funding** and the levering in of additional resources for children’s services plus substantial savings through initiatives such as Place Based Budgeting.
- **Services which are crafted by and more responsive** to the directly expressed wishes and views of those who use them.

This report charts the experiences of a small number of Children England members, drawing on their evidence to illustrate concerns and provide suggestions for the future. We know that there is a similar rich vein of experience and ideas within the statutory sector which we unfortunately lacked the resources to explore here. We know that we share many of our aspirations for improving the lives of children young people and families through more effective services. With the recession and impending public sector cut backs, local authorities and their partners will need to squeeze the maximum

resources for front line services from decreasing budgets. While this is a source of intense anxiety to all of us in children's services it also provides a powerful incentive to think radically about the role of commissioning in leveraging the maximum resource to the front line. Intelligent commissioning and efficient procurement will be at a premium; as will the sustaining of voluntary sector, community based services which enable communities to help each other, promote resilience and preventative approaches thus reducing demand on more expensive NHS and local authority interventions.

New types of commissioning such as consortia, supply chain models and payment by results are being tested alongside much talk of personalization and service users being the primary commissioners of the future. Some of these initiatives look set to require even more layers of bureaucracy, form filling, monitoring and quality assurance systems than the models they replace. Will they produce better outcomes? The challenge to scale up at the same time as developing bespoke service packages, in a context of severe financial constraint, is hard to meet for both purchasers and providers.

However, the prize is even more valuable than it was when the research for this report was undertaken some 12 months ago. Freeing up money for the front line is now vital, and a priority shared goal for the voluntary organisations which contributed to this report and all the statutory partners they work with. It must be within our grasp to devise cleaner, clearer, outcomes focused, efficient systems within which to secure the best possible services for the citizens receiving them and value for those paying for them.

We have to find a better way.

INTRODUCTION

One of the most significant developments in children's services over the past decade has been the growth of commissioning as a means of shaping public service provision. This has had a major impact on all organisations involved in procuring and providing services, whether in the public, private or voluntary sector.

Commissioning is the subject of considerable debate, particularly within the children and families voluntary sector. Some have embraced it enthusiastically, emphasizing the opportunities it can offer for both growth and influence. Others voice fears about the potential loss of independence as voluntary organisations become an 'annex' of the public sector, and the risk to the sector's sustainability as organisations become increasingly reliant on contracts. The survival of smaller organisations in a commissioning environment is a particular concern, as contracts increasingly replace grants.

As the umbrella body for organisations in the children and families voluntary sector, and with a membership encompassing the diversity of the sector, from large national charities to small community groups, Children England is uniquely placed to contribute to these debates. This report was therefore commissioned by Children England to provide an evidence based account of the impact of current processes of commissioning and procurement on the sector, through a qualitative study designed to explore in depth the experiences of a sample of voluntary organisations over a two year period.

CONTEXT

THE EVOLUTION OF COMMISSIONING

Across Europe and North America the last 15 years have seen an unprecedented growth in the use of voluntary and community organisations to deliver public services – particularly children's and families services. In the UK, political momentum was driven by two core beliefs, that:

- **Voluntary and community organisations could help deliver the government's agenda for reform of public services and reinvigoration of civic life**¹ The voluntary sector – being neither market nor state - was seen by many in government - and indeed, by all political parties - as less bureaucratic, more flexible, innovative and closer to users (particularly those traditional services found 'hard to reach').

¹ HM Treasury 2002 The role of the voluntary and community sector in service delivery: A cross-cutting review.

- **There were key benefits to be gained in moving from a grant funded regime to a commissioning and tendering approach.** These anticipated benefits included increased effectiveness, responsiveness to local need, less duplication, more focus on outcomes than on outputs, increased efficiency from competition and more secure funding for community and voluntary agencies.

The Deakin Commission in 1996 prompted initiatives to strengthen partnerships, and invest in a thriving and sustainable voluntary sector, while widening its role in the planning and delivery of services. An early initiative was the Compact² between central government and the third sector (Home Office, 1998) which signaled intentions to raise the sector's profile, and acknowledged the crucial importance of public and third sector partnership working.

A series of subsequent government reports have continued to acknowledge the value of VCS organisations (Home Office, 2004; OCLG, 2006), applauding the community knowledge, creativity and experience they bring to engaging socially vulnerable groups (OTS, 2007). These reports highlight the need to build third sector capacity and appropriate local infrastructures; to establish collaborative projects to support small organisations (HM Treasury, 2002); and to resource community providers properly (DfES, 2004).

In 2006, the Office of the Third Sector was created, broadening the definition of the sector to include all organisations that are non-governmental, driven by their values, and which principally reinvest any profit to further their social, environmental or cultural aims. Since then the following initiatives have begun to shape priorities and practices in the commissioning of services:

- Neighbourhood level commissioning and use of mechanisms such as participatory budgeting, discussed for example in the Community Empowerment White Paper.³
- Co-production/co-design of services: for example, The Local Government and Public Involvement in Health Act 2007 introduced Local Involvement Networks (LINKs), aiming to provide a route for communities to influence the design and commissioning of local health services.
- Personalisation and choice: mechanisms such as personal budgets and direct payments were first trialled in relation to adult social care to provide greater choice between providers for service users.

² The Compact is a framework for partnership between Government and the voluntary and community sector. The importance of the sector's independence and its right to campaign is explicitly recognised and it is supported by five codes of good practice. There are also Local Compact Guidelines .

³Communities in Control: real people, real power, CLG, July 2008

- Increased emphasis on joint commissioning, and an increasing number of joint appointments, particularly between local government and health services.⁴
- The National Indicator Set, against which all local strategic partnerships' (LSPs) performance will be measured under the new Comprehensive Area Assessment. The set includes two indicators directly referring to the third sector, and these have been included in a large proportion of new Local Area Agreements (LAAs). NI7 (environment for a thriving third sector) was chosen by 61 out of 150 LSPs; NI6 (participation in regular volunteering) by 43. Many LSPs, therefore, have made an explicit commitment to strengthening the third sector.
- The DWP Commissioning Strategy (2008) signaled a move to a prime contractor model. This model has been mirrored by the Learning and Skills Council in relation to some funding streams. The Commissioning Strategy also introduced greater use of outcome-based contracts with 'payment by results', often with a proportion payment tied to sustained outcomes, to be demonstrated some time after services are delivered. Outcome-based payment means that voluntary organisations could be able to claim increased funding for work successfully delivered, but also that providers must be able to fund a proportion of delivery up front by other means⁵.
- Newer developments include changes to commissioning approaches driven by Total Place initiatives and an increased move towards payments by results.

THE COMMISSIONING DEBATE WITHIN THE VOLUNTARY SECTOR

Commissioning is controversial within the voluntary sector itself. Some parts of the sector have been delighted to be acknowledged by central government and local government as key partners in shaping and delivering services. They have embraced the opportunity provided by commissioning to increase the scale of service provision and to establish a closer, more influential relationship with government. Others feel they have little choice but to engage in commissioning as a source of funding for their work but are dubious about its benefits for their organisation or its users. Still others see commissioning as causing irrevocable damage to the voluntary sector. Its strongest critics claim that commissioning is reducing flexibility, the ability to meet needs, the

⁴ See for example the Commissioning Framework for Health and Wellbeing, DH 2007, which emphasised the need to work jointly to improve services and introduced the requirement for local authorities and PCTs to produce Joint Strategic Needs Assessments (this is now a statutory duty)

⁵ There was controversy over the award of DWP's Pathways to Work contracts in 2007, as only one TSO succeeded in becoming a prime contractor. An independent inquiry found that some TSOs had decided not to bid as they would face significant cashflow problems should they take on a contract, owing to the fact that 70% of payment was to be on outcomes.

capacity to dissent, the ability to collaborate, the freedom of organisations to set their own priorities and to provide all the wider benefits of services beyond the tightly defined contract outputs.

The 'capacity to dissent' is the focus of a 2009 report for the Baring Foundation '*Rights with Meaning*' which emphasizes independence as core to the particular value of the voluntary sector and captures the underlying misgivings of large parts of the sector about the implications of a too wholesale move from grants to commissions in the funding of voluntary organisations:

'Independence gives voluntary organisations the freedom to challenge, to be a channel for dissent and a platform for influence often in the face of statutory indifference, and in some cases active resistance. Independence is also what voluntary organisations use to identify and understand needs that government cannot see, and may actually choose not to see. Then, against a backdrop of relatively standardized public services where taking risks is difficult, independence is one part of voluntary organisations' ability to pioneer new approaches, working with people in ways that meet their needs, irrespective of the priorities of the funding body. This may be about being innovative, but it may just be about providing support to people falling outside or through statutory safety nets. Finally, independence is important because some people who have reason to be wary of government, or who need support to challenge government, come to voluntary organisations specifically because they are not government. Independence for these organisations is what gives people the confidence and trust to seek the support they need.'

CURRENT DEVELOPMENTS

While the debate about the role of the voluntary sector in the delivery of public services continues, over the past few years most voluntary organisations have focused on how best to survive and thrive in the commissioning environment.

Evidence in NCVO's Civil Society Almanac shows that earned income now makes up over half of all charities' income, rising from just under £10bn in 2000/1 to some £17bn in 2007/8.⁶ Grant income dropped by £400 million between 2005/6 and 2007/8.

Last year Children England conducted a survey of 125 small voluntaries (with an annual income under £250,000). Less than a quarter of these organisations had a contract to deliver public services, but this did not mean they were unaffected by the new commissioning environment. 44% reported negative changes in funding in the past two

⁶ The UK Civil Society Almanac 2010, NCVO

years and only 8% said they had been growing and were stronger than they had been previously.⁷

Furthermore, the increasing reliance of the voluntary sector on contracts has serious implications during a period of recession. The impact of the recession on the sector includes fallout from public sector budget cuts, but in terms of commissioning there is also the possibility of services going back 'in house' and a reduction in commissions sitting cheek by jowl with the wholesale contracting out of all children's services across a local authority area.

STEPS TO IMPROVE COMMISSIONING

As part of its change management programme to improve commissioning the National Programme for Third Sector Commissioning at the IDeA collected baseline information from Commissioners and Third Sector Organisations in November 2007. The same sample was followed up in 2009⁸. In the meantime, the change management programme included a national programme of training, a One Leadership Academy pilot, regional seminars for commissioners and the development of an e-learning tool.

The baseline data from the IDeA survey showed that there was low awareness of the Compact Code: only 39% were aware of the Eight Principles and these were not generally embedded in policy, strategy, procedures, and performance management. However, most commissioners at least acknowledged room for improvement in all aspects of the commissioning cycle.

Commissioners' attitudes towards the sector were generally positive: 87% of commissioners thought third sector organisations understand users; 83% that the third sector brings something unique to public service delivery; and 70% regarded the third sector as a source of innovation. But 51% believed third sector organisations often don't have the resources or capacity to successfully manage contracts. On top of that, 37% per cent agreed that the sector needs to "be more professional" and 22% believed it is less efficient than private and public sector providers.

Compared with the baseline, the follow-up survey in 2009 found no change in the proportion of respondents who say that they 'always' consult third sector organisations at an early stage of the commissioning process (22%), but found that significantly more consult 'often': 40%, compared to 28%. The proportion saying they consult only 'sometimes' dropped from 39% to 30%.

⁷ Small Change: A survey of small voluntary and community sector organisations working with children, young people and families Thompson, J and Whitaker, E, Children England, 2009

⁸ EVALUATION OF THE NATIONAL PROGRAMME FOR THIRD SECTOR COMMISSIONING: FINAL REPORT Shared Intelligence for the IDeA May 2009 <http://www.idea.gov.uk/idk/aio/10836694>

The Eight Principles of Good Commissioning

- Understand the needs of users
- Consult provider organisations when setting priorities
- Put outcomes for users at the heart of the process
- Map the fullest practical range of providers
- Consider investing in the provider base
- Ensure contract processes are transparent and fair
- Ensure long term contracts and risk sharing
- Seek feedback to review effectiveness of the commissioning process

The follow-up survey found 52% of commissioners said that they most often used outcomes as a standard, compared to 35% in the baseline, while 32% most often used outputs, compared with 47% previously. However, the IDeA warned that this finding should be treated with caution because their qualitative research has shown different levels of understanding amongst commissioners as to what 'outcomes' actually are. In addition, TSOs responding to the survey perceived that outputs were still more commonly used as standards or targets in commissioning processes - 44% thought outputs, while only 38% thought that outcomes were more often used.

Based on the 2009 follow up, three year contracts were getting more common. The proportion of respondents who said the average length of contracts is three years rose from 38% in the baseline to 55% in the follow-up, so in total 60% said that on average, contracts last 3 years or more. Nevertheless, some commissioners also reported that in their sectors, there was a move away from 'block contracting' towards shorter term, more flexible contracts.

ABOUT THIS STUDY

This is the background and context within which we have conducted this in-depth study of a sample of voluntary organisations over the last two years. While our respondents have confirmed the importance of many of the issues addressed in the policy, guidance and critical literature referred to above, they have added depth and specificity to these. From their varied and particular experiences it is possible to identify a pattern of common issues and concerns which need to be understood and addressed by all those involved in commissioning the third sector to provide services to children and families.

Our study involved thirteen voluntary organisations selected to be representative of the sector, including a range of sizes, geographical locations and type of work. The sample included a large national charity, regional and sub-regional umbrella organisations and organisations providing direct services across the full spectrum of work with children and families. The largest runs over 400 projects, the smallest employs just 12 staff. Interviews were carried out with a key informant from each organisation (either the Chief Executive or other senior manager) at two time intervals (early 2009 and again in early 2010). These were semi-structured interviews, mostly conducted by telephone with some face-to-face interviews. This report provides an overview of findings.

FUNDING ARRANGEMENTS OF VOLUNTARY ORGANISATIONS

Without exception, all the organisations interviewed reported major changes in their funding arrangements over the last three years. In all cases, they had been affected by the shift away from grants and towards contracts.

In 2009, the annual turnover of the organisations in our sample ranged from over £200 million to £630,000. Six gave their annual turnover as between £1m and £3m; four between £4m and £8m. One organisation covering the north of England had a turnover of around £27m and the national organisation in our sample around £200m.

Irrespective of size, all the organisations involved in our study depend heavily on income from contracted services. The largest estimated that around 90% of its income comes from contracts and fees; the smallest (in terms of turnover) estimated that contracts made up 41% of its income. This particular organisation derives the highest proportion of its income from voluntary sources (donations, fundraising etc) among our sample. On the other hand, another small organisation (with a turnover of £1.4 m) sources 95% of its funding from a single local authority contract. The voluntary funds of the majority of organisations make up less than 30% of their income.

The dependence on income from contracts has grown for all organisations:

In 2005/06 the split between grants and contracts was 60/40. Most grants were from Local Authorities. In 2007/08 this had changed to 52/48 and during 2008/09 a further 20% of the grants changed into contracts.

In our first round of interviews, some respondents commented on the relatively gradual pace of the shift, and described a mixture of funding arrangements during what appeared to be a transition to commissioning:

The big change is the new commissioning environment, [but] the reality so far is that LAs are moving towards it only slowly. Several LAs are rolling forward grants pending getting the commissioning arrangements in place though some have withdrawn grants to go into commissioning pots – this has meant that some money formerly ring-fenced for grants has got sucked into the LA (e.g. some money which

used to be allocated through the Children's Fund). At the same time some money still comes in via the back door – through underspends etc.

By the time we interviewed respondents again in 2010, it was clear that commissioning arrangements had become more firmly established, and even where organisations still received grant funding, the requirements attached to these were similar to contracts. For example, a national umbrella organisation which has continued to receive a government 'core grant' explained that this grant has been 're-modelled' with the result that it now resembles a contract for specific services:

It used to be a core grant. It's still called a grant but it's arguably to all intents and purposes a contract for five or so core projects.....We negotiate 5 or 6 workstreams and then report on these in detail.

In both years organisations reported that the results of the changes were already having an impact:

We've lost work in the North and Midlands to [a large national charity] which led to the closing down of a region - so fairly major impact. We are also gradually losing some smaller ones [even services which are] tiny in most LA's some are still deciding to put them out to tender – we end up in competition with 'lone rangers' - independent individuals (often former social workers) who can offer a service cheaper.

We've a reduction in income this year of roughly 1 million mainly through projects ending that were previously funded by grants from Trusts. These are not sustainable because they no longer fit into tendering process – they were innovative projects meeting real needs but they are not services local authorities currently require providing.

In some cases the outcome had been a stark overall reduction in an organisation's funding and a poorer service to their clients:

[There has been a] significant move from grants to contracts and from national to local funding. [We] used to get a national Sure Start grant and this was far more flexible and much less onerous in monitoring and reporting terms than the current Children Centre contracts with the LA....Used to get £850k to meet the needs of 850 children in need. Now get the same amount to meet the needs of an additional 2,200 children.

One organisation had been most strongly affected by a shift towards spot purchasing:

[Services are] increasingly heavily reliant on spot purchasing of placements, which makes it difficult to think and plan strategically. And [as a way of working it is] not as productive for young people as working in partnership on contracts whereby local authorities and ourselves try to think and plan 'as one' for young people.

At the same time, some of those interviewed described new opportunities presented by the commissioning environment which had contributed to the growth of their organisations:

We anticipated the move from grant funding to SLAs and spotted the need to prepare for it. We had a couple of lean years between grants drying up and starting to get more commissions, but we've now grown to double our turnover and staff numbers from four years ago.

In 2009, only one interviewee referred to the impact of the economic downturn as having affected funding. By 2010, the effects of the recession were more evident. Interviewees recognized the pressure on Local Authority commissioners to reduce spending while maintaining services in a climate where further public spending cuts are inevitable. Minimizing risk by restricting the length of contracts is one strategy being employed by commissioners, with a knock on effect on voluntary organisations:

We have grown in size and turnover in the last year, but the pressure on budgets and finances has increased so we're feeling the impact of recession. There is a lot more one-year funding. We have picked up new contracts this year but many of them are one-year and have to show value very quickly. It also leads to staff insecurity - even though we give our staff permanent contracts, we can't guarantee the jobs will still exist in a year's time.

'Rationalizing' services by packaging them into single contracts is another increasingly common approach.

[Our position is] roughly the same in terms of amount of funding and statutory/VF split. The overall picture is of gradual growth. What's changed is the prone-ness to put contracts out to tender. Most of the contracts (especially the small ones) used to get renewed on a year on year basis. Now there's a growing tendency for LAs to cluster these contracts together and put them out to tender.

Some interviewees commented that this strategy may look rational, but often it's more about saving money than improving services and this clustering of services into larger contracts tends to disadvantage smaller, specialist organisations. Some Local Authorities are also merging their commissioning arrangements for all age groups under one umbrella, partly to reduce costs and partly to reflect a 'Think Family' approach.

By 2010, one smaller organisation in our sample was facing a budget deficit for the second year in a row:

At present the organisation is looking to consolidate in order to survive. Our dependence on spot purchasing needs to change, but uncertainty about budgets means that longer term plans are difficult to establish.

Another larger organisation had made a surplus in 2009/10 but had needed to close some of its services and make significant cost savings. This was partly achieved by putting new staff onto different pay scales. The interviewee from this organisation

commented that they had asked for a 1.5% increase in funding for renewed contracts, but had received 0% for every one. Another respondent commented that they had lost a few of their services but that:

Several are still limping on with other sources of funding, including money from elsewhere in LAs and other contributions... We have had to reduce services. Average LA funding pays for about two-thirds of a service. This means fewer families supported and people stretching themselves further. Whatever happens voluntary organisations tend to try to keep going.

Most respondents expressed concerns about future funding. Almost all organisations have contracts ending in 2011 and are viewing this as a major watershed:

Our Surestart Children's centre contract runs to March 2011. Nothing is guaranteed and we're worried about LA cuts. We do lots of heavy end child protection work so we might be OK.

Several organisations have made changes to their structure or staffing over the past couple of years in response to the new funding environment. Some have recruited staff specifically to identify and develop funding opportunities:

It has required us to grow our central team. Our fundraising department now has 3 or 4 people because we have to go to private sector for match funds in order to achieve sustainability and get full-cost recovery. We've built relationships with specific organisations with a children's agenda.

We now have a business manager because we felt we needed a more professional approach. We now have pipeline of bids.

Others have made changes in order to reduce their costs:

We had concerns that our overheads were too high so we have moved offices to make overheads cheaper.

Several respondents commented on their aspiration to diversify their sources of income to be less dependent on contracts, to maintain an independent financial cushion and to allow them to develop activities that contracts do not fund:

A tiny percentage of our income comes from trusts etc but it allows us to do a few exploratory things and adds value to services. We're hoping to generate more from these sources through a new fundraising post. We've not had a dedicated person before to explore other possibilities. We hope it'll give us more freedom via a source of core funding – a cushion against hard times.

Generating voluntary income, however, is also a major challenge as traditional sources such as trust funds are themselves affected by lower interest rates and reduced public donations with increasingly stiff competition for the resources they have available.

THE EXPERIENCE OF TENDERING

In 2009, all 13 organisations had experience of tendering for contracts and most said that they were 'very' or 'extensively' involved. This held true for both the very large and for those with a turnover of under £1 million. One regional organisation with a turnover of £2.5 million stated that:

In the last year we have completed around 20 tendering processes. Over the past 12 months the charity has looked at one tender a week, although it has not always decided to pursue the bidding.

By 2010, most organisations were even more intensively involved in tendering processes, though several organisations commented that they remained selective about what to go for:

This is now a constant activity – [I'm] involved in 3-4 tenders a month, whereas when I took up post about 2.5 yrs ago it was more like one a month. We don't go for everything – tend to make judgments based on certain criteria i.e. is the proposed project close to another area where we have work? Does it have a good fit with our remit? Is it likely to be sustainable?

The involvement in tendering is to a large extent dependent on LA's willingness to commission the kind of services we have to offer. We're clear about what we do and have made a strategic decision to stick to what we do well.

Informants for the study were asked about their experience of tendering, from finding out about tendering opportunities to how they perceived the procurement process.

FINDING OUT ABOUT TENDERING OPPORTUNITIES

Organisations described a variety of ways for finding out about tenders. Principal amongst these were:

- Subscribing to 'Tender Direct' 'Supply to Gov', ALITO etc
- Official Journals
- Local contacts in LAs/direct approaches
- LAs websites or Children's Trust websites
- Potential partners, including other VCS organisations

- Regular newsletters, Email networks/alerts
- E-procurement portal
- Scanning the national press

However, the amount of activity devoted to researching tender opportunities varied considerably between organisations:

We subscribe to 'Tendering for Care' – a service we pay for to receive information about opportunities. Also scan LA websites & journals. There is a huge commitment throughout the organisation and including our admin staff – we scan everything that we can so we all spend time looking. We're on preferred provider lists for some authorities but have not generally been specifically invited to tender for anything, with the exception of a tender for a service we were already running. We do rely on spotting the adverts.

Generally use local intelligence - all staff looking out for them, but we probably miss some opportunities.

A general complaint was that:

There is no single, reliable source of information and constant checking is needed.

APPROACHES TO DEVELOPING BIDS

Organisations with a 'head office' varied in their approach to centralization and the way they balanced the need for advice from the centre against the importance of local knowledge:

Theoretically we have a tender team combining people with local knowledge with core people from the centre –finance etc. In practice, it tends to be some key individuals who have to be involved e.g. the finance person is always needed so much of the responsibility falls on them. We've kept a development post in one region for the moment but there's no money for it. All the tenders tend to be different so we're usually starting from scratch with every one.

In 2009, three organisations had either a contracts/commissioning/business development manager or the equivalent to co-ordinate bids. Where these managers were also the interviewee, the complexity of their work – sometimes juggling five or more bids at the same time – was apparent. By 2010, more organisations had made changes to ensure that there was some dedicated staff time devoted to tendering, many more had chosen to employ dedicated staff, though it was still the case that in smaller organisations either the CEO spent a lot of their time writing bids or everyone was likely to be drawn in:

We don't have designated staff -different people take responsibility for different elements and then we have a meeting to put it all together It tends to be 'All hands on deck to get the information together'.

Several of our interviewees acknowledged the ranges of government sponsored initiatives which have sought to improve the commissioning process, including World Class Commissioning in health, the Commissioning Support unit in DFE and the Third sector Commissioning Programme funded by the Cabinet Office. However, these attempts to refine commissioning and procurement have concentrated almost wholly on the purchaser needs, systems and processes. None of the organisations involved in our study described using these initiatives as a source of support.

THE TENDERING PROCESS

Respondents reported variable experiences of the tendering process including application requirements, short-listing, interviews and feedback. All emphasized the huge commitment of organisational resources which a decision to bid involved:

For a major commission such as the Children's Centre's (representing £3m over 3 years) the tender document was over 140 pages long and had a CD with all the financial information on as well. The processes are very complicated especially for a small organisation. For the Children's Centres they wanted complicated analysis of need and demographics. Statistics on teenage pregnancy and data on poverty levels etc. This would really put you off as small provider not used to that kind of analytical work.

A recurring point was these were not consistent from one authority to another:

Nearly every tender requires another policy on something – often quite obscure – which then has to be written for the purpose. There is very little which can be lifted off the shelf because they all require different information. A regional approach to tendering would be wonderful.

It's difficult to use standardized information – very few ask for the same stuff and if they do the questions are often so generic they're inappropriate anyway....Often very short timescales – sometimes only 4-5 days to turn things round. ...Some processes clearly breach the Compact but organisations are not likely to complain because they're all too busy.

Some organisations praised those tendering processes which were particularly transparent but usually contrasted them with examples of opaque, secretive, high-handed and poorly designed ones:

We got through the first round and spent a great deal of time working up a full application. We were then knocked out on the grounds that we were not covering all [possible beneficiaries]. As this was quite clear from the original application we should have been eliminated at the first round if this was the criteria, rather than wasting huge swathes of work. Informally we complained to our [Government office] contact and got a 'sorry' from that individual but no official acknowledgement or apology.

In some instances interviewees described situations in which bids had been submitted and then the tender withdrawn; one respondent estimated that in about 70% of cases there had been delays in finding out about being short-listed. However, she was sympathetic to commissioners, commenting:

It is an onerous process for them. Some have been fabulous – quick and responsive. Most short-listing panels have been good.

However, decisions sometimes seemed arbitrary or bizarre: one organisation reported that a tender was lost by them because they had franked the envelope and tenders were supposed to be anonymous. Respectful, specific feedback was much appreciated, but in many cases:

The experience of feedback varies significantly. One trust made an appointment with a senior manager who spent considerable time discussing the issues with the charity; another made an appointment for a telephone call and, when contacted, did not have the papers to hand and spoke from memory.

There was concern expressed that, although organisations won contracts on the basis of their bid, there was often little ongoing scrutiny of whether the specifications were fulfilled in practice:

The tender pack did give clear details about the scoring criteria, one of which was "In what way will this add benefit to the local third sector". But this is no guarantee of anything. [One large charity] won a contract after involving local groups and saying they would sub contract to them, and a year in they are taking it all in-house themselves.

In the course of developing tenders a few organisations had sought support and advice from local and national infrastructure organisations, and one had secured some pro bono consultancy from industry focused on marketing which they hoped would help with their bidding. More commonly, senior staff had undergone training on completing and submitting tenders, by, for example, taking up training through VCS Engage or NCB, and had developed their own expertise. Some local authorities had provided seminars for potential bidders, but the explanations of what was required within the paperwork were sometimes deemed inadequate.

In 2009, several interviewees commented that everyone involved in commissioning was at the beginning of a learning curve. There was therefore some optimism that tendering practice would steadily improve and become more consistent as local authorities

developed their processes. However, our interviews in 2010 suggested that the variability of practice is still a major problem. Some informants commented on the amount of time spent fulfilling different authority's requirements:

If only the PQQ was standardized it would make huge difference. Requirements are enormously varied and it's such a waste of time and money.

Other respondents highlighted some fundamental differences between local authorities in what they actually put out to tender:

In some places we've been unable to engage with the local authority at all. Some are taking funding in-house to provide through Children's Centres what they see as the same services we provide. In some the funding is given to Children's Centres to commission locally and it's not always done via tendering, sometimes it's small grants... Some LAs have got under the procurement regulations by giving smaller amounts per project. Others use procurement processes for every little amount.

This same respondent also commented on a lack of understanding among commissioners about the nature of the services they were commissioning and the particular contribution of voluntary sector providers:

There are frequently disproportionate expectations relative to the amount of money, type of service and type of provider. The benefits of a service being provided by a voluntary organisation and all they bring – community involvement, support to volunteers etc are not weighted properly in the specs.

In 2009, there were no examples given of regional commissioning. In 2010, collaborative approaches to commissioning were a little more common, though were not always seen as bringing advantages:

All LAs in one region have come together for central commissioning of children's placements, but the timescales are ridiculous – all one way demands to jump.

Competition from private sector providers has also increased, with some private providers in fields such as children's residential care growing massively and undercutting the voluntary sector with their ability to make economies of scale. Competing with private providers means voluntary organisations ensuring that they maintain a professional image:

Other outfits are more sophisticated– glossy, economies of scale, accountancy systems etc. There can be an image of the voluntary sector as a bit amateur.

TENDERING IN PARTNERSHIP

In 2009, few of the organisations had tendered for contracts in partnership with other voluntary agencies, although most had considered this option. Some had been deterred by the complexities of different constitutions, structures and organisational ethos. Some had made approaches, but had been spurned:

I have a general sense that the bigger players aren't interested in partnerships. It's become very competitive.

While others could see little advantage in joint bids:

Feel it would add an extra layer of complication with no obvious benefit unless LA's chose to commission a whole package of services – with us providing some and another vol some others.

Three organisations had been involved in consortia bids. In one instance this had been easy because the organisation was only a minor partner:

But for the lead agencies it was a nightmare. So much time and negotiation was needed that they are unlikely to ever re-coup that cost through the contract.

Another commented that:

Finding a partner to bid with can feel like 'speed-dating' given the limited time available. [There are also problems] about partnering with very large organisations - 'the killer whales' - who sometimes approach us because they want the work in a particular area but don't have the specialist expertise. ...It's important to be clear about boundaries or it can be a disaster. ...Joint bids needs real trust between partners.

The third organisation was part of a specially formed consortium, the only one highlighted during our 2009 interviews. This consortium had been successful in obtaining at least one large funding bid, but the interviewee concerned commented that it was proving to be a lot of work:

The consortium is good but new, so taking up a lot of time. Relationships are fairly good but there is still a sense of competition – it needs a lot of trust. For consortium negotiations we used a facilitator and have an independent chair.

An interviewee from a national organisation which provides support to local affiliated schemes commented that some of their services used to be sub-contracted to them through Surestart and that often worked well. However, she was concerned that when bidding as a small partner with larger voluntary organisations, small local schemes have almost no power in the partnership – the large organisation has the option of bidding alone and there are no guarantees that when the tender is won the larger partner will fulfill their agreement to sub-contract part of it.

The interviews conducted in 2010 suggest little change with regard to partnership arrangements. Most organisations continued to express willingness in principle but

there were only a few more examples of this being translated into actual partnership or consortia bids.

We have tentatively started discussions with potential partners. In one local authority they wanted under 5's outreach services but it was split into job lots across the county with unhelpful restrictions on the tendering process. We've had to partner up – mostly in urban areas where there are more potential partners.

The voluntary sector is very flexible so partnerships will develop. We've not yet got involved in being sub contracted by bigger vols (except where they're running Children's Centres) but it will no doubt happen.

Counter-productive competition: regulation and red tape?

An example of the potential for formal tendering to become counter-productive was described by a respondent whose voluntary organisation had been working with a LA to help them develop a cluster of services. The schools, the LA and health services were all engaged but more money was needed to secure the level of service required.

The voluntary organisation worked with the LA to develop an application to the then DCSF for funding. This was successful. However, when the money was released to the LA, the project fell within the procurement regulations and the services had to be put out to tender.

In consequence, despite having been the key partner in developing the project, the voluntary organisation then had to compete for the contract at a huge cost to everyone. Although it would have felt unfair to this organisation if another body had been commissioned, it was equally unfair to the voluntary sector competitor which also made a bid. Both put a huge amount of work into an unnecessary process.

SUCCESS IN WINNING CONTRACTS

In 2009, the success rates reported ranged from '100% success rate so far' in two cases to:

Six virtually identical tenders with the same borough produced one successful outcome.

However, it is also true that interviewees' perspectives on what constituted a satisfactory ratio varied such that the 1 in 3 success rate most commonly reported was seen as a 'good hit rate' by some organisations but not by others:

We have been successful in getting accredited provider status [but we are] not doing so well on tenders – I estimate we're only successful in 30% of bids.

We get about 4 in 10 but it's still worth it because of the size and length of contract we get for some of them.

Reflecting on those bids that had been successful, interviewees most commonly put their success down to the following factors:

- Being known to the commissioner;
- Demonstrable quality and expertise in the field;
- Attractive fees for the services;
- Ability to demonstrate success achieved on a similar project;
- Using referees who are previous 'satisfied customers';
- Writing very good bids using the right language;
- Sticking to what they are known for and good at:

We are very clear about what we do – we only do one thing and we don't dip our toes into things that are off our radar – things that are 'not our hedgehog'.

The prescriptive nature of some specifications was a cause of considerable frustration:

In one case we were told we were not innovative enough– but we'd had to respond to an incredibly detailed and prescriptive spec! On some you have no choice but parrot it back to them, others are properly outcome focussed and you get to design the service you think can best achieve them. ... Some commissioners think they know 'what' and 'how' - but they don't have that kind of knowledge actually they should just stick to outcomes and mapping provision and then discuss the best way to meet needs and achieve outcomes with service providers.

Over time, organisations were able to learn from their own successes and failures to some extent, although they pointed out that this learning was sometimes only really valid in relation to success and failure with a particular commissioner rather than generalizable across the board. Some organisations were involved in tendering to government departments, local authorities and charitable trusts and the requirements for a successful bid were by no means the same for each. However, failed bids were most frequently attributed to some combination of the following factors:

- Not being known;
- Cost;

- Unfair competition with existing statutory providers, or from larger voluntary organisations using voluntary funds to subsidize bids;
- Lack of openness and transparency within the process e.g. a pre-existing 'favourite';
- Insufficient time to prepare bids.

Cost was mentioned several times as a reason for not winning tenders. In particular, interviewees expressed frustration at local authorities' interpretation of 'full cost recovery'. Several interviewees gave examples of service elements they regarded as essential which LAs were not willing to fund. Others gave examples of organisations submitting widely varying costs for the same kind of service, raising serious questions about the quality of some of the proposed provision. There was some concern that for some contracts local authorities expected a significant financial contribution from the voluntary organisation, which precluded smaller organisations from bidding.

However, respondents were also self-critical and often described their experience as 'a steep learning curve'. The following are typical of the multi-factor explanations for 'failed' bids:

We've not always been great at demonstrating outcomes and producing evidence of what works – we're getting better at this but we are still learning. We have also learned that it's important to comply with specifications absolutely. Have sometimes missed out because there has been a 'hidden favourite' – an organisation already doing similar work in the area. Cost is another factor – not all LA's are willing to offer full cost recovery – or they say they will but have a different definition of FCR to us.

The interviews conducted in 2010 paint a similar picture. Overall, organisations described a similar success rate, though because the smaller organisations tended to be reliant on a smaller number of contracts, the loss of any of these could be devastating.

Several interviewees described their efforts to maintain their profile with local authorities:

We've grown our contacts. Being recommended from one commissioner to another is really significant. Still have to tender but reputation strengthens chances a lot.

Several interviewees remained concerned about the level of feedback they receive when their bids have been unsuccessful:

Formal feedback is still very poor. When have developed a good relationship then informal feedback can be very helpful and is really important – allows you to put things to bed and move on.

Feedback is minimal, no more illuminating. I think the lack of resources in LAs is to blame as all their time-lines over-run too.

Some supply marking criteria but on its own that's not helpful. Giving feedback is time consuming for them. You can put a Freedom of Information request in – but you have to balance the benefit of that against potential damage to the relationship...that's what's crucial.... Funny thing is we don't ask for feedback when we're successful!

In a few cases interviewees described examples of a successful bid turning into a nightmare. Lack of clarity on the commissioner's part about what was really required, undisclosed TUPE issues, monitoring requirements that they had not budgeted for were sometimes involved, but a common theme was the pressure to tender in order to ensure organisational survival and this sometimes led to going for contracts 'against our better judgment':

We were already delivering service X under a statutory grant. It was put out to tender but we knew we couldn't do it for the price and we knew service users wouldn't want what was in the spec. We umm-ed and ah-ed but eventually bid and got it. And it's a nightmare. We can't deliver for the money and service users are up in arms. We went to talk to the commissioner and at first they threatened us with breach of contract! They've backed off, and got more flexible since they've had the feedback direct from the service users – thankfully.

THE IMPACT OF TENDERING ON VOLUNTARY ORGANISATIONS

TIME AND COST

For a number of organisations the impact of the new commissioning environment has been profound. While all referred to the amount of time consumed by the tendering process itself, some also described the ways it had shaped the organisation's decisions and development over recent years.

The proportion of time spent on fundraising compared to actual delivery has increased. Commissioning is extremely time hungry compared to public sector grants.

Time is also money and interviewees said they were spending much more time on development and management than before, and costs have gone up accordingly. One interviewee broke down the increased costs thus:

- More posts to manage finance and development;

- Financial recording is more complex;
- Studying information received re tender means reading two lever arch files of documents;
- Preparing a bid for submission may mean a similar amount of time again.

One interviewee estimated that 30% of her time and that of two senior management colleagues in a regional organisation was spent on tendering (and a further 20% on managing contracts); one national organisation had increased central staffing by three or four posts; while another told us:

We do a monthly time-use profile. 20-24% is spent on business development and a lot of that is tender related. Previously it was a lot less time and we had much longer contracts. ...There's talk of the Compact leading to longer contracts, but no effect seen yet!

Related to the cost of tendering is the issue of financial risk inherent in contracts. There was the concern that local authorities often expect the voluntary organisation to carry all the risk of something going wrong with contracts containing huge penalty clauses for 'failure to deliver'. In some cases, these clauses are disproportionate to the size of the contract, yet have the potential to bankrupt a smaller organisation. The cost of having substantial indemnity insurance cover was also raised as a concern.

However, there were also instances where commissioning had resulted in longer contracts than previously and these had brought considerable advantages:

Contracts are all three years, so this has enabled mainstreaming of many of the services which were funded in a hand to mouth way before. This has improved sustainability and freed up small pots of money to develop pilots and ideas which have come from us rather than external funders.

MONITORING REQUIREMENTS

Interviewees also described the 'hidden costs' associated with high demands for monitoring information:

There is more time needed for the bidding, but that pales into insignificance when put alongside the huge amount of time we now have to commit to monitoring and providing feedback on progress, and managing the relationship with the funder. There are lots of meetings and an expectation that they can add things on all the time, for no more money. Their monitoring expectations are unrealistic, e.g. how many children attend a toddler session and what are the outcomes for each child for each individual session! The LA couldn't produce that information and neither could other services. What school can tell you the outcome of each history lesson

for each pupil in the class?! We didn't know all about this when we put in the tender, so of course we didn't build in enough overheads to pay for it all.

We have to meet the local authority four times a year because of having preferred provider status – regardless of the number of placements they've used. This is just one example of over the top requirements. We're expected to produce evaluation forms for every activity... They need to be clearer about the purpose of the information and make it relevant. We tried to make it more meaningful to families and hopefully commissioners by making a film of parents talking. This wasn't counted because they couldn't stick it in a file.

There's lots of counting whatever can be counted and not what matters. The monitoring officers aren't interested in the data we have which proves outcomes for the children!

Again, the variability of practice was highlighted:

We were approached by funders to deliver parenting programmes as part of our Children's Centre provision. In this case, the monitoring has been appropriate and proportionate. It's a mystery why the admin of the Children's Centre contracts is so different. They were not intended to be Stalinist - the rhetoric was about being 'co-producers of outcomes'. If we are quoting contracts at each other we have failed.

In one local authority the entire Children's Centre contract is let to the voluntary sector. Everyone feels that the monitoring system is draconian and doesn't fit with the contracts e.g. they commissioned on a cluster model but monitor centre by centre (even though they share services to achieve the economies of scale the LA demanded) There's an army of monitoring officers and some of the framework is completely inappropriate e.g. using EY Foundation Stage outcomes in relation to evaluating a Parenting Programme. Funding of £340,000 (20% of turnover) was withheld for 4 months on the grounds that monitoring information was not adequate. We finally got a senior officer to review and the finding was released without any further requirement.

This respondent was able to compare practice in two neighbouring authorities:

In one authority there is £7 million spent on support services and monitoring with £19 million of funding for Children Centre services. In a neighbouring authority, all the funding is spent on Children's Centres with just four officers monitoring 88 Centres. This means that if you took an equivalent area in that authority there would be one-third more money per child.

CASE STUDY: CUT COSTS OR LOSE CONTRACT

A specific example of the financial cost to a voluntary organisation involved the submission of a tender to a local authority. This was a re-tender for a service that the organisation was already providing.

Two days before the panel, the organisation got a call to say that the bid they had submitted was for more money than the local authority had available: the work had been under-costed because of the failure to factor in increased salary costs.

The organisation was faced with the decision either to withdraw their tender and lose the service, or to reduce the level of their bid. Because the service was already in place they opted to absorb the additional cost themselves – resulting in a subsidy to the service to the tune of £90k.

To the local authority, this outcome may seem like a really positive result – the services continues and they're not paying the full cost. However, the hidden losers of this result are the children and young people elsewhere who are not receiving a service from the voluntary organisation concerned because they're facing a large drain on their resources.

WORKFORCE IMPACT

There were three major implications for workforce development described by interviewees as having arisen from the new commissioning environment. The first was the impact on the senior staff team, who spend much more time preparing tenders and managing the application processes. Some organisations have had to create designated posts to manage these very time consuming duties, instead of employing senior practice focused managers. In addition, and somewhat paradoxically, the time taken to develop, submit and manage tenders reduces the time available to apply for other sources of charitable funding or earned income.

The second was the knock-on effect of cutting costs. In order to be competitive, organisations said they have had to reduce costs, and that meant paying staff less, employing fewer staff or using staff with lower levels of qualification:

In order to continue functioning, the charity has had to cut staff hours by 20%: this cut has affected senior managers and social work staff. The consequence is that some social work staff have had to look elsewhere for work, with an effect on the charity's ability to provide a service

Others were particularly concerned about the lack of any funding built into contracts for staff development:

Apart from the bigger ones where we can build it in, there's no money in the contracts for training and development – these have to be met from voluntary funds.

At the same time, several respondents highlighted the importance of maintaining investment in workforce development to ensure that staff are equipped to meet changing demands:

Our input has been considerable over last couple of years. We've developed accredited schemes in house. . Quite a time investment, but we felt it was essential re tendering for contracts.

In terms of workforce planning, some organisations were concerned about the impact on staff retention:

We can't plan because we don't know needs until bid secured. It increases staff turnover.

Small organisations found managing uncertainty particularly challenging. As one interviewee put it:

You have to take a leap of faith and appoint in hope...

However, on the positive side, in some instances interviewees were grateful for the longer contracts commissioning had brought:

We have had to build our HR capacity for all the recruitment involved with new contracts. Recruiting staff takes a lot of time and it generally has to be done very fast after the contract is signed so that the service can be set up (the time is often made even shorter because there is a delay in the signing of the contract). On the plus side, contracts awarded through the new commissioning process are usually for longer than the year on year renewals we have generally had to deal with – so workforce planning becomes more realistic.

Organisations described the steps they took to avoid making staff redundant. However, there have been job losses. One organisation had experienced a reduced demand for its services because a particular LA had recently contracted with another large provider and some redundancies had resulted. While another described how:

We've one member of staff who's lost his job twice in a year – we lost the contract for his original job, we managed to move him to another post – but we've now lost

the contract for that. I'm concerned that people will start to be cautious about working for smaller voluntaries because of the insecurity.

The third important issue has been the effect of TUPE (The Transfer of Undertakings (Protection of Employment) Regulations 2006) This legislation applies when services run by the local authority are taken over by a voluntary organisation (or private provider) or vice versa. Staff transferring to new employers receive protection for their employment terms and conditions, particularly with regard to their salaries and pensions.

TUPE is extremely problematic. In one case the cost for one person was £120,000, involving redundancy and pension costs. It has been known for a LA to put a project out to tender, for the charity to address the restructuring , addressing redundancy etc, and for the LA to then re-absorb the project. TUPE means that small charities cannot take on projects, as they do not have the reserves; also not all LAs actually identify TUPE requirements adequately.

Pensions can be a particularly significant challenge for charities required to honour the pension provisions to an equivalent standard to the local authority or other final salary based schemes. This is unmanageable for small charities which may not have the substantial reserves required to meet the historical obligations which accompany these schemes .

Where possible we try to TUPE staff either in or out so they can stay in the same job, but we're starting to have people TUPEd in who are refusing to accept the same conditions as our other staff – this can cause some real difficulties. Also, we use freelancers for some of our work – they don't have TUPE rights – if they want to stay on with the organisation that's won the contract instead of us they have to negotiate separately. This is an issue where hourly rates vary dramatically.

When a voluntary organisation loses a tender for a service it has been running, TUPE also applies – i.e. existing staff have the right to transfer across to the organisation which has won the tender. This can have a host of implications for staff. For example, one interviewee gave an instance of a contract going to another charity which had different qualification requirements for their managers. Some managers being TUPEed across did not have the qualification the other charity expected for the same level of post.

For some small organisations the loss of staff through TUPE means their work becomes untenable – they've lost both the funding and the staff skills.

I met with Trustees earlier this week and have to prepare organisation for all possible scenarios e.g. if the LA took services in-house and 50 of our staff were TUPEed in would we still be viable as an organisation? Could we meet our other contractual obligations if we lost the Children's Centre platform we've hung them on?

We've lost a few staff to other organisations. In one area we lost a contract to another charity so two schemes closed and the staff TUPEed across to the other organisation (though one felt so strongly about retaining her project she set up her own outfit).

One interviewee highlighted the issue of volunteers which she said was frequently overlooked:

Our services rely heavily on local volunteers who are often very loyal to our organisation. It is sometimes assumed that when one of our contracts goes to another provider that the volunteers will go too – but of course volunteers are not covered by TUPE – and they don't always want to offer their services to another organisation. One unforeseen consequence therefore is that the commitment and skill of volunteers are simply lost.

One interviewee summed up the concerns of many:

These arrangements are SO difficult for staff and they're just not sustainable forever. Small organisations just can't go through ups and downs of such frequency where the organisation is only as secure as its next contract.

We've made a significant investment in workforce and we try to keep them informed. But it's impossible to predict what we'll need and what staff will need beyond this year.

IMPACT ON STRATEGIC PLANNING AND SERVICE DELIVERY

Some interviewees were blunt about the negative impact on strategic planning which they perceived to be the result of commissioning

The general disorganisation of commissioning processes has limited our ability to strategically plan.

Not knowing where we will be next year... It creates uncertainty, so we can't give trustees re-assurance because we're so uncertain about income. It's unsettling at every level.

However, it was also felt that the new environment had forced two organisations to stop 'pottering along' and to pay positive attention to income generation and the organisation's future development. Another two emphasized the improvement of having three-year contracts over year by year grant renewal.

One interviewee felt her organisation '*has been spurred on to do more and new things*'. Some organisations had diversified into new services but, where this was the case,

most were clear that this was based on their own identification of an area of need rather than something they had felt pressured into by commissioners. Most claimed to be pursuing a policy of '*sticking to what we are known for and know about*'.

However, a couple of interviewees did feel that their organisation had been forced into a different shape by the necessity of chasing commissions:

Some commissioners have packaged services together in a single contract so you have to go for all or none.... It's meant we've had to compromise our service offer and divert ourselves from our core purpose.

A couple made the point that the biggest impact on services was the result of the cost-cutting discussed above:

We've had to target services much more because we have less money for more children. So now we provide one group across four centres rather than one in each. We are spread thinner and have to prioritise families with higher levels of need.

Overall, interviewees did not seem to think that commissioning had made much difference to their ability to innovate or take risks with different services or ways of working. On the one hand, one interviewee thought that there were:

Greater opportunities to take risks in some areas because the contract provides stability in others. If you have three years money for your core business it isn't so scary to take risks round the edges. Taking a few risks is a good antidote to the boring ongoing demands of the contract which is good for staff morale.

On the other, some interviewees commented that they relied on their voluntary funds to create innovation and that starting new work was a risk because:

The system tends to result in short term approach due to difficulty in generating long term funding.

Attention was drawn by two interviewees to the mismatch between the priorities of grant making bodies, who often want to fund new projects and local authority commissioners who generally only want to fund in their core priority areas. This means that innovative projects set up with short-term grant funding will often struggle to get continuation funding, unless a local authority recognises the service as meeting a priority need it has identified. One person observed that some services were particularly hard to get funding for as they don't fit any individual commissioners' priorities, but are vital to a group of service users; domestic violence support being a clear case in point.

In 2009, interviewees reported that whilst the financial situation was more challenging, their organisations were generally maintaining their levels of service provision. By 2010, there were more examples of service losses and several examples of local authorities making changes in contractual requirements at short notice. One organisation described having won a tender from a local authority for a specific set of services. After only four months, the authority decided they wanted a wider set of services. The provider was told it could re-tender for this wider remit but the voluntary organisation concerned felt that the new expectations were too far outside their domain:

It all caused huge amounts of work especially as we'd taken on numbers of staff. Some got TUPED over and we managed to redeploy others, but it was hugely expensive.

Another interviewee described how the footprints of some of the Children's Centres their organisation is contracted to run have been changed part way through the contract without consultation or recontracting:

One Centre has been divided into two - there are significant added admin costs but no more funding. Another two Centres have been made into one and moved to a new base on LA property to create a level playing field for future tenderers.

One interviewee summed up the irony of all this:

We find it very difficult to plan at all - yet the bank wants a 10 year business plan!

IMPACT ON INTER-AGENCY RELATIONSHIPS

Some organisations clearly felt that commissioning had put more power into local authority hands and reduced opportunities for involvement in planning or for developing innovative services unless they had access to unrestricted funds. In many cases it was felt that relationships had become more distant and formal. Some interviewees pointed out an inherent contradiction in a relationship which involved both lobbying the local authority about its shortcomings and asking for money from the same source. While these tensions had been present under the grants system, the commissioning regime has, in some cases, made it feel harder to openly criticize the LA.

However, the ways in which the commissioner/provider relationship has evolved clearly varies from one LA to another, and for at least one organisation the new relationships were described as satisfactory and productive:

For us commissioning has improved the relationships with LA's – it has given the organisation more direct access to LA officers. The regular reviews we have with commissioners are also useful – we pick up other bits and pieces and commissioners are more aware of who and where we are. We feel that the onus is on us to build these relationships.

Another interviewee described the development of commissioning in one local authority as having been shaped by input from the voluntary sector:

The VCS was involved in setting the commissioning framework for the Children's Trust and the tendering processes, through the pre-existing VCS reference group. Local authority staff talk to the VCS about tenders before they are put out, and not all commissioning is by competitive processes. Some work is directly commissioned or just a few organisations are invited to bid.

Others described more variable experiences:

In one London borough we had good relationships until our link person left. It's now a more abrasive – purchaser/provider macho approach. On the other hand, our relationship with another authority is good – it feels more collaborative.

They do view us differently. Some are now much more keen to work with us. Others think that now we have been commissioned that in fact we work for them, and they can tell us what to do! We have to work at maintaining our independence.

Regional and national organisations spoke of the great variation between the local authorities they worked with and the different factors that affected relationships including access, attitude and time:

All six authorities we work with have different attitudes and different levels of involvement of/with the CVS. Sometimes we have access to the Head of Commissioning, sometimes to a parenting/under 5s Commissioner...We need to be there and influencing...especially as we're not represented on the Children's Trusts - cos the CVS reps come from umbrella bodies. We do try to sit on sub groups – but the time for that isn't funded so we can only do so much.

Tenders sometimes come out across all six local authorities at the same time! Some give 12 weeks (they are Compact compliant) but with others it's 6 weeks. Some full tenders literally take weeks to complete – others are just application forms! Full blown ones at least tend to be clear what they want.

A few interviewees commented on the development of a more suspicious and secretive culture:

LAs don't feel they can talk to you, share thinking, problem solve – they see you as always trying to sell them something. You feel their suspicion – that you're out to fleece them. We used to share management training with one local authority – that's unthinkable now.

One person observed that the relationships varied depending on which part of the local authority they were working with. She commented that her organisation continued to work informally with some officers, whilst having a much more formal relationship with others.

Two people expressed the view that in the current financial climate relationships between the voluntary and statutory sectors had got more difficult, largely because local authorities want to retain funding:

LAs are trying to hold onto what they can – they don't want to give it all away.

Statutory organisations get the first slice of whatever cake when there's money around – there's little left by the time the plate comes round to the 3rd sector.

No-one reported any positive effects of commissioning on the relationships between voluntary organisations:

It's a lot more competitive. Less willing to share. We want to share good practice but now feel more anxious about keeping our own trade secrets The whole culture is now about a market place and creating an income rather than creating a good service.

Territorialism is an issue between vols– most often a momentary sulk but sometimes bats get taken home big time.

The tension between larger and smaller organisations was highlighted by several interviewees:

There's fierce competition. The bigger orgs are getting bigger and more of a thug, steam rolling smaller orgs. This is bad for the sector. Smaller orgs have to be smarter to get the money. I feel that in some cases larger orgs have distorted their mission and turned into big contracting companies, hoovering up smaller orgs. At the same time, they play the voluntary sector card when it suits them.

The deterioration in relationships across the voluntary sector which the above comments seem to illustrate, do not bode well for the development of collaboration and partnership working:

Feel there's a need to move towards more consortium working –but in reality commissioning has generated competition between vols which makes it harder to work together. A recent example was our winning a contract where the competition was well-established in the area. The awarding of the contract to us caused a lot of ill-feeling and we had to smooth a lot of feathers.

There is a tendency for the larger orgs to squeeze out the smaller orgs with specialist expertise. It is possible to develop good consortia arrangements but it needs a lead in time of 6 months to a year.

One interviewee summed up her views as follows:

Competitive tendering is taking away from the idea of working in and building partnership. As a voluntary organisation we very much are starting to feel as if we are selling a service to the customer (Local Authority) and needing to 'dance' to their tune, rather than working together to meet the changing needs of their residents. In developing bids, partnerships with other organisations are very difficult to develop due to the competitive element of the process. If voluntary organisations... were asked to come together to develop a package to meet the outcomes... then more ownership, partnership, joined upness and trust would result in improved services!

OVERALL IMPACT ON OUTCOMES FOR CHILDREN AND FAMILIES

We asked interviewees for their overall assessment of the impact of commissioning on outcomes for children. Several did not feel able to make a judgment but of those who did, the verdict was divided.

Some respondents expressed the view that good commissioning had huge potential for improving services to children and families, but that current commissioning practice was failing to deliver.

More accountability has got to be good for children and families. Done properly, commissioning can raise quality and achieve best value. It offers more opportunity to analyse and evaluate outcomes and it gives the chance for good organisations to increase their reach.

The problem is not really commissioning per se: it's the way the commissioning is being interpreted and implemented – it's being conducted as a contracting and procurement exercise with a limited vision and understanding of services (especially specialist ones like ours). If it was really a commissioning process i.e.

properly planning services based on a need, it would be fine, but this is only a minority.

If it worked properly it would improve the quality of provision. Lots of people want it to happen properly – if operated well and fairly, good providers in the vol sector could do very well, but this would require LA service providers to compete with the 3rd sector on an equal footing.

Others were more cynical in their view that commissioning was less about service improvement than it was about cutting costs and getting voluntary organisations to do more for less:

Costs are driven down which makes it difficult to recruit more qualified staff, yet local authorities are looking for services to more complex and difficult cases.

I believe that the tendering environment is largely about cutting costs rather than improving services. Independent private providers are undercutting the vol sector certainly in fostering and residential care, and we assume in some instances providing a more minimum service. All the extras that vols offer such as children's rights, participation, training opportunities, quality standards etc could be lost.

A couple of interviewees gave specific examples of how they thought commissioning was having a detrimental effect:

The worst thing is when you lose a contract for a service you've been running you end up letting the kids down - their worker changes not because they want to leave but because their organisation no longer has the contract to do the work. You end up feeling that you're yet another adult that's let these kids down.

The charity covers areas of very serious social deprivation. We never know if the service will be available beyond 3 years, but most families require very long-term work.

We've had to target services much more because we have less money for more children. So now we provide one bereavement group across four centres rather than one in each. We are spread thinner and have to prioritise families with higher levels of need.

IMPROVING THE COMMISSIONING PROCESS

Interviewees were asked for their suggestions for how commissioning could be improved. There were several overarching observations commonly made as well as some very specific suggestions.

COMMON THEMES

The issue of timescales for contracts was the most common concern expressed by interviewees. Although some respondents commented that three year funding was better than some of the grant arrangements they had previously, there was consensus that three years was not long enough to get work effectively established.

The big point is for longer contracts – they need to be for 10 years with a 5 year review to build in opportunity to make adaptations. They're now typically 3 yrs – so by the time you're up and running you're already looking to the end. Staff start to leave in year 3.

Some respondents also observed that for some small organisations the loss of grant funding had been catastrophic and that the retention of grant funding was essential to:

Maintain the diversity of the sector through diversity of funding streams and arrangements. Smaller organisations can't survive three years to have another go at winning a contract - they will have gone by then, so we need much more flexibility in the system.

A common theme was that commissioning could work well if local authorities were given the right encouragement and incentives:

I believe that the freedoms and flexibilities given to LA's were a bit premature. There remains a political driver for commissioning the 3rd sector and the national training for commissioners seems to be good stuff but the encouragement is all a bit passive. It requires more tangible incentive (with sticks as well as carrots) e.g. a legal ratio of funding that has to go to the 3rd sector.

This same interviewee pointed out that local authorities themselves were working within constraints which were not helpful:

The three year LA funding settlement also hampers LA's into short commissioning terms – this is especially hard for innovation – 3 yr funding simply isn't long enough to get something properly established.

Another common theme in interviewees' suggestions for improving commissioning was the plea for greater consistency of processes and PQQ requirements between local authorities. The current expectation on voluntary organisations to continually adapt to different commissioning requirements was described as time consuming and costly. An interviewee from a national umbrella organisation which supports over 200 affiliated schemes across England was able to draw comparisons between how local authorities were choosing to tender or not to tender for very similar services. She pointed out that most schemes are so small they fall below the funding level at which they legally have to be put out to tender. Around 50 local authorities therefore have chosen to continue the grant funding. Others have put the services out to tender, often clustered as part of a larger package (making it impossible for local schemes to bid except in partnership). Some have simply taken the whole service in-house. The interviewee pointed out that this inconsistency presents enormous difficulties for her organisation and many others.

A few interviewees commented that some LA's appear to have more discretion than others when in terms of adapting their commissioning practice:

Some LAs are more free than others – it tends to be those that are not in the spotlight over their children's services that have more freedom to commission better.

SPECIFIC SUGGESTIONS

Some specific suggestions were made for each stage of the commissioning process.

Communicating the tender requires:

- A clear system for advertising with an accepted standard about where ads should be placed and for how long;
- Better ongoing contact between local authority commissioners and service providers;
- A single source of information as to where tenders are found;
- The involvement of local groups in the planning stage to ensure tenders are based on real needs and not commissioners' or previous providers' organisational assumptions

The application process could be improved by:

- Giving longer timescales for submitting tenders – at least 3 months. Some are very short and if they come together, particularly at certain times of the year (e.g. over Christmas) it places untenable pressures on organisations;
- More streamlining of the process – it should be possible to provide the same core information for every tender;
- The amount of form filling and volume of information required should be linked to the value of the contract. Tenders can have as many as 30 attachments;
- LA's should be able to verify once that you're an appropriate organisation instead of every time you tender and these standards should be shared across authorities;
- Less emphasis on cost as main criterion– acknowledgement that cheap doesn't always mean better and being all sides being clearer about long term outcomes and possible savings which flow from these;
- Being clear about what weight is given to which criteria and ensuring that this reflects the relevance of each criterion to the service;
- Giving due regard when weighting criteria to the added benefits offered by voluntary organisations: factors such as grassroots involvement, engagement of local communities and volunteers are not sufficiently taken into account;
- Better organized briefings and mandatory feed back;
- Greater guarantees for the protection of the material given to LA's during the commissioning process – some organisations are aware that their ideas and material have been used even when they haven't been successful in winning the contract;
- A provider with no conflict of interest on the assessment panel;
- Learning from good processes for both providers and commissioners. Taking a whole systems approach to improvement.

Contracts could be improved by:

- Less bureaucracy – there's a huge amount of documentation – contracts are often the size of a thick book;

- Sharing the risk appropriately – many contracts place all the risk of something going wrong on the voluntary organisation – this could potentially bankrupt an organisation which is not in the interests of the commissioner or the services users either and could be costly to mend later down the line.;
- More clarity and honesty about what constitutes the full costs of the service ;
- A better shared understanding of what is good enough quality: some LA commissioners have a limited understanding of the services they are commissioning – if they make judgments based largely on cost, they may be procuring very low quality services, which will not achieve long term outcomes and may well shunt costs to another part of the system.;
- Less onerous and more relevant monitoring with a clear focus on outcomes.

These proposals were discussed and augmented at a multi agency roundtable discussion held to discuss the findings of the report on 5th November 2010. The recommendations put forward for positive change and development as a result of the research were as follows:

Recommendations for Commissioners:

1. Greater adoption of place based budgeting and strategic cross agency commissioning
2. Consensus on the tools used to gather evidence of outcomes for similar services
3. Reduce costs through longer contracts, with appropriate review points. Five year contracts as standard (possibly with three year review)
4. Retain grant funding as part of the commissioning mix, and use other funding tools, not just competitive tendering.
5. Valuing soft outcomes and working proactively with providers to agree and measure these
6. Increased two way accountability through the development of mutual understanding and a focus on service user experiences.
7. Develop a greater understanding of the cost, benefit and impact of ceasing to provide services due to cuts, both on service users and other services
8. De-politicisation of commissioning and challenge the macho culture which has grown up around commissioning.
9. Reduce procurement bureaucracy
10. Honesty about the costs of the whole commissioning system, where these costs fall and how risk is apportioned.

Recommendations for VCS providers:

11. The VCS needs to further its understanding of local democracy and the political pressures on commissioners
12. The VCS should be more willing to challenge commissioners and offer solutions
13. Work to increase awareness amongst commissioners of the capacity of the VCS
14. VCS groups should be more willing to work with each other in meeting needs more efficiently.

Recommendations for both;

15. Increase constructive dialogue between commissioners and VCS to challenge each other and build joint solutions
16. Challenge universal services to deliver better value as well as commissioned services.
17. Remember the user; they should be involved at every stage.
18. Accurately assess the costs of commissioning for both local authorities and VCS
19. Investigation of what enables relationships to work
20. Focus on priorities. The VCS needs to be more vocal in trying to set these and commissioners to use VCS evidence as a key part of decision making.
21. Develop lighter evidence requirements, which meet the needs of commissioners, providers and recipients of services. Trust and verify is much more cost effective and transparent than complicated monitoring systems.

Commissioning: A Better Way?

Round table debate at the RSA 5th November 2011 Main points from the discussion and recommendations

Present

Representatives from the following organisations participated in the debate;

Cabinet Office	Hertfordshire County Council
Children England	Home Start UK
Co-ops UK	National Audit Office
Commissioning support programme	National Offender Management
Directory of Social Change	Service
DMSS Research and consultancy	Thurrock Children's Trust
Family Action	Voice

Introduction

Opening remarks were made by the Chair, Ed Mayo of Coops UK. Ed stressed the fast changing context in which commissioning was being developed and the defining impact of the recently announced public spending cuts. He also raised the emotional cost of getting commissioning wrong and of the huge level of instability in the system at the moment, which impacts on children, families and professionals.

Participants were reminded of the definition of commissioning as developed by the Commissioning Support Programme;

Commissioning is the process for deciding how to use the total resources available for children, young people and parents in order to improve outcome in the most efficient, effective, equitable and sustainable way.

Brief introductory remarks were given by Di McNeish, on the main findings from the research, Maggie Jones from Children England on the current context for

commissioning in the children's sector and Julia Stoddart who provided a commissioner perspective, from the work of the Commissioning support programme.

The debate

The debate was both rich and well informed with participants challenging each other as well as reinforcing many of the points made by colleagues. A summary of the major issues raised is presented below in themed paragraphs rather than recording the discussion chronologically.

The current position for commissioning

- i.** Over recent years funding changes have meant fewer grants, more contracts which has changed the shape of organisations seeking public sector funding. Many senior managers in the VCS now spend 80% of their time managing contracts rather than managing projects. In larger VCS organisations, new contract managing posts have been created, and whole teams have been set up in local authorities. In all cases, the effect has been to further distance funding processes and decisions from frontline delivery
- ii.** There is a perception that the commissioning process is characterised by excessive bureaucracy and an often unnecessary "paper chase" on both sides of the relationship.
- iii.** Commissioning systems are often inefficient, wasteful and daunting, which disadvantages small organisations and makes services increasingly unsustainable
- iv.** The degree of variation was highlighted with different application processes and reporting requirements for each local authority relating to almost exactly the same service, and across individual authorities for different services.
- v.** Monitoring systems were seen as sometimes inappropriate or disproportionate and don't always deliver the information needed to help authorities plan or to improve accountability to services users and communities.
- vi.** The research highlighted that in some areas commissioning had soured relationships between VCS and local authorities, diminishing trust and creating barriers to communication.
- vii.** It was broadly agreed that decisions in the coming months will be made for reasons of expediency rather than long term strategic thinking; the pressures to reduce budgets very quickly will be highly destabilising for the VCS. External contracts take six weeks to cancel whereas internal redundancy for most authorities takes six months, and there is still much uncertainty for Local

authorities about the money they will have to meet their statutory responsibilities. The best authorities are talking to their VCs and private sector suppliers and keeping them informed.

- viii.** Current skill levels were questioned on both sides of the relationship. The recent Zurich Mutual report findings were summarised:
 - a.** There is limited understanding amongst commissioners of the impact of their decisions
 - b.** Local authorities are pushing risk onto suppliers without appreciating their responsibility for services and the insurance implications that flow from that
 - c.** Local authority Chief Executives have little expertise in the managing complex supply chains
- ix.** On the more positive side there was agreement that in many cases competitive tendering has provided increased value for money and sometimes encourages innovation. Though it was noted that grants also fund innovative projects and that it is possible to achieve value for money with contestability as an alternative to competition.
- x.** Cuts have led to commissioning being considered at a corporate level with Chief Executives now taking an increasing interest
- xi.** The cost of commissioning is dead money as it isn't directly supporting people. The key is to ensure that the cost of commissioning is proportionate to the service provided, although commissioning costs for both local authorities and the VCS are not currently counted which means we have no way of determining value for money.
- xii.** The Government is currently trying to quantify the cost of procurement, which was welcomed.

The role and position of the VCS

- i.** The VCS will always be a priority partner for local authorities due to its reach, flexibility, responsiveness, innovation and use of volunteers
- ii.** Everyone agrees that commissioning should support and enable the VCS
- iii.** The move to localism may encourage a new approach to commissioning which no longer disadvantages small organisations and makes services more locally accountable and sustainable.
- iv.** Currently the VCS often feels unable to criticise local authorities and shape services for fear of losing funding. This means LA's are not getting the full benefit of the intelligence which should be an integral part of the funding relationship.

- v. Commissioning has led to an increasing mistrust between small VCS organisations and larger ones who they fear will steal their funding. This has limited collaboration and makes consortia building more difficult. This distrust between small and large VCS organisations is evidence of a young market. In the private sector collaboration on contracts is the norm
- vi. Commissioning has made the VCS think more about value for money.
- vii. The current commissioning processes act to transfer risk onto the VCS provider from the commissioner. This is unsustainable and often inappropriate. We must establish a more sophisticated understanding of the risks inherent in a service and have a mature discussion about the best pace those risks can be managed.

The instability and churn in the system

- i. Length of contracts – three years is not enough to deliver high quality services built on the trust of service users. It is also expensive for commissioners to re-commission every three years.
- ii. The VCS has responded to the previous governments policy drive for a mixed market in social care. This is particularly the case in children’s services where structures such as children’s trusts were set up to drive this forward. This means a greater proportion of their funding now comes from the public sector. Withdrawal of contracts will cause some organisations to fold
- iii. There has been little recognition of the difference between providing services for children, young people and families and more “product based” services like collecting the rubbish. Children, young people and families need more continuity than one to three years contracts provide
- iv. Staff churn in both local authorities and the VCS means that knowledge and leadership is lost, leading to unnecessary funding instability (people’s needs don’t change much over time so support programmes shouldn’t need to change much either), and re-inventing the wheel.
 - i. The uncertainty of commissioning is taking an emotional toll on the lives of those that the VCS is trying to support. This uncertainty in service provision mirrors and compounds the uncertainty that already exists in clients lives. Commissioners often don’t understand the difficulty of working with the most troubled children, young people and families.
 - ii. Staff quality and development is essential but extremely hard to sustain within short term contracts. Talented staff may be forced to leave when a contract ends or transferred to another organisation due to TUPE
 - iii. VCS needs to be more willing to voice concerns with commissioners about the impact of uncertainty

- iv. Important to remember that uncertainty is actually a product of the funding models used rather than commissioning itself. Commissioning is simply the process for allocating resources.

Opportunities and dangers

- i. The Government is looking for new service delivery models. This could well provide real opportunities to get rid of the worst elements of the old systems. The danger is that some proposals such as personalisation or payment by results require even more resources to manage track and evaluate
- ii. We must ensure that new solutions don't replicate existing problems
- iii. The sweeping away of National Indicators gives local authorities the opportunity to assess afresh the needs in their area. Real understanding of local needs is vital both for commissioning and for the best delivery of in house services too.
- iv. Commissioning fits well with the Big Society agenda and the needs and aspirations of communities should play a far greater role in the future
- v. Co –production is a win/win solution if done properly since it increased engagement and ownership in services and thus their efficiency and effectiveness. We all have a great deal to learn to make this work well.
- vi. The way we implement and develop markets is key. It's not necessary to replicate the way markets work for big parts of the private sector to have strong drivers for change and improved value.
- vii. An increase in cross agency commissioning could do away with duplication and free up resources for the front line.
- viii. New delivery models will require increased management resources but funding cuts mean there is very little appetite in local government to try innovative solutions
- ix. Neither the public sector or VCS are experts in market development
- x. Will the drivers for purchasers (cuts and value for money) fit with the drivers for community empowerment and Big Society ambitions?

Evidence

- i. Evidence = knowledge + data + experience. We tend to focus on data and forget about the other two
- ii. The needs to be improved accountability and transparency at all points in the system. This is becoming a pressing issue if we are to extend the role of communities and families as commissioners at local level.

- iii. Measuring soft outcomes is essential but very difficult to do. We need to work together to improve our measurement of social outcomes, especially funding for children and young people's services is to tap into social impact bonds and other forms of new investment in social return.
- iv. How can we prove the importance of stability to many of the services we deliver to vulnerable families? This would help commissioners to build it into their specifications.
- v. User outcomes often won't become clear for many years. To a certain extent contracts therefore need to be given on trust
- vi. Some local authorities have started to ask VCS deliverers what they think would be a good way of monitoring progress. A consensus needs to be developed about how we collect evidence so that we can aggregate data more effectively across areas and services to better understand patterns and what works in addressing complex needs
- vii. *Evidence* can be political e.g See the Coalition's treatment of the IFS findings following the Spending Review
- viii. As politicians change so does the definition of success. This means that even where the VCS can show effectiveness, funding is often not renewed
- ix. People work within the VCS to help, not to collect "evidence". We have to overcome this resistance to be clear about what works well.
- x. Poor quality evidence is more of a currency that we use to talk about our work rather than definitive proof of impact, and the evidence collected by commissioners from contracts is more often used to tick a box than to roll out or develop programmes which work.

Recommendations for improving commissioning

The following recommendations were put forward by individual participants, as suggestions for increasing the efficiency and effectiveness of the commissioning process, in order to free up funds for the front line;

For Commissioner organisations:

- 22. Greater adoption of place based budgeting and strategic cross agency commissioning
- 23. Consensus on the tools used to gather evidence of outcomes for similar services

24. Reduce costs through longer contracts, with appropriate review points. Five year contracts as standard (possibly with three year review)
25. Retain grant funding as part of the commissioning mix, and use other funding tools, not just competitive tendering.
26. Valuing soft outcomes and working proactively with providers to agree and measure these
27. Increased two way accountability through the development of mutual understanding and a focus on service user experiences.
28. Develop a greater understanding of the cost, benefit and impact of ceasing to provide services due to cuts, both on service users and other services
29. De-politicisation of commissioning and challenge the macho culture which has grown up around commissioning.
30. Reduce procurement bureaucracy
31. Honesty about the costs of the whole commissioning system, where these costs fall and how risk is apportioned.

For VCS provider organisations:

32. The VCS needs to further its understanding of local democracy and the political pressures on commissioners
33. The VCS should be more willing to challenge commissioners and offer solutions
34. Work to increase awareness amongst commissioners of the capacity of the VCS
35. VCS groups should be more willing to work with each other in meeting needs more efficiently.

For both;

36. Increase constructive dialogue between commissioners and VCS to challenge each other and build joint solutions
37. Challenge universal services to deliver better value as well as commissioned services.

38. Remember the user; they should be involved at every stage.
39. Accurately assess the costs of commissioning for both local authorities and VCS
40. Investigation of what enables relationships to work
41. Focus on priorities. The VCS needs to be more vocal in trying to set these and commissioners to use VCS evidence as a key part of decision making.
42. Develop lighter evidence requirements, which meet the needs of commissioners, providers and recipients of services. Trust and verify is much more cost effective and transparent than complicated monitoring systems.

Mission

To create a fairer world for children, young people and families by championing the voluntary organisations which work on their behalf.