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1. Context

In February 2005 HAVCO invited representatives from local community and voluntary organisations to a meeting to discuss their experiences and needs regarding tendering for services to the Local Authority. All the organisations represented held contracts of one sort or another, including Service Level Agreements with the Local Authority, and therefore already had some experience of the types of arrangements that would exist under new procurement measures. This report reflects the issues that were raised by the organisations.

The purpose of the report is to highlight some of the concerns experienced by the Voluntary and Community Sector within the London Borough of Havering; and to begin the process of addressing the concerns expressed by groups as they are forced to move away from grant funding and Service Level Agreements to competitive tendering.

Hopefully this report introduces some of issues that the Voluntary and Community Sector are concerned about regarding the procurement agenda. The report also formulates some action points and recommendations with regard to how HAVCO can support the sector within the London Borough of Havering.

2. Cross-Borough Funding Issues

Some services in Havering are being out-sourced via contracts with Barking & Dagenham Primary Care Trust, or in the case of drugs and alcohol services via Barking & Dagenham Social Services.

A significant number of the contracts taken on by voluntary organisations with the London Borough of Havering have actually been for cross-borough delivery.

This arrangement has always seemed more beneficial to those commissioning the contracts than for the voluntary organisations themselves, as it allows them to provide a greater number of services within a single contract. It does however also bring benefits to those voluntary organisations that are structured in a way that facilitates the provision of services across a number of boroughs.

However, Havering Social Services' move to comply with the Local Authority's procurement policy is having a major impact on current Service Level Agreement (SLA) arrangements and tendering for new contracts. Questions that are being asked of the Local Authority by the voluntary sector are:

- who is commissioning services?
- how are they doing this with regard to cross borough provision?
- can they set up co-financed tenders?

The voluntary organisations that took part in this event feel that there remains some confusion with regard to this situation within the Local Authority. This apparent confusion is having a major impact on the funding given to local service provider organisations both in terms of contract negotiation, economies of scale, and notification of processes.

3. Multiple Meetings

One of the benefits of joint commissioning is the ability to delegate management of public funds for services across boroughs to one agency; and for voluntary organisations this meant dealing with one person, rather than two or three.

Obviously in the case of single borough procurement voluntary organisations may be working with a range of contracts for services that will each need to be managed, monitored and evaluated differently for each borough or department. This will have a multiplier effect on the administration and management required for contracts; and with such (relatively) small amounts at stake such contracts may not be cost effective for the organisation. This point is picked up in the discussion around full cost recovery.

Multiple meetings are already a problem for those with Service Level Agreements (SLAs) for a range of services (one organisation in the borough has over thirty SLA's and contracts for its different services). Organisations spoke of having to attend a number of contract meetings with different Local Authority staff for each of the different SLAs and contracts they have with; each may have different requirements for monitoring of the service.

If the multiple contracts could be organised with regard to joined up monitoring and reporting, or alternatively be jointly commissioned through the procurement processes, it would be of great benefit to the voluntary sector within the London Borough of Havering. It would enable them to focus on what they do best – delivering services to their clients.

4. One Year Funding

One of the perceived problems with SLA commissioning is that local authorities have for a long time only contracted for services on a one-yearly basis. This is problematic when an organisation wants to plan for 3-5 years in terms of their business development. This leads to a lack of security and development opportunities for voluntary organisations. A number of voluntary organisations have highlighted this as a key concern regarding the long-term sustainability of their organisations.

If open tendering is to have any effect, the ability to contract for more than one year at a time has to be key. If stability of service provision and the proper management and administration of public funding is to be achieved then the length of contracts has to move out of the one year contractual culture within public bodies and into longer-term commitments.

Contracts for other services (such as back office support, maintenance, buildings and leases, defence products etc) all operate on contracts much greater than 3 years – but this is expected within Local Authorities as they are commercial services rather than voluntary sector or statutory services.

The Government is keen to see the Voluntary and Community Sector become more professional and 'business-like'. However, the paradox exists that whilst funding for these services is treated in such a short-term way and seen as insignificant, voluntary organisations cannot manage their affairs in the same way as commercial contractors and become more professional as a result. The Government has stated that a public service contract could last for up to 25 years – although that may not be the norm, a five or even ten year contract would be huge benefit to voluntary organisations.

More support on these issues, in particular around negotiating contracts, has to be key to helping empower voluntary sector service providers.

5. A Commissioning Strategy

One of the best practice procurement strategies suggested by ODPM is the involvement of providers and contractors in the planning of service provision *before* invitations to tender are publicly announced.

Currently, with service development, little consultation takes place between Local Authorities and key stakeholders such as voluntary service providers. When this does happen voluntary organisations talk of it being both inconvenient and too short notice them to be part of the process.

Such consultation could have a great impact on a range of issues regarding procurement, including:

- the type of tenders being put out
- the relationships between the public body commissioner and the voluntary sector commissioner
- giving the ‘heads up’ to the local voluntary sector as a whole.

Think Smart ... Think Voluntary Sector

Good Practice Guidance on Procurement of Services from the Voluntary and Community Sector (Home Office Active Community Unit)

The Government have produced some good practice guidelines for those involved in the procurement of services within the Statutory Sector. It outlines the Government’s commitment to extending opportunities to the Voluntary and Community Sector (VCS) in the delivery of public service contracts.

One of the key proposals within these guidelines is the increasing participation the VCS should play in the procurement procedure. The guidelines suggest that the VCS should be actively involved in the key stages of the process:

- in the formulation of policy (early supplier consultation)
- developing policy outcomes/outputs
- development better procurement strategies in the pre-procurement phase
- developing better tender documents
- feedback and continuous improvement post-contract

www.homeoffice.gov.uk

6. Grant Funding

There is still a dependency on grant funding within the voluntary sector both from trusts and public bodies. Some funders will always work through giving grants to organisations. However with other funders, such as the Local Authority substantial changes have already been made.

The Voluntary Sector is already used to 'conditional' funding - with the requirement of outputs and outcomes. Through this type of funding criteria voluntary organisations have become aware of SLAs and contracts specifications. However, as highlighted by a number of organisations, contracts or SLAs are being rolled over to the following year, and in some cases beyond, without proper review. As a result these organisations have relied on grants from Trusts and what is now The Big Lottery (previously the Community Fund and the New Opportunities Fund) to maintain their services and make up the different between the actual costs of a service and the amount they receive from the SLAs and contracts.

Whereas before there may have been a sense of obligation for the Local Authority to provide grant funding to the Voluntary and Community Sector for the work that they do; Social Services are wanting to move to a more business-like approach. In order for a voluntary organisation to continue to deliver services within the borough they will need to be prepared for a complete change in their approach to funding. Whilst still being able to attract grant-funding for some of their work, an organisation will have to prove, through the tendering process, why they are the best organisation to deliver the service in this area. This is something that the sector as a whole are unfamiliar with; and in many instances uncomfortable with. The risks of not being successful in an open tendering process can generate fear and misgiving. Tendering for contracts is a real culture shift and involves a whole range of new skills being learnt by management in a short space of time.

The role HAVCO could play is to push and promote a contract culture in a positive and enabling way so that the sector does not miss out opportunities provided by competitive tendering. Instead this would enable the sector to deal with these changes confidently and with the value they deserve.

7. Full Cost Recovery

Most organisations (both intentionally and unintentionally) undersell the value of their services and undercharge for these when negotiating SLAs. This does them no favours with regard to professionalism and long term sustainability (or in fact self-sufficiency).

Many comment on 'trying to make do with what they are given'; or 'we would lose the little money we are offered if we play hard ball'. This leads to an unrealistic world where commissioners believe they can get services cheaply; and where organisations rely too heavily on voluntary labour, do not pay staff competitive rates, reduce the quality of service provision and/or do not provide the management and administration support required of the contract.

A number of organisations have already stated how that the SLAs and contracts they have do not cover their full costs and as a result the infrastructure of the organisation is not able to grow to meet the level of services it provides.

New Philanthropy Capital describe Full Cost Recovery as:

"Securing funding for, or 'recovering', all your costs, including the direct costs of projects and all your overheads. Every organisation, whether voluntary, public or private, needs to recover all its costs, and ideally generate a surplus, or it cannot pay its employees, rent office space, offer its products and services, or plan for the future and the continued development and delivery of its services."

This funding can come from a variety of sources including grants, trading activities, Service Level Agreements or contracts. The important issue is that both your direct costs and your overhead costs are met. In costing a particular project not only will you cost out the direct costs to the project, but also the proportion of the overheads that relate to that project. Therefore, across your whole organisation the theory is that all your overheads are met through each project you run paying a proportion of them.

Therefore when tendering for a contract in order to ensure that a particular service will not create a deficit within an organisation, full cost recovery will need to be included within the costings of the tender.

www.philanthropycapital.org.uk

Havering ChangeUp—Competitive Tendering

Support on issues of full cost recovery is key to the procurement agenda. HAVCO could support this in two ways:

- providing support on setting standardised tariffs for service contracts – liaising with public bodies on what they think should be values, and with the sector as to actual costs
- helping provide support and advice on what things actually cost.

Full Cost Recovery - a Guide and Toolkit on Cost Allocation

Acevo (Association of Chief Executives of Voluntary Organisations), New Philanthropy Capital (NPC) and accountants KPMG, have developed a new guide and interactive toolkit that help voluntary organisations calculate and understand the appropriate proportion of overhead costs that need to be associated with each activity.

The toolkit is an easy-to-use cost allocation template based on the highly successful Funding our Future II, recommended by the Department for Education and Skills and HM Treasury. It comes in the form of a guide and an interactive CD-Rom which are available both as independent products or as a complete pack. They are available from Acevo's website - www.acevo.org.uk/main/publications.php?content=pubcatalog

www.acevo.org.uk

8. Relationships with Commissioning Bodies

Voluntary organisations in Havering felt that the experience and knowledge of staff within commissioning bodies is often lacking. Local Authority Officers often did not know how to negotiate contracts or SLAs; asking the organisation to do this for them. Often no SLA was signed at all. Some SLAs have been allowed to run out and the commissioning bodies have asked the organisations involved to carry on, adding on inflation for the coming year. This does not reflect the growth or increase in costs of a service.

When it comes to getting clarification with regard to the contractual terms or outputs required, these output requirements have often been changed or modified by the commissioning body – causing detrimental effects to the service provision. This is also demoralising to the service provider – “being told a different story” or “being asked for different information every month can get to you”.

As a result the Voluntary and Community Sector organisations see their relationship with Local Authorities as being combative, and very unequal with regard to power dynamics. Many felt that the nature of the contracts are so small with regard to other commercial needs that they are treated as second class citizens when it comes to contract management.

This leads to the confusion and uncertainty with regard to service provision – and in no way is the fault of the provider.

The turnover of commissioning body staff – an issue raised by a number of organisations - and the lack of paper trails often leads to the battles earlier, and certainly causes management problems for the service provider.

Setting up a standard pro forma SLA for procurement purposes across the borough’s public bodies might be a ‘lobbying’ role for HAVCO; and would provide more security for voluntary organisations that need to plan and deliver services locally. Local area compacts on codes of practice could assist with this.

Havering ChangeUp—Competitive Tendering

A change is needed in the way that the Voluntary Sector sees its relationship with the Local Authority. The sector has a wealth of experience in providing services and with the contracting process. With a high turnover of Local Authority staff, voluntary organisations themselves may well be the most experienced at the table.

The sector needs to embrace the fact that they have considerable power, particularly if they are working together. They should take a much more proactive and strategic role in the process: whether it is through ensuring their involvement in the planning of service provision before the contracting stage, or developing their relationship with the Local Authority to ensure they know what the 'tick boxes' are that the public sector staff need to adhere to.

The Government have drawn up good practice guidance on procurement of services from the Voluntary and Community Sector. Part of the role of the CVS could be to help the Local Authority implement these guidelines.

HAVCO, through Kim Guest, have positioned themselves at a strategic level in the borough and beyond. This can only be of benefit to the Voluntary Sector within Havering in terms of the procurement agenda.

Fair Competition is the Key

There is growing interest in how the state can get better value through smarter management of the markets in which public sector bodies buy goods and services. A recent report from the Office of Fair Trading (OFT) marked the competitiveness of such markets as an important theme in the debate about public service reform.

The need to create and sustain long-term relationships between service provider and client is critical to successful public service delivery. Equally, local public service delivery may need to be integrated, challenging the orthodoxy that a more fragmented supply market for local services will be a good thing.

Public service markets are byproducts of government policy and procurement practice. Created through policy and legislation, their competitiveness is almost entirely derived from the effectiveness of procurement.

abridged version from Public, February 2005

9. Payment Schedule

Despite best practice guidance and promotional materials encouraging bodies to supply and work with public bodies, the Voluntary and Community Sector has found that funding and payments have been sadly delayed – in one case for almost nine months.

Again, this is a paradox with regard to the agenda to increase the professionalism of the sector. It is very hard for a voluntary organisation to establish a good working relationship with a bad debtor, especially when there is a power imbalance with regard to future work. In any other situation this would be construed as an abusive relationship – and is certainly not policy.

Better payment schedules, including penalties within contracts, should be jointly worked out and standardised through Compact negotiations. Sharing of experience across agencies can lead to more helpful payment profiles for the sector.

It may be possible for a standard to be agreed such as:

- first payment at the beginning of the contract to cover start up costs and first six months of the service (especially if equipment is needed or new staff need to be recruited)
- a service review undertaken after six months, followed by quarterly payments in advance.

10. Monitoring Complexity

The range of monitoring and feedback has to be proportional to the amount of funding provided within a contract. When a decorator is contracted to paint a block of council houses, they are not asked to document the exact number of tins of paint expected/used, the paint brushes used, the rolls of papers etc. Why should a voluntary sector organisation have to document expenditure in this way for other services?

Within the borough, one voluntary organisation is juggling over thirty contracts. For just one of those contracts it takes one member of staff a whole working month to complete the necessary monitoring for one year's service.

There is also a lack of consistency and standardisation with regard to requirements enforced by Commissioners. If some standardisation were agreed, monitoring and evaluation would be simpler and more 'cost effective' for both commissioner and contractor. The alternative is to add in the cost of this monitoring for each contract. Unfortunately Commissioners to date have been unwilling to accept this as a project or service cost, and thus do not acknowledge full cost recovery for services.

Systems could be simplified at the Local Authority level with regard to standardising systems – again a potential lobbying job for HAVCO. Alternatively HAVCO, or at a national level NACVS the umbrella body for local CVS' could develop a standard (all encompassing) monitoring tool that may require slightly more input, but could pull out the figures for all public body service requirements at the press of a button. This could be expanded to include other funders.

11. Legal Support

The one thing most people felt lacking was legal support with regard to contract negotiation, SLA terms, and the impacts of late payment, non-documentation or changes to terms.

Some guidance is needed – potentially agreed with the Local Authority. There is also a need for advisors to be available for difficult and challenging situations. This could be a possible role developed as part of the Local Compact.

Charity Chiefs Hit Out at Short Public Contracts

Efforts to reform public service by enabling charities and community groups to act as front-line providers are being held back by short-term, badly funded contracts between the third sector and government agencies, according to a survey published by Acevo. They found that despite nearly three years of reform by central government, nearly a third of charities have closed down or cancelled services they offer due to "poor funding practice". It warned that most contracts are still "short-term, uncertain, bureaucratic and undervalued".

But the report concedes that funders have generally become more "willing to negotiate" since 2001 and warns that charities must also hold up their hands for "failing to make a strong enough case for better funding."

abridged version from Regeneration & Renewal, 18 February 2005

12. Level Playing Fields

This is a difficult one. On the one hand organisations feel that they are being overlooked, and neglected - an example being an organisation that was not invited to tender for their own service.

Many organisations feel that the experience, knowledge and the relationships built up over a number of years at a local level are being lost as larger organisations from outside the borough have the opportunity and resources to put in tenders and win business from them.

However, organisations also want special 'privileges' because of this local base or knowledge; and struggle with valuing this accordingly. They do not wish to develop special relationships with the Commissioners but still want the Commissioners to favour them because of locality.

Organisations need advice and training on how to sell services, how to build relationships with the Local Authority, how to illustrate the added-value of their services and how they are able to meet other agendas within the Local Authority. This is key to an organisation's understanding of getting 'special privileges'. The Voluntary and Community Sector no longer has the right to run a service because they always have – they need to be able to prove why they are the best choice. There is a real need for the sector to work together and network effectively in order to help each other get business.

There is also a need for support in liaising and keeping up with changes in commissioning structures, personnel and agendas – and continue to move established relationships and local understandings onto the next person or policy area.

Support from HAVCO in both these areas could impact heavily on future procurement practices.

Havering ChangeUp—Competitive Tendering

Loss of local services is a real concern. The less support provided, the less small voluntary organisations can engage in tendering for service provision, which results in them leaving the area or closing down. In turn this means a loss of local and community provision and a loss of community ethos. The Government recognise that long-term relationships between the service provider and client are critical to the success of public service delivery. However, voluntary organisations still need to be able to highlight the strength of their relationships with clients and why it is vital, in the case of their service, to the client's well-being. More engagement in the planning of service provision and an awareness of the 'added value' of local provision should be promoted to Commissioners and Local Authority Officers.

Certainly, information provision is a key role that HAVCO can play in terms of policy or personnel changes, planning procurement activities and tender advertisements for example. From the experience of the organisations at the event it seemed that they were either unaware of tenders that were available or were only getting involved at a relatively late stage. Some system of advertising tenders up front would be of great benefit to voluntary organisations.

Lobbying in terms of agreeing standard procurement procedures, standardising monitoring requirements and the cost of service provision would be excellent roles for HAVCO to play.

Finally, support and training in enterprising ideas and activities – to facilitate the exchange of information across organisations in developing alternative ways of bringing in finance, other than grants, would be of great benefit. If this could be provided alongside business planning and putting together a tender document then the voluntary organisations that took part in this event, and the wider Voluntary Sector in Havering, would be more prepared to enter the procurement agenda.

Voluntary Sector to Get Fairer Deal

Voluntary and Community Sector (VCS) organisations bidding for public service contracts could be put on a level playing field with private sector firms under Government proposals unveiled this week.

A consultation document published by the Home Office recommends that public sector bodies seeking to deliver public services through VCS should use procurement rather than grants and should not seek information about management fees and overheads.

It says all public sector procurement should be based on value for money and where the VCS is able to offer advantages to the delivery of services, it should be ensured that it can fully participate in the procurement process "on an equal footing with the private sector and, at times, statutory bodies".

The move follows complaints about poor funding practices under the Compact - a 1998 agreement between the VCS and the Government regarding the relationship between the VCS and the public sector.

The consultation for the new scheme, called Compact Plus, proposes building on the original Compact by offering a simpler list of commitments and a stronger emphasis on the funding relationship between the VCS and the Government.

An independent 'compact champion', responsible for highlighting good practice and adjudicating on non-compliance, would head the proposed scheme and have powers to withdraw Compact Plus membership from local authorities or VCS groups that breached the rules. Under the original Compact there is no mechanism to highlight non-compliance.

Stephen Bubb, chief executive of the Association of Chief Executives of Voluntary Organisations, said: "The sector cannot deliver under sudden-death, short-term, bureaucratic contracts. The Compact Plus proposals offer a new route towards a surer funding framework. We intend to use it."

Home secretary Charles Clarke announced that ChangeUp - the Government's capacity-building and infrastructure fund for the voluntary sector - will get an extra £70 million between 2006 and 2008 and the fund will be managed by a new sector-led development agency.

He added that the Futurebuilders Fund, intended to improve public service delivery through investment in the VCS, will receive an extra £90 million over the next two years. The investment brings the Futurebuilders Fund up to £215 million in total and will continue to provide loans and grants until 2008.

Regeneration & Renewal, 25 March

13. Key Issues

The tendering process is very complicated and unclear at the moment. Many organisations want support in understanding this; advice on how to do it; help with identifying the stages and key activities; and support with how to cost things properly. Most of the organisations that took part in this event felt unsure as to whether they had the necessary skills in order to submit a good tender. Some felt they did not have the time needed to put together such a tender and would need support around what would be involved and included in such a document. A relatively high number of the organisations did not have an up-to-date business plan.

The potential risks for the organisations that are not successful with their tenders have created an atmosphere of fear about the whole process.

The DTI have produced a toolkit for social enterprises to help them with entering into procurement. This document would also be useful to all organisations within the Voluntary Sector.

Most of the organisations stated that they would be able to calculate the full costs of their services. However, this statement did not necessarily balance with the comments about their current contracts not meeting all of their financial costs. It may be the case that all organisations need some input into full cost recovery processes, to ensure that none of them price themselves too low.

There also seemed to be a limited awareness of who the competitors for services would be. Some were able to name other voluntary sector organisations; others just assumed there would be competitors but did not know who they were. Some work around competitor analysis would be useful to ensure that those voluntary organisations preparing to tender for contracts are aware of the competition they will face.

The Voluntary Sector and Social Enterprise

In the Government reports that relate to procurement, Social Enterprises are included within the definition of the Voluntary and Community sector.

Social Enterprises have many similarities with voluntary and community organisations - they have social aims; profit (if there is any) is reinvested into those social aims; the involvement of stakeholders is key; and they are independent organisations. Where they differ is that they trade in order to generate income, rather than relying on grant-funding (although grants may be needed to get them up and running). We define trading as selling a service such as training, or a product such as fair trade goods. Much of this trading involves entering into contracts with clients such as Local Authorities.

Many voluntary and community organisations may also undertake trading activities - many charities, particularly the larger ones have charity shops that sell second-hand goods. We therefore might want to say that such VCS organisations undertake 'Social Enterprise activity', even if they do want to term themselves as Social Enterprises.

What is clear is that as the VCS enters into contracts to provide services they are automatically engaging with the Social Enterprise agenda. One of the main ways Social Enterprises trade is by taking out contracts to deliver services. Handled well this could be a huge benefit to VCS organisations looking to tender for contracts.

Because tendering for contracts makes up a bigger percentage of the income of Social Enterprises than it does of VCS organisations more effort has been put in to support Social Enterprises through the procurement process. This has resulted in a number of helpful reports, resources and support services being developed, that are specifically for Social Enterprises.

One of the most useful is **Public Procurement: A Toolkit for Social Enterprises** published by the DTI. Listed in the resources section at the back of this report, this document outlines the process, gives examples of successful tenders and provides a checklist for Social Enterprises new to procurement.

Any VCS organisation that is seriously considering tendering for contracts would benefit from piggy-backing on the back of the Social Enterprise agenda. By learning the language associated with Social Enterprises (which sounds more like business than the VCS is used to) the VCS will have access to not only the support from its own umbrella organisations, but also those aimed at the Social Enterprise sector.

Locally support is available from the Social Economy Unit within the London Borough of Havering and Social Enterprise London (the umbrella body for Social Enterprises in the capital).

www.2amase.org.uk

14. Reports and Resources

COMPACT FOR HAVERING

Havering Strategic Partnership

http://www.thecompact.org.uk/module_images/Havering%20Compact%202004.doc

FULL COST RECOVERY: A GUIDE AND TOOLKIT ON COST ALLOCATION

New Philanthropy Capital

available from http://www.philanthropycapital.org/html/full_cost_recovery.php

NATIONAL PROCUREMENT STRATEGY FOR LOCAL GOVERNMENT

Office of the Deputy Prime Minister

www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/downloadable/odpm_locgov_024923.pdf

PROCUREMENT - THE SOCIAL ENTERPRISE SOLUTION

supplement from Social Enterprise Magazine

available from www.socialenterprisemag.co.uk/document_tree/ViewADocument.asp?ID=56&CatID=31

PUBLIC PROCUREMENT AND SOCIAL ENTERPRISES

renewal.net

Available from www.sbs.gov.uk/content/socialenterprise/procure_text.pdf

PUBLIC PROCUREMENT: A TOOLKIT FOR SOCIAL ENTERPRISE

DTI

www.sbs.gov.uk/content/socialenterprise/procure_text.pdf

THE ROLE OF THE VOLUNTARY AND COMMUNITY SECTOR IN SERVICE DELIVERY - A CROSS CUTTING REVIEW

HM Treasury

available from www.hm-treasury.gov.uk/media/890/03/CCRVolSec02.pdf

THINK SMART ... THINK VOLUNTARY SECTOR - GOOD PRACTICE GUIDANCE ON PROCUREMENT OF SERVICES FROM THE VOLUNTARY AND COMMUNITY SECTOR

Home Office Active Community Unit

available from www.homeoffice.gov.uk/docs3/thinksmart_040608.pdf