



Consultation Response
'Open Public Services White Paper'

Submitted to the Cabinet Office

September 2011

About Children England

Children England is the leading membership organisation for the children, young people and families' voluntary sector and the Department for Education's overarching strategic partner. With member organisations working in all parts of the country ranging from small local groups to the largest household names in children's charities, Children England is in a unique position to use the collective voice of the voluntary sector to achieve positive change for children. Children England provides capacity building, support and information to its members and the wide range of voluntary sector organisations working with children, young people and families. It does this by building active networks, promoting good practice, stimulating policy debate and ensuring that the issues that matter most to its members are taken up with decision makers.

Children England is committed to working alongside its members in the creation of a society where children and young people are valued, protected and listened to, their rights are realised and their families supported.

For more information about this response or Children England, contact:

Nick Davies
Policy & Information Officer
nick@childrenengland.org.uk
020 7833 3319

Individual Services

How best, in individual services and on a case-by-case basis, can we ensure that people have greater choice between diverse, quality providers?

The White Paper is based on the implicit assumption that increasing choice is necessarily a good thing. However, it is not at all clear to us that choice is automatically desirable or deliverable. Choice is impossible without excess capacity at the point of demand. Yet currently, and for the foreseeable future, as a result of public spending cuts, there is instead a huge excess of demand. Given the state of the nation's finances, we are unsure how such excess capacity can be afforded or whether this is the most appropriate way to spend limited resources. While choice can certainly be beneficial in some cases, most service users would happily settle for a prompt, high quality service, regardless of whether they have a choice over who delivers it.

In cases where choice can be beneficial, the key to ensuring that service users can choose between diverse, quality providers is creating a funding system that rewards excellence and encourages a variety of new providers to enter the market. Unfortunately, commissioning practice appears to be moving in the exact opposite direction with both central and local government increasingly awarding fewer, larger contracts. This creates a market place where small expert national charities and local voluntary and community groups are excluded simply on the basis of scale (the Work Programme is an excellent example). While they may, in theory, be able to become subcontractors, our members have found that in such cases, the upfront investment required is often prohibitive and the resulting work flow so erratic that participation becomes unsustainable from the very start, even where they have previously been delivering similar services. When the prime contractor is a large business, there is also huge pressure to drive down costs often at the expense of delivering a quality service. However, whilst prime contractors must take some of blame for this, largely they are just responding to commissioners, whose decisions tend to be based on price rather than quality or best value.

Even more fundamentally, public service contracts rarely reflect the full cost to voluntary and community groups of bidding for and then managing them. . Our two year study, *Commissioning a better way?*¹, revealed the hidden costs and other negative impacts associated with the competitive tendering process.

- Many managers in the voluntary sector now spend 80% of their time managing various contracts and the burdensome reporting which comes from them, rather than managing front line work
- New contract managing posts have had to be created in a catch 22 situation whereby organisations are forced to become more top heavy because of the additional bureaucratic

1

burden associated with commissioning yet are unable to secure sufficient funding from commissioners to pay for these additional core costs

- While short contracts minimise risk for local authorities, they lead to instability for providers, their workforce and the vulnerable groups they support. Short term contracts have a serious impact on staff retention due to a lack of long term job security. 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
- Many commissioners unfairly apportion risk, for example, issuing 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.
- Key staff may be transferred to another organisation due to TUPE, destabilising other parts of the organisation's work
- Commissioning has led to a downward pressure on qualifications, staff development and wages

Current trends in commissioning work directly against the Government's objectives in stimulating local solutions to social problems and devolving decision making as close as possible to neighbourhoods and communities. Unless significant changes are made to commissioning, many voluntary and community organisations are likely to conclude that delivery of public services is not for them, leaving service users to choose from a small number of large organisations, many of whom will prioritise shareholder return rather than social value.

We would also endorse the recommendations of the Red tape task force on commissioning, including the need for more proportionate monitoring and that competitive tendering should not be seen as the default position for procuring all public services.

Consistent with the Government's fiscal plans, what further opportunities exist to target funding to help the poorest, promote social mobility and provide fair access to public services?

Firstly, we believe that a fundamental reassessment of the commissioning process is required if government is to maximise the impact it achieves with shrinking resources. There is a default assumption that competitive tendering will automatically secure better value for money and in most cases it is indeed likely that government will pay less for particular services using this method. However, this unit cost completely ignores all the associated costs that have been incurred both by government and suppliers as a result of the competitive tendering process. Many managers in the voluntary and community sector now spend 80% of their time managing various contracts rather than managing actual projects. In larger VCS organisations, new contract managing posts have been created, and whole teams have been set up in local authorities.

Without a comprehensive analysis of the costs of this competitive commissioning infrastructure it is impossible to say for certain whether it has helped to deliver services more efficiently. However, the

evidence we have received from our members suggests that in many cases competitive tendering is not the best way to maximise resources. Instead, government at all levels should use a variety of funding tools, including retaining grant funding as part of the commissioning mix. Where competitive tendering is deemed necessary, costs would be significantly reduced if government bodies issued longer contracts. We believe that a move to at least five year contracts (with appropriate review and break clauses), and in some cases even longer, would not only reduce procurement bureaucracy and costs for authorities, and tendering costs for voluntary organisations, but would also better reflect the needs of service users for stability and reliability of services, that can have a sustainable positive impact in their lives.

Secondly, the Government must recognise the clear and substantial threats to the continued existence of many voluntary and community sector organisations, which are central to the Government's Big Society vision. Our members are able to engage with some of the hardest to reach and marginalised members of society precisely because they do not come with the state's institutional baggage. They therefore have a crucial role to play in targeting funding, helping the poorest and providing fair access to public services. However, public spending cuts could seriously damage their long term sustainability. In 2009/10 over one third of the voluntary sector's income came from statutory funding. Children England members, who have a combined annual turnover of around £750million, receive more than half of their total income from statutory sources.

Unfortunately, local public spending cuts have been disproportionately passed on to our sector in terms of immediate contract withdrawals, followed by deeper cuts/de-commissioning at the end of existing contracts in March 2011, with the prospect of further cuts and de-commissioning in March 2012. The result is that many organisations who are providing vital services may be lost over the next few years due to the suddenness and severity of statutory funding withdrawal, and the lack of viable alternative funding pathways to 'bridge' their survival and adaptation to the new evolving environment. Infrastructure organisations who should be in a position to support this transition are being cut and closed, thus depriving the sector of a vital source of expertise and assistance at the very time it is most needed. There is a significant risk that while placing a growing voluntary sector at the heart of Government's Big Society plans, the Coalition has created the conditions for the most substantial reduction of the sector for many decades. Although reducing public expenditure is one of the aims of the Big Society, the problem is that short term cuts are likely to undermine the capacity of civil society to deliver long term savings, develop self help mechanisms in communities and to meet other government aspirations. The parallel policy of localism means that national government have no levers, other than finger wagging, to halt the massive impact on the sector from local authority funding decisions.

The Government has wisely invested in collecting robust evidence on the value and effectiveness of early intervention, particularly with disadvantaged children, young people and families. However, in a time of reducing public expenditure and rising social need, local commissioners find it almost impossible to redirect resources from expensive crisis management towards more cost effective longer term, low level interventions which pay dividends for the tax payer and the families concerned. We would urge the government to be as proactive and purposeful in establishing these services as they have been in supporting free schools and academies.

Finally, our members are concerned about the Government making a false distinction between targeted and universal services when the most effective provision will include a combination of both. On the one hand, one of the principal aims of targeted services must be to re-engage users with universal services; acting as a portal from specialised support back to mainstream provision. On the other hand, it must be made easier for those who currently survive and thrive on the minimum, universal entitlement to access targeted support before any potential problems become critical. As such, we must be careful not to overly target interventions through the use of personal or familial 'risk factors' and/or geographical deprivation indices. These risk factors are only indicative, not predictive; some children, young people and families come to develop high levels of need quite suddenly. Strict targeting will miss them, or exclude them until they're more obviously troubled and more expensive to support. As such it is important that we retain universal routes of access to targeted services.

Children England members from the East Midlands raised concerns that funding and commissioned services are often focussed on the most disadvantaged to the detriment of those who are only marginally better off. One of the greatest advantages of allowing people to easily move up and down a continuum of support, rather than reserving particular support for particular individuals, is that it can also combat the potential stigma associated with targeted services. Rationing universal services will effectively label those who use them as needy, dysfunctional or disadvantaged, with the result that even those who require support will be deterred from accessing it.

Are there additional areas where personal budgets would be appropriate and could existing initiatives on personal budgets be accelerated?

Personal budget pilots have tended to focus on those children and young people who are at the top end of the need spectrum – those with disabilities, those in care and those with learning difficulties. However, we do not know much about the demographic make-up of those children and families. Going forward, there is a risk that 'easy' families are given the option of an individual budget for their child, whilst families with multiple and complex needs who are already parenting under pressure are deemed unsuitable to have an individual budget despite the range of deployment options available. If personalisation is about transferring control to families through participation, fairness must be at its core. Lessons from adult social care point to the importance of providing independent support and brokerage services to enable individuals and families to put together the best possible support packages and to manage the responsibilities of employing care staff. Such brokerage services should be provided in every local area where personal budgets are being rolled out, in order to provide safeguards for the taxpayer as well as for services users and carers.

Equally, we must be careful to ensure that personal budgets are not forced upon reluctant users. A Children England member from the West Midlands made clear during a consultation session that personal budgets are not appropriate for everyone and gave an example of an individual for whom a personal budget has exacerbated rather than reduced anxieties, principally due to a lack of support from their local authority.

Personal budgets must also be considered from a provider point of view. While potentially hugely beneficial for service users, they represent a further funding complication for organisations that may also be receiving money through individual giving, grants, standard statutory contracts, payment by results and social impact bonds. It is essential that funders recognise and adequately resource this increasing bureaucratic burden.

How can the principle be implemented that providers (from whichever sector) who are receiving public money for individual services should collect satisfaction data in a standardised form to enable comparison and put it into the public domain?

We very much support the principle that individual service users should be able to easily access satisfaction data on public service providers. However, it is important to recognise that collecting such data is not cost free. If the Government intends to comprehensively implement this principle then it must properly resource it or there is a danger that data collection will be neither robust nor universal, thus defeating the primary object of the system.

We also welcome the suggested use of a standardised form though it is unclear whether this is compatible with the Government's localism agenda. At present the multitude and variety of commissioning approaches, application process and feedback mechanisms greatly increase the cost of delivering services for voluntary and community groups, and ultimately, the taxpayer.

However, in some cases, particularly services that work with the most disengaged, those with highly complex problems and those with severe disabilities, it will not be appropriate to use a standardised form. There will also need to be a child/ learning disability friendly version of the form or alternative methods for collecting the views of children and disabled people. In both cases, we would ask that the Government take a permissive rather than prescriptive approach.

A small base line data set which collects data required for other purposes but also gives an indication of quality may be the best way forward. Such data could measure the turn-over of staff and their qualification levels, the number of complaints and the speed of their resolution, the length of service contract for each individual client and/or repeat use of the service.

Care needs to be taken however in assessing satisfaction of individual services in isolation. Often it is the combination of a number of services which is the effective and empowering element of individual budgets, and these services may be mutually dependent.

How can we ensure that people are aware of, and can exercise, their right to choice effectively in specific services, through choice champions, choice prompts, data and a possible new role for Ombudsmen?

We believe that those living in severe deprivation and those who are currently most disengaged from public services have a great deal to gain from increased choice. However, there is also a significant risk that without proper support they will fail take advantage of new public service models and that the

potential benefits will instead accrue solely to the sharp elbowed middle class who are already skilled at tailoring services to their needs.

The voluntary and community sector has a vital role to play in supporting people to effectively exercise the right to choose which public services they use. Indeed, the sector is uniquely placed to reengage the most disadvantaged (that often have a history of difficult interactions with the state and are reluctant to trust public sector professionals) with public services due to the qualitatively different relationships that it has. The Government will need to use these existing strong relationships and we therefore encourage the Coalition not to be prescriptive about which organisations can act as champions and instead allow all willing groups to support service users.

We are strongly in favour of fairness in the exercise of choice but our members have numerous examples already of localities where the choices of local commissioners mean there are very different options open to children, young people and families with similar disabilities and support needs. There is little comfort in having detailed data about services you don't need, when the service you do is operating in the next borough and your authority won't authorise the cost.

For local authorities and providers there are dilemmas about economies of scale, particularly for very specialist services which require a certain level of demand to be viable.

There is as yet little evidence to show that a totally free market approach will truly meet the multitude of needs and choices which service users could prioritise and market management will be needed alongside strong advocacy services to ensure the right to choice can be exercised with confidence.

Championing the rights of the needy and advocating on their behalf is one of the voluntary and community sector's principle historical roles. To this end, we strongly encourage the Government to reject the arguments of those who criticise campaigning charities and suggest that charities should be seen and not heard.

How can we ensure that our approach to opening public services protects and enhances accountability rather than dispersing it?

Contracted out services are effectively one step further away from democratically accountable elected representatives than those that are delivered directly by the state. Most contracts are not very responsive to customer or citizen pressure, reducing the ability of elected representatives to achieve change for their electorate. This is likely to increase the current levels of scepticism about the effectiveness of local democracy.

Scrutiny structures should be strengthened with service users, including children and young people, community representatives as well as partners such as health and housing being part of holding service providers to account, whatever sector they are from. The requirement to provide information to local scrutiny boards should be in each contract specification as should an auditable mechanism for each provider to involve service users in ongoing decision making and provide service data in an easily understandable format.

Neighbourhood forums and community groups could also be resourced to play a formal role in holding some providers to account, but this will only work where they are not service providers themselves and would be inappropriate for some areas such as services for children in care, which are not neighbourhood based.

The Government has suggested that providers will be accountable due to greater citizen choice but we are highly sceptical. The markets for long term services like children's centres and schools are not the same as those for discreet purchases such as toothpaste and shoes due to the limited number of sellers, barriers to changing services and the fact that in most cases government will be buying the services on people's behalf. Only where citizens become commissioners though individual budgets will choice have any real power. Given this, it is essential that service providers can be held directly accountable by users through effective complaint and appeals procedures.

For children who are unable to vote, the need for a powerful Children's Commissioner (we welcome the majority of the Dunford Review's proposals), suitable appeal mechanisms (children, purely as a result of their age, often find complaints procedures far more difficult to navigate than adults) and regular consultation with under 18s at both a national and local level is essential.

Neighbourhood Services

What is the scope for neighbourhood councils to take greater control over local services?

Our members were supportive of Government plans to devolve control over local services. However, concerns were raised that the Neighbourhood Services section of the White Paper was written very much from the perspective of local councillors rather than grass roots communities. They called on the Government to learn from the experience that community groups have of responding to the needs and wishes of local communities.

How do we ensure appropriate accountability for services run by communities to ensure that those not involved directly are not disadvantaged?

Time and resources are not evenly distributed across the population. We are anxious that additional powers will be disproportionately utilised by those who are already more powerful and have the confidence to navigate complex bureaucratic structures at the expense of poorer citizens who are less able to do so. This will particularly be the case for the suggested 'Community Right to Challenge', 'Assets of Community Value', 'Community Right to Build' and ability to hold local referenda on proposals which have collected sufficient signatures. During consultation sessions, our members repeatedly raised concerns that the needs of unpopular or minority groups such as refugees, asylum seekers and traveller communities could be forgotten about or abused due to the 'tyranny of the majority'. Members at our Eastern region consultation highlighted the crucial advocacy role of voluntary and community sector but worried that there were insufficient resources to enable these organisations to properly support

minority groups and ensure that a diverse range of views are reflected in the design and delivery of community run services.

We also believe that local authorities have a crucial role to play in the fair transfer of power to communities and that democratically elected councillors in particular must ensure that local resources are justly distributed. A member from the West Midlands suggested that the Government strengthen the existing statutory duties placed on local authorities in order to ensure minimum service standards and entitlements.

Our members were also critical of the assumption in the White Paper that communities would be willing to run the public services that they use. Many in the community continue to believe that the payment of their taxes should be a sufficient contribution to the provision of local services. Community involvement does not come for free yet the Government's plans seem to rely on a level of good will, time and interest that our members do not believe exist in many areas of the country.

Commissioned Services

What is the scope to extend and/or deepen the commissioning approach across public services?

Before extending or deepening the commissioning approach across public services any further it is essential that the Government undertakes a comprehensive evaluation of the model's performance so far. As noted above, there are huge hidden costs and other problems associated with commissioning and it would obviously be sensible to try and resolve these before applying it to other public service areas. There are also conflicts of interest which local and national government have been slow to resolve, particularly where those commissioning a service also have a management or employment role for the in house service. The impact on youth service provision is clear to see in many authorities. This lack of level playing field is set to be compounded by the Government's desire to achieve exemption from normal competition rules for public sector mutuals. While we appreciate that such organisations will have a steep learning curve once leaving a large public body, this will be no more challenging than the new business models voluntary and community organization are being required to adapt to, or the position of SMEs' diversifying into new markets, and could in effect justify and compound the anti-competitive practices of many local authorities who already seek to give preferential terms to in house services

Our members raised further issues during our consultation sessions. Those from the West Midlands complained that despite many years of investment in commissioning practices there is still no agreed understanding of commissioning amongst commissioners and that the quality and knowledge of commissioners varies drastically between and even within local authorities. They also noted that too often the focus is on procurement rather than the commissioning cycle. Others stated that they have chosen not to engage in recent commissioning in order to protect their professional integrity as the money available was insufficient to provide a service of acceptable quality. Finally, members questioned why competition was the default position in the paper when collaboration may produce better results

and raised concerns that in many cases the competitive nature of commissioning practice actually acts as a barrier to collaboration.

With regard to extending or deepening the approach, there are not actually any obvious or substantial areas of public service, at least not for children, young people and families, that stand out to us as having been literally closed off in principle to commissioned involvement with the voluntary and community sector. Even child protection services have involved the voluntary and community sector in supporting families and commissioned bespoke packages of intervention from the sector for the children and adults involved in serious abuse cases.

What can certainly be said, however, is that the extent and type of public services commissioned for the voluntary and community sector to deliver varies enormously from one department or local authority to another, and so the picture is not at all consistent. Some local authorities for example, have commissioned and re-commissioned all of their children's centres from the beginning of their development as new kinds of public services, while some other authorities still provide all of theirs in-house and have resisted attempts to encourage commissioning. Local authorities have also responded to reduced budgets in various ways with some contracting out services that were previously delivered by the public sector and others bringing back in house services that had previously been commissioned from the voluntary and community sector.

Commissioning is not all, or merely, about competitive tendering for full contracts to provide public services, but looking at needs across the authority in the round, and then deciding how best they are to be met. This should not preclude the possibility that some services may indeed be best provided by a statutory agency. Ideally, commissioning is about taking into view the wide range of services, of all kinds (public, voluntary and private) that may be meeting the priorities and needs in the community, (or identifying new or unmet needs), and ensuring through the commissioning process that they are supported to continue, adapt, or if no longer needed decommissioned in ways which do not destabilise the provider.

This whole systems approach requires a variety of techniques for supporting voluntary sector delivery, including competitive tendering but also, particularly grants and developmental commissioning which nurtures small organisations' ability to grow the capability and capacity for full contracting as public service providers.

What else can government do to overcome any traditional boundaries between public service providers, which get in the way of solutions to people's needs?

For children, young people and families, one of the principal barriers to delivering a service that fits around their lives is the transition from youth to adult services where they may suddenly lose the social worker who has supported them for the past 5 years and have to familiarise themselves with a completely different system. While the voluntary and community sector has the flexibility to deliver support across this transition, statutory commissioning structures often make it difficult to secure

funding. The Government should work to develop better joint commissioning between the youth and adult sectors to overcome this problem.

Our members were optimistic that the roll out of community budgets could lead to more joined up services. Key to the success of such placed based budgeting is the level of collaboration between service providers. However, as mentioned above, the pressures associated with the competitive tendering approach can make collaboration almost impossible. Rather than seeing other providers as potential partners, they are now seen as competitors. This concern is particularly prevalent among our smaller members who are extremely reluctant to collaborate with larger organisations on contracts out of fear that their services and expertise will be swallowed up and that they will be cut out when the service is next put out to tender. If the Government wants to encourage collaboration then it will need to reform commissioning practices so that they are based more on users' outcomes rather than unit costs. A number of members raised concerns during consultations sessions that this focus on price rather than people was evident in language used in the White Paper, describing public services in terms of isolated individual items to be purchased separately rather than an interconnected web of provision that service users interact with in a variety of ways.

How can we ensure that commissioners and providers are best held to account?

We are concerned about the impact of the Coalition's decision to significantly downgrade the variety and quality of monitoring information that it collects from local authorities (in our sector the Department for Education has cut funding for research and evaluation projects). Similarly, the decision to abolish the Audit Commission seems unlikely to increase the accountability of commissioners. While we understand the desire to free up councils from unnecessary bureaucracy and focus resources on delivery, it is hard to see how the Government will be able to effectively promote and enable if it does not have sufficient data to tell the difference between best and worst practice.

This is in stark contrast to voluntary and community groups who are increasingly asked by commissioners to provide detailed impact assessment data. We wholeheartedly agree with the Government on the importance of accurately measuring the impact of services. However, for many voluntary and community groups there are major barriers to developing their impact assessment processes; principally money. Thorough evaluation and rigorous data collection systems requires significant resources yet additional funding is rarely provided for this purpose in statutory contracts. Even when it is, it is also often the first thing to be cut when budgets get tight. With even medium size charities often lacking the resources to properly evidence their impact, it is unfeasible to expect small community groups, that the Coalition hopes will increasingly deliver public and community services, to do the same.

Similarly, combating the most entrenched social problems requires long term investment but with contracts often only a year in length, three at best, service providers are generally not given sufficient time to make a realistic impact, never mind evidence it. As the Government recognises, this is a particular problem for payment by results and may require proxy outcomes that can be delivered more

quickly. There is however an even more significant problem to be overcome if, as the Government hopes, payment by results is to lead to an accountability revolution in commissioning.

The idea of payment by results is a logical extension of outcomes based commissioning and holds potential to ensure that services are firmly focussed on what they achieve with and for their service users. Nevertheless, there are serious questions about the financial capability of VCS organisations to meet the costs of providing services up front, while awaiting payment on production of their results. The Charity Commission recommends that best practice for charities is to have six months operating capital in reserve if possible, and some charities are prevented from, in effect, subsidising public services with charitable funds. Payment by results regimes, which mean that those funds may not be fully recouped, provides an additional difficulty for Trustees and charity auditors. Even if they are able to use reserves in this way, with significant cuts from statutory funders, individual giving down and far more competition for funding from trusts and foundations, many of our members are already relying on their reserves just to stay afloat. Even if they did have six months operating capital, the kind of service outcomes they will need to achieve under payment by results arrangements are likely to take longer than six months. While in the long term they may be able to secure social investment to plug the gap, in the meantime payment by results will only be open to large delivery organisations and businesses, such as SERCO, that have the cash flow to make the model work. Even those voluntary and community groups that have a substantial fundraising capacity may have concerns that using donor funds to essentially subsidise the provision of public services pending repayment from the State, may not be the most appropriate way to spend the privately donated funds entrusted to them.

With regard to ensuring that services are accountable to their users, as noted above, we are sceptical that choice provides sufficient accountability. Services must be directly accountable to users through effective complaint and appeals procedures. For those who are under the age of 18 and not allowed to vote, it is essential that there is a powerful Children's Commissioner (we welcome the majority of the Government's proposals for introducing the recommendations of the Dunford Review), suitable appeal mechanisms (children, purely as a result of their age, often find complaints procedures far more difficult to navigate than adults) and regular consultation with under 18s at both a national and local level.

What new skills and training will commissioners need?

While some commissioners are undoubtedly excellent the quality of commissioners varies drastically between and even within local authorities. Our members have raised a number of concerns about commissioning practice, in particular the lack of understanding of the Compact and its requirements. They have suggested that before determining which new skills and training commissioners require, it would be best to focus on the basics.

Unlike the private sector, many public sector commissioners have never been in a position of delivering the services they are buying and have no understanding of the impact of many of their demands on the delivery capacity of small providers. Our members report mid contract demands for additional finance or monitoring information which have incurred significant costs, not recoupable through the contract.

This has in effect pulled staff from the front line to meet the demands of form filling and data gathering, in the full knowledge that the commissioners will do nothing productive with this additional data. Some very small providers are being asked to re-calculate their costs on a quarterly basis in order that the authority can recoup tiny bits of under-spend for example. The costs of the calculation process are far greater than the savings identified. This type of counterproductive red tape is a barrier for all providers, but particularly for SME's who have very lean core functions rather than the high numbers of administrative staff and finance officers which many commissioners are surrounded by.

Exposure to the realities of small business and a requirement to cost the administrative burden they place on providers and include an equivalent amount with the tender envelope would go some way to opening commissioners' eyes to the consequences of their demands and reduce the waste of public funds.

Ensuring Diversity of Provision

How can we stimulate more openness and innovation in public services through new types of provision?

Children England members and the voluntary and community sector more widely have a history of developing innovative and effective solutions to complex social problems. One of the reasons for this is the lack of prescription and flexibility associated with traditional funding sources such as grants and individual giving. These have allowed space and time for organisations to test various interventions on the basis of strong relationships with service users and a real understanding of the problems they face. Unfortunately, the increased use of competitive tendering and contracts makes such innovation almost impossible. Voluntary and community sector organisations have been forced to become more commercial, focussed on unit costs and less able to fund project development. Similarly, the move towards payments by results models is likely to see service providers focussing on achieving pre-defined outputs and indicators rather than innovating to deliver better outcomes. If the Government wants to encourage innovation then it should ensure that grants remain a significant part of the overall funding mix.

What more could we do to support and catalyse new enterprises (e.g. mutuals) spinning out from the public sector?

While we understand the reasoning behind placing greater power in the hands of public sector employees, we are unsure that it will have the desired impact. There is little evidence that the cuts being made to public expenditure have led to a significant reduction in back office functions. In this environment, those employees who do choose to set up their own mutuals will be delivering the same service with less resource and there is likely to be a mushrooming of contract managers to provide oversight for this new breed of external providers.

The impact of this is likely to be neutral at best and at worst could skew the market further. Services which might otherwise have been outsourced will instead become employee owned mutuals. Even once initial contracts expire, voluntary/private organisations will have to compete for future contracts with employee owned mutuals that town hall and central government commissioners may well feel they have a moral obligation to support. Or worse, commissioners may even be forced to award contracts to such spin offs if the Government succeeds in exempting them from normal EU procurement rules. In cases where whole children's services departments become mutuals, it is very possible that services that are currently outsourced to voluntary organisations could be brought back in house to protect jobs within the mutual. Given that employees will be prohibited from sharing profits, they have limited incentives to reduce costs by outsourcing to the voluntary or private sector.

How do we ensure a true level playing field between providers in different sectors?

We very much welcome the Government's desire to create a more level playing field between providers in different sectors. At present, small voluntary and community sector organisations find it very difficult to compete against larger, private, and statutory sector providers. Indeed, the suggestion that there is currently a level playing field was met with derision at consultation sessions, one participant calling it a "complete fantasy". We believe that there are three areas where the Government will need to level the playing field: between statutory and other providers; between small and large providers; and between voluntary and private sector providers.

Our members' comments regarding the advantages for statutory providers are generally based on their experience of local authorities though the criticisms relate to other public authorities as well. They identified two principal inequities, access and cost. Private and voluntary sector organisations are often excluded from discussions on the future shape of services on the basis that there is a conflict of interest whereas in house providers face no equivalent Chinese wall. Local authorities are also likely to lean towards in house provision in order to protect jobs. Similarly, as noted above, the encouragement of employee mutuals will exacerbate the problem, with the Government actually seeking to deliberately skew the playing field in mutuals' favour by suspending EU competition rules.

In many of these cases, decisions in favour of statutory providers are underpinned by an unfair determination of costs. When private or voluntary and community sector organisations bid for contracts they are required to include the full costs of vital back office functions such as management, finance and legal support. In contrast, public authorities rarely include or even know their equivalent costs for in house services. As such, they are not comparing like with like (which may go some way to explaining the continued reluctance of some commissioners to pay for full cost recovery). Non-statutory providers are also liable for VAT (e.g. on sub-contracting) which significantly increases the cost of delivery services compared to statutory competitors. We urge the Government to give further consideration to exempting non-statutory public service providers from VAT and requiring all public authorities to calculate the true cost of delivering their services when determining whether to contract out to the private or voluntary and community sector.

As noted in answer to previous questions, there are a number of aspects of current commissioning practice that provide significant advantages to big organisations at the expense of small ones. Firstly, both national and local government are increasingly issuing a smaller number of large contracts in order to drive down costs. Small, local organisations are unable to compete for prime contracts and must accept generally unfavourable terms as sub-contractors. Secondly, even where contracts are broken down into more manageable sizes, our two year study into commissioning and procurement practices found that applying for and managing statutory contracts is extremely resource intensive. Small organisations find themselves in a catch 22 situation whereby they must expend significant resources in order to manage the bureaucracy of commissioning but are unable to secure sufficient funding from commissioners to pay for these additional core costs. Thirdly, very few small voluntary and community groups have sufficient reserves to deliver payment by results contracts. Fourthly, and particularly in relation to health service contracts, few small organisations have the resources to undertake clinical evaluations of their work.

We believe that there are two principle ways in which the Government can support small organisation to compete for contracts, reducing costs and providing support. Firstly, it should take action to cut the cost of commissioning for service providers. Although commissioners at all levels have taken steps to reduce their costs, all too often this has been done in such a way as to push costs onto delivery organisations, for example by issuing large contracts and requiring prime contractors to draw up complex contracts with a variety of sub-contractors. Similarly, moves to reduce red tape have focussed on local authorities and other statutory bodies rather than service providers. As a policy priority, the Government should aim to introduce five year contracts as standard and seek new ways of simplifying commissioning processes, potentially by standardising across public authorities

Secondly, small voluntary and community groups require support and training so that they are better equipped to complete tenders and measure their outcomes. This support is most effectively delivered by infrastructure organisations. Unfortunately, both local and nation infrastructure organisations have seen significant cuts over the past 18 months. Although we understand the Government's desire for infrastructure organisations to become more self-sufficient, it is important to recognise that statutory bodies are one of two principal markets for infrastructure organisations (the other being their member organisations). If the Government is serious about small voluntary and community groups playing a greater role in public service delivery then it will need to fund infrastructure to provide support and build their capacity.

The final playing field to level is that between the private and voluntary sector. At present there is a relentless focus on driving down costs with commissioners often picking the cheapest option whether or not it is most appropriate. The voluntary and community sector, whilst certainly able to deliver low cost services, is focussed on quality whereas the private sector, whilst certainly able to deliver high quality services, is focussed on lowering costs and maximising profit. Until commissioners take a more outcome focussed approach and recognise the social value that the voluntary and community sector can add, our sector will always be at a disadvantage compared to private organisations. However, our members also made clear that if commissioners are intending on picking the cheapest option then they should make

this clear at the beginning of the process rather than wrapping commissioning documents in opaque bureaucratic language that only serves to waste people's time.

How should government regularly review the barriers to entry and exit for providers?

As noted above, we believe that the Government should undertake a comprehensive analysis of the bureaucratic cost of commissioning as this is the principle barrier to small voluntary and community groups delivering a greater proportion of public services. Such a review could be done annually with a report made to Parliament on actions that have been taken to reduce red tape.

However, we also recognise that in some cases high barriers to entry are not only necessary but desirable. Extremely specialised, risky or large services should only be taken on by organisations that are big enough to bear any potential financial and legal liabilities. What is not desirable is for these organisations to then pass all financial and legal risks onto smaller sub-contractors; a regular occurrence that has deterred many of our members from taking on further sub-contracted work. As such, any Government review of barriers to entry should also investigate sub-contracting practice.

How can we ensure continuity of services, in particular for the most vulnerable users?

Our members made clear in consultations that the key to ensuring continuity of services is to extend the standard length of contracts from a maximum of three years (though usually only one) to five years. Short term contracts create huge instability for providers and their workforces due to issues of job security and staff retention which inevitably impact on service users.

One member suggested that providers who are delivering a high quality service should be given first refusal on whether to renew the contract. Others called for the personalisation and direct payments to be rolled out more quickly.

Members also raised concerns about the safeguards that are in place if a contractor fails and highlighted the collapse of Southern Cross Healthcare. They called for robust and enforceable national standards to lessen the chances of unsuitable providers winning contracts.

Comments on the consultation process

This consultation covers very similar ground to the Modernising Commissioning Green Paper. Our members were angry that the Government did not officially respond to that consultation (contrary to Compact best practice) and believe that the concerns raised about the commissioning system have not been addressed in this White Paper. They were deeply concerned that just as the voice of voluntary and community groups has been requested and ignored in this case, under the Government's plans for public services, the voices of the marginalised will be ignored and the Compact will be flouted.