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Public Administration Select
Committee

Public Services and the Third Sector: Rhetoric and Reality

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Oral and written evidence

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The Public Administration Select Committee

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Oral evidence

Taken before the Public Administration Select Committee

on Thursday 7 June 2007

Members present

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Kelvin Hopkins

Julie Morgan
Mr Gordon Prentice
Mr Charles Walker

Witnesses: **Lord Adebowale**, Chief Executive, Turning Point, and **Ms Joyce Moseley**, Chief Executive, Rainer, gave evidence.

Q1 Chairman: Let me extend a very warm welcome to our witnesses this morning. We are delighted to welcome Lord Victor Adebowale, who is the Chief Executive of Turning Point, and Joyce Moseley, who is the Chief Executive of Rainer. As you know, the Committee is doing an inquiry into commissioning involving the third sector. Both your organisations are particularly interesting to us because you are such big players in terms of commissioned services and therefore we would like to explore some of the issues around this inquiry with you if we may. We are also very grateful to you for the memoranda which you both submitted.¹ Do either or both of you want to say anything by way of introduction?

Lord Adebowale: Not really. You have our submission from Turning Point. I am at your disposal, as they say.

Ms Moseley: The same; no, and thank you for inviting us.

Q2 Chairman: Can we dig away a bit at some of the underlying issues here? Everyone is very keen to see the third sector generally play a greater role in services to the Government. What we would like to know from you as people who have been doing this for some time on rather a large scale is, what is it you think you bring to it that makes it worthwhile to be interested in developing third sector provision?

Lord Adebowale: There are a number of things. I cannot speak for the whole sector but my own organisation sees its role as bringing the following things. First, we are able to bring together different funding streams to create sometimes bespoke services that meet the needs of individuals and their communities. I am thinking of cases where people have both substance misuse and mental health challenges or learning disability and mental health challenges or where there are particular communities that have been under-served by public services. Where there is a need for, for want of a better term, a bespoke response my organisation is able to pull together funding from a number of

different sources in the interests of the individual and the community in a way that I am not saying the public sector is unable to do but finds it more difficult to do. I think that is one of our strengths. I also think that there is evidence from my own organisation that we are able to get at some of those communities that the public sector has struggled to interface with, to get into services with or to engage with. There are some debates about value for money, I guess, when we bid for contracts. It is in a competitive environment often with both private and public sector organisations and if we win the contract it is on the basis that we have put forward a better value proposition, usually not just in money terms but also in terms of people. Those are the three things that I would highlight.

Q3 Chairman: The Committee last year went to New York and saw extraordinary things happening in Harlem, and when I read your memorandum and you talked about doing joined-up services for whole neighbourhoods it took me back to thinking about what we saw there. I cannot remember the person's name who was the driving force in that but he or she was an extraordinary person. What was amazing was that they were not just operating in terms of particular services; they were doing the whole joined-up thing, the whole life experience for people living in that community, and I wondered if you were offering that.

Lord Adebowale: In some cases. Certainly Turning Point's Connected Care proposition, where we have designed a way of bringing health and social care commissioning together and where we have got a way of designing the use of services and engaging with communities in a way that gets them to design and specify the types of services that they will use and often they can get jobs in as well, is an example of that kind of bespoke service response that Turning Point is able to do. We are very much driven by the inverse care law which states that those people who need social care most tend to get it least.

Ms Moseley: Adding on to what Victor said on the bringing together of funding streams and service provision, I would evidence that by our care leaving

¹ Ev 106, 112

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services where we provide social work and personal care to young people. What we also do is manage the housing provision for those 16-plus young people. We will also be bringing in specialist education provision to give them intensive input. We can bring in funding streams from Europe, for instance, which the local authority would find difficult to access. We have a £2.1 million contract with Surrey to run their care leaving services and over a year we have brought £1.2 million of other services into that to give a really complete and whole service to those care leavers, something the local authority I think would find difficult to do. We also work very much in partnership with them and they are very grateful for that.

Q4 Chairman: Is the argument though that what we need is a sort of mixed economy of provision in which the state will do some things and the private sector will do some things and the third sector will do some things, or is the claim that the third sector does things better than either the state or the private sector and therefore needs to be given a special place?

Ms Moseley: Sometimes we do, sometimes we do not. I do not think any sector has the monopoly on good practice. My background is in the public sector as a director of social services and I know there is huge passion in some public services but I also know there are some very poor services in the public sector, and I would say the same for the third sector. We need to look at which organisation can deliver services in the best way for those individual people. We deal with young people, young adults in the 10-25 age group. Many of them, because of the difficulties they are getting into, see authority figures in whatever state as something they want to avoid. We can get over that a bit and that is very helpful to those young people and to the local public services.

Q5 Chairman: I am trying to push you on this. It is quite fundamental to the argument. We had a seminar here a week or two ago with third sector people and to a man and woman they were wanting to argue that there was something extra that you get from the third sector. In fact, someone said that the whole point about it is that it is not the state, the idea being that it is better than the state. It is quite an important thing to get your head round, whether you think that, in a sense, anybody can provide services, horses for courses, or whether the argument really is that there is something so distinctive and better about the third sector that would make you want to insert it wherever you possibly could.

Lord Adebowale: My response is quite simple. It is not either/or; it is and/and. Most people that we provide services to, those 140,000-odd people, those that I talk to, and I have spoken to a lot, do not really spend a lot of time worrying about whether we are a public service, a private service or a third sector service. What they are worried about is the service, full stop, and generally that is the direction that people out there are going in. I would not sit here and say that the third sector should receive some special plea for public services. What I would say is

that if you look at social care there is some evidence, looking back through the Commission for Social Care Inspection reports, that in some areas the third sector provides better services, better care. We can provide better care in a way that is driven by not-for-profit; if you look at our accounts you can see where the money is going. There are no shareholders, no distribution of dividends, so you could argue in some circumstances that yes, there are better services and there is some evidence for better chunks of services being provided by the third sector, but to say that the third sector is better than the public sector, or indeed better than the private sector, is a statement I would not support if any sector said it. It does not make sense.

Ms Moseley: I would certainly add that I do not think we have any inherent right to say that. However, again, if you look at bail and remand services for young offenders, which my charity developed before it was a statutory responsibility and then went on to deliver some services when it did become a statutory service, and we wrote the good practice guide for the Youth Justice Board and so helped the public sector to take on that responsibility but then many of the services that the voluntary sector was running were taken in-house when special grants came to an end, there is clear evidence that those services no longer performed as well. There is something about the fact that you are running a specific service on a contract that gives you a real focus and that focus can then dissipate a bit when it is taken back into the more general youth offending team, which is what happened in that service, and that can be demonstrated. I think there is something about the fact that we deliver what is on the tin. If you have got a good contract in a well-commissioned service we have a real focus on it.

Q6 Chairman: I am sure colleagues will want to ask you about particular examples so that we can see some of those in action. You talked about not having an inherent right to be treated differently but, in terms of the commissioning process and the contracts, when I read your submissions, particularly Rainer's, there was a kind of irksome sense in terms of the regulation, the bureaucracy, "If only they would deal with us in a more straightforward and simple way life would be so much easier". What I want to know is whether you think this amounts to a claim on the part of the third sector to be treated differently in commissioning and contracting terms.

Ms Moseley: I just think it is about improving commissioning. I think the phrase that the public sector does not know how to buy and a lot of the voluntary sector does not know how to sell is something to hold on to. I think we gave some examples of that. I think we ought to be regulated. I think we ought to be selected for quality. If we are spending public money that is what should happen, but when you have to provide three box files of your policies to someone for a contract which is worth about £50,000 a year when you have been working with that authority for 10 years that is when it becomes irksome and that is just over-regulated,

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over-zealous contracting people, particularly within local authorities, who do not see beyond their very narrow responsibilities.

Q7 Chairman: But that does not apply just to the third sector. It could apply to a private contractor or anybody else.

Ms Moseley: Absolutely, yes.

Lord Adebowale: The point I would make on this is that in terms of the services to the public better value could be got out of the third sector by simply applying some of the thinking that applies to the private sector—longer term contracts, for instance. There are many cases where third sector organisations do not enjoy the same level of long term contracting that the private sector takes for granted. Full cost recovery: again, it is assumed without question in some cases that the private sector will make a profit. Nobody questions it, it is never clawed back, it is just that that is the way it is, but in some third sector negotiations it is assumed that we will be subsidised by fund-raised income or that somehow we do not need to cover the costs of providing a service. I think that mitigates against good services to the public rather than being a special case. I would agree with Joyce. The private sector also complain of the over-burdensome procurement process, some of it led by European law, that requires massive amounts of time and effort to be spent on what are known as PQQs, pre-qualification questionnaires that are just ridiculous. In fact, the contract bid is often three pages and the PQQ is four boxes. It just does not seem to be accurate. I think there is a huge debate to be had about commissioning. It is the skill of the age in the sense that everybody is concerned about value for money, everybody is concerned about ensuring that we reach the people that need services most. That is about commissioning. That is not an issue for the third sector. Again, if you look at some of the work that KPMG have done, if you look at the work of the Public Service Reform Group, all of them, including the Audit Commission, would be looking at commissioning as one of the issues that we need to pay attention to.

Q8 Mr Walker: Lord Adebowale, one of my concerns is that large organisations like yourselves, when you are contracting or bidding for contracts, crowd out small, established, local charities. In my constituency of Broxbourne we are served by a very good local drugs charity called Chrysalis, which is staffed by outstanding people, not in my constituency but in the constituency of my colleague, Mark Prisk, Hertford and Stortford, but they are having their contract terminated by the County Council in September and I understand that you are one of the organisations bidding for this more global contract across half of Hertfordshire, and if I have got that wrong I apologise. How do you answer that concern, because it is a genuine concern, that you are almost corporate in your outlook, that

you have a cross-United Kingdom presence, that you are just knocking out small charities who can retain that essence of a charity but do not have lobbyists, do not have marketers; they purely focus on delivering a local service?

Lord Adebowale: I think it is a really interesting question. We work with a whole range of small organisations. I would just say that there is a market place within the charity sector, as you well know, as there is in the private sector, in which both large and small operate, and in a market place first of all I would not assume that small charities are any better or any worse than large charities. There are excellent small charities, there are some not very good ones, and vice versa. Hertsreach is an example where we work with a whole range of small charities to pull together a county-wide substance misuse service, which I think Chrysalis is part of, so I think we are working with Chrysalis as a small charity. We also were part of the Government's Change Up programme where we put a significant amount of our own resource and time into working with a whole range of small charities, not on the front-line service delivery but on the back room stuff, the human resource services, the finance services, the things that they find difficult to finance and provide for because they just have not got the resources. Sadly, the funding for the Change Up programme was withdrawn but we have continued to retain a relationship with those charities. Similarly, we work with Kikit in Birmingham, which is a very small drugs charity specifically focused on a particular part of the community and we work with BRO-SIS, which is another small charity that works with people with HIV and drugs challenges in the east African community. We have a number of examples. It is not something that we need to boast about. It is something that we do because it is not about being big; it is about being good. We will work with anyone really who is interested in the values of our service. I just think it is interesting that there is an assumption that in order to have large charities or social enterprises, which is what Turning Point is, the small ones must die. Actually, some of the fastest growing social enterprises, third sector organisations, are very small and will probably be bigger than Turning Point in five or six years and want to be bigger than Turning Point in five or six years, and good luck to them.

Q9 Mr Walker: So when you are bidding for a contract do you look at what already exists in the way of provision and do you then in your bidding incorporate how you would work with those existing providers, because some of them, obviously, you will want to work with and some of them you might take the view are not doing a good enough job and you would not want to work with?

Lord Adebowale: The short answer to your question is, absolutely. In fact, we would not have got most of the contracts that we have won if we had not evidenced that we understood what was happening locally, that we had developed partnerships or

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relationships with small local charities and that we were working alongside them. But they have a choice too and some small charities choose not to talk to us or get engaged with us, and that is a choice they make. What we do not do is force the issue either way. I cannot think of a service that we provide currently in any of our sectors where we are not doing so alongside local groups and small local groups at that.

Ms Moseley: I can add to that some examples where we were bidding for services in Wessex with the Wessex Youth Offending Team, which, as you all know, covers Hampshire, Portsmouth, the Isle of Wight and one other, I think. We knew, because we had already been working in that area, that there was a very good service within Portsmouth, which probably was not big enough to take on the full contract. It was something that the Wessex police and the Wessex YOT wanted for efficiency, for consistency across their whole area, so we discussed that with the commissioners and said we were very willing to work with them and the commissioners acted as a broker, if you like, saying yes, that was what they wanted as long as we could come to agreements about providing a consistent and similar service across the whole area, which is what we did and that has gone on to us working with that organisation on other service deliveries. Again, it goes back to what Victor said about the skills of commissioners. If they see themselves as people who are responsible for their community and for making the best of the resources in that community you can then get into a better dialogue with them on those sorts of partnering arrangements. Often they do not see themselves like that. They see it as a very narrow contracting process rather than a commissioning process, if I can make that distinction.

Lord Adebowale: Earlier you asked what were the benefits, the value-added bit of the third sector, and I think Joyce has just adequately described one of those benefits. In a market where resources are tight, which is often the case in delivery of social-care-type services, competition that is not managed by an intelligent commissioner wastes those resources. One of the benefits of the third sector, I would argue, is that we have a value which is about retaining those services, so the kinds of deals and the kind of work that both Joyce and myself have described retain resources in the sector and in those services. If those services close that resource is generally gone for ever; it is not going to be rekindled, so that is one of the things we are able to do where in other sectors it is a case of, "You are too small and you cannot compete; tough, you are out of business". It is slightly more sophisticated, I think, in the third sector.

Ms Moseley: Whether it is contentious or not, I think the commissioning people locally do have to make some hard decisions sometimes about which local small groups are good.

Q10 Mr Walker: Very briefly, because this is probably quite a long answer to a short question, how do you structure your relationship between

yourselves and small charities to ensure that small charities retain their fleetness of foot and local focus?

Lord Adebowale: I am not quite sure I understand the question.

Q11 Mr Walker: You are a major UK player. You win a contract, there are small local providers that you are going to work with. How do you ensure that in working with those charities you protect their uniqueness, in a sense?

Lord Adebowale: First of all, there are a number of rules. The first is that we do not dictate to them how they define themselves. They define what it is that they offer and how they offer it. Often the relationship is with the local service manager, ie, the Turning Point service manager will already know who they are because they live locally, they work locally, they understand the local area and will already have been in dialogue about how we can work together and what the services are, but it is different in different areas. Not far from here we have a service in Brixton, ACAPS, which works with a lot of young people, probably a few thousand in the course of a year, who are known as NEETs—I think it is a rather unfortunate phrase—not in education, not in employment, not in training. We are working with those young people getting them into training that will give them work in our sector, and in order to do that we have to work with a range of other small local charities that might have engaged with the same young people. What we are not interested in is taking over those services. Nine times out of 10, in fact, in 100 % of the cases, those services want to work with Turning Point because they want to offer a service for those young people that means that the young people are not going from pillar to post having to tell their story twice, which is, as Joyce will tell you, one of the reasons why young people drop out of services altogether. We look at pooling resources, back office services, so that we are not all spending the money on the same things, a lot of the things that I am sure you would consider to be good business practice, without ever getting into a debate about takeovers or changing. It does not get there because the dialogue is focused on the needs of the client and the community, but there are some small local charities, and I respect it entirely, which take the view that it is bad and do not want to talk to us. I think that is fine if that is what they want to do. It is a free country.

Ms Moseley: Just on that point, sometimes we have gone into fairly formal subcontracting arrangements with a small charity because that was what they wanted. At other times it is very much on trust and some of our money just goes over to them, with some audit trails, of course. I think there was an assumption there about small being always fleet of foot and community based, and I suppose I would want to say I think we are too. I would say that a part of making us very community based is the number of volunteers we use as an integral part of our services, who are always taken from the local community, and that may be something we will pick up on later.

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Lord Adebowale: The formal answer to your question is that there is also quite a lot of subcontracting. We subcontract services as well, so it is not straightforward “large is good”.

Q12 Julie Morgan: I wonder if you could tell us what percentage of your income is voluntary income and how you raise it and how that has changed over the years.

Ms Moseley: It is quite small and always has been since our origins in 1788 when it was all voluntary income. At the moment it is 4% and rising, we hope. That is funds raised from donor corporates and trusts, that sort of fund-raising. We also have some income which is derived from reasonably low investments that we have and the income from those investments is used directly for the charity. We have a small fund-raising team which our trustees have invested in from our reserves in order to try and increase the percentage that is fund-raised, and we see it very much as adding value, so not subsidising the contracted services we have but adding value to the public services we deliver. It is very hard; sometimes young offenders are quite difficult to raise money for.

Q13 Julie Morgan: What methods do you use to raise money?

Ms Moseley: We have tried and investigated various methods. We have a fairly small donor base to whom we send out appeals and newsletters to encourage them to know more about us. We have tried knocking on doors with a basket of charities, as it is called, using an agency. That was fairly successful. We have tried face-to-face, better known as “chugging”. That did not work for us because we do not have a very high profile. Unless you have a high public profile getting money directly from the public is extremely difficult, so we go a lot to trusts and foundations for money where we are putting in bids for grants, and they are often very specific grants; it is not free money in that sense. We also work with some corporates. For instance, Artemis Investment Management work very closely with us on our Lambeth youth inclusion programme and have become very involved. A group of young people from Lambeth are going with staff from Artemis this weekend to climb mountains in Scotland, for instance. They have taken a very personal interest in the charity.

Q14 Julie Morgan: Does the fact that the voluntary income is so small and you are so dependent on statutory income affect you as a voluntary body? Does that affect the way you work?

Ms Moseley: I do not think so. What I am finding is that bidding for voluntary money from trusts and corporates, for instance, is as detailed and tricky sometimes as putting in a bid for a public service. You have to show the same evidence, you have to show the same business-like abilities to spend that money. The corporates and trusts want to know that they are going to be able to rely on that money being spent well, so there is a coming together of the way we operate. If I can go under the question in terms

of our abilities to, say, campaign or lobby for the young people we work with, I do not think it makes any difference whatsoever. We have always been a charity that has used the evidence from our services very directly from our young people in a quiet way. We do not shout loudly about our campaigns. The fact that we work in 150 communities, we have that many contracts, if not more, means that we are not reliant on any one provider of money in any way. We have just done some research around the housing of care leavers. We run some very big care leaving services where we hold the statutory account for the social workers in our teams, but that has not stopped us sending our research to every director of children’s services and the Government saying, “You are not doing well enough in terms of the way you house your care leavers and we have the evidence to show that”, so I do not think so.

Q15 Julie Morgan: And you do criticise your funders?

Ms Moseley: Absolutely.

Q16 Julie Morgan: Good for you. Do you feel it inhibits you in any way?

Ms Moseley: No. What is more constructive, if you are taking an individual contract that you might have for a service, is the dialogue and the discussion you have as part of the monitoring of that contract. If it is a constructive relationship rather than a ticking-box type monitoring arrangement you can say, “Look: because of something that is happening in your authority you are not getting the best out of us or from your young people, so together can we change that?” In that sense that sort of lobbying is much more constructive at a local level.

Q17 Julie Morgan: Do you have any examples where contracts have been ended or lost because of your criticism of funders?

Ms Moseley: No.

Q18 Julie Morgan: Can I ask the same of you, Lord Adebowale?

Lord Adebowale: Turning Point is a not-for-profit social enterprise. We are a business. We do not have any shareholders, we do not distribute a dividend at the end of the year. About 95% of our income is contract income with statutory services. We operate in 250 different locations around the country. We have hundreds and hundreds of contracts, well over 400, I would say. We do raise money from trusts. In fact, we had over a million pounds from Comic Relief. We have had some large grants to do specific work in areas that we are campaigning on. Does it stop us from campaigning? Hell, no. Let me give you some examples of the campaigns that we have run. At this moment we are running a campaign on blood-borne viruses in needle exchanges and the need for the Government to radically review its advice and practice on needle exchange. We have called for safe injecting rooms for injecting drug users. The report is called *The Sharp End*.² I am

² Turning Point, *At the Sharp End*, 2007

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happy to send you all a copy; in fact, we almost certainly will send you all a copy. We campaign very loudly. We think it is important for our service users, who tell us their stories and who want us to make sure that their plight is heard in order that services can be changed across the piece. We work with them very closely. We have a campaign running at the moment on the children of alcohol-misusing parents. One in 11 of our children in this country will be going home tonight to a parent that will be misusing alcohol. I and my colleagues think that is scandalous and we think it is not just about education, and we said that yesterday when the Government announced its alcohol strategy. We said, "It is fine to educate. What we need is treatment", which is still a postcode lottery. We ran a very effective campaign on learning disabilities and the fact that too many people with learning disabilities are in long-stay institutions rather than in the community as members of that community. That effectively got the Government's focus, its resources and attention on meeting a target to close long-stay institutions which we have been working on with them. I could go on and on. We are very clear about the fact that this is a democracy and the fact that we receive funding from any sources does not prevent us from speaking out on behalf of our clients. In response to the question have we ever been threatened locally, it would be fair to say that there are some local commissioners who are nervous about campaigning. In my personal experience it has never stopped us from campaigning locally. There are some very clear rules that we apply to campaigning. One is that we never campaign on anything for which we have not got a positive solution, so it is not just about saying, "This is wrong. You are nasty". It is about, "Look at how we could do this better, look at how we could get better value for people and better value for money". We always campaign on things that we know about and that our service users engage with and ask us and want us to be involved in, and not just our service users but also our front-line staff. Thirdly, while we do campaign loudly nationally, as Joyce has pointed out, we also campaign quietly and effectively locally. I have never in my career withdrawn a campaign that we thought was valid and valuable on the basis of a threat by a minister, MP, councillor or anyone else for that matter, and we would not.

Q19 Julie Morgan: Do you have any doubts about being so dependent on statutory funding?

Lord Adebowale: No, and I will tell you why. It is an interesting question because I certainly know that some of the writers that have a critique of this particular model tend not to have the same critique of private sector organisations, or indeed public sector organisations, that have effectively a monopoly relationship where they have one supplier or one provider of their funding and it is never questioned. I do not see why it should be questioned in our case and the evidence is that it has not stopped us from campaigning and campaigning very effectively and very loudly. We have not got a problem with it at all.

Q20 Julie Morgan: I suppose you could say the public sector are more directly accountable to the public in a democracy, as you were saying earlier on. How do you see your accountability?

Lord Adebowale: I think we are incredibly accountable, actually. There is a slight difference in my response to that point in that we are regulated by the Healthcare Commission, the Commission for Social Care Inspection, the Housing Corporation, the Audit Commission and the Charity Commission, which I think is enough to be going along with, but we also have the scrutiny of our contract commissioners in several hundred different locations to contend with, so I think the regulatory aspect of accountability is very clear and something we take very seriously, and, frankly, we would be out of business if we did not. In the more general sense we are a very transparent organisation. I think people see what we do. Because we campaign publicly people can critique us publicly, and often do. I think that creates a different level of accountability which I guess is very modern in these days of public accountability through the media. I do not shy away from it. I do not think it stops us from being effective.

Ms Moseley: Could I add to that point because I think there is another dimension and I am confident that Victor would agree with it, which is the accountability to our beneficiaries, to our young people, and the accountability to our mission and what our charitable objectives are. Something that I always ensure I ask our front-line staff and volunteers when I go and visit our services is, "Are you delivering a service to these young people which you feel is of good quality, is meeting their needs and is what you think these young people need?", and if there is huge doubt about that then I would want my operational staff to be questioning why we are in that contract. We will also, of course, turn down and not go for a contract if we do not believe it can be delivered to the quality that we are prepared to deliver at, so there is that other level of accountability.

Q21 Paul Flynn: It is very good to hear that you are not inhibited in your campaigning by having the burden of being caught in possession of intelligent ideas. You had the campaign on crack, you had the campaign on trying to emphasise that the Government's use of the criminal justice system is not helpful and that they should be choosing more the health and social care outcomes. We are coming up to the 10-year review of the 1998 strategy. What will you be saying to Government about what they should do?

Lord Adebowale: The drug strategy?

Paul Flynn: The Government strategy which started in 1998 is going to be reviewed; it is a 10-year strategy.

Lord Adebowale: That is the drug strategy?

Paul Flynn: The drug strategy.

Lord Adebowale: There are so many.

Paul Flynn: Indeed, absolutely.

Lord Adebowale: I think we will be saying the following, first that this Government's attention on getting more people into treatment has been very

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useful and very effective and it is something that we have campaigned for since well before I arrived at Turning Point. We have consistently said that treatment is the most effective way of managing the substance misuse challenge in this country—and, by the way, when I talk about substance misuse I refer to alcohol and other drugs. The Government has gone a long way in increasing the resources and the attention. We will say that the criminal justice slant on much of the Government's policy on drug misuse, while being useful in one way in that it has released resources and has certainly focused on the nuisance element, needs also to focus on prevention, ie, those people that are at risk of taking substances in a way that will be of harm to themselves and others and need access to treatment in ways other than through the criminal justice system. We will also point out that the issue of dual diagnosis, ie, that there are significant numbers of people with mental health challenges, and some put it as high as 60 %, who are also self-medicating or taking substances both legal and illegal, needs to be thought through. There are few services that are able to deal with that dual diagnosis and in a sense, unless we can deal with that challenge, there is a real danger of the inverse care law hitting those people hard and costing public services more money. Those are the kinds of things that we will be saying by way of assisting the next drug strategy and those things will be based on sound research and experience of delivering drug services to 70,000-odd people.

Q22 Paul Flynn: You suggested that you have a better way of dealing with crack. What is it and what hopes do you have of the Government adopting it?

Lord Adebowale: The report you are referring to is a report on crack that we did about two years ago, the elements of which were that there was a need for more crack services, that there was tending to be a bias towards opiate services and not stimulant services generally, crack being a stimulant, that there was evidence that crack was being taken with heroin in a practice known as speedballing, and that services needed to be aware and more research needed to be done on that kind of poly-drug misuse, and also that more research needed to be funded to look at more effective methods of working with crack users.³ We have also used some of the research from *The Crack Report in The Sharp End Report* which I referred to earlier in that it is also clear that injecting drug-users have also started to inject, and again this is something not just familiar to Turning Point, but also to Joyce's organisation, to Rainer, where you have drug-users who are using heroin and crack, an injecting drug which will do two things. One, it will rot your veins and your arteries very quickly and, two, it increases the chances of blood-borne viruses and illnesses. The increasing use of that kind of drug needs a different kind of service response, what we are arguing for. We know that this Government has a real problem with safe injecting rooms, despite the worldwide evidence that they reduce nuisance and increase health outcomes

for drug-users and we will campaign until the Government listens, so that is the kind of thing that we say in those reports.

Q23 Paul Flynn: Is there a sense of frustration for you and your charity, perhaps both charities, and you say it in your report in this area as well, that you are working within straitjackets where perhaps, if you were operating as a charity in other parts of Europe, you would not have the problems you have? You have already reached the higher echelons of the House of Lords and, if you had control of the whole system, you would move into 10 Downing Street, which would be a great move, but, if you had the power to change the system, what system would we have?

Lord Adebowale: I never confuse access with influence. I personally, if I may speak personally for a second, remain both an optimistic person, but also yes, I am frustrated. Every time I go to an area, which I have been doing for the last 30 years, I guess, where public money is being spent to little effect, I know that not just Turning Point, although I will speak for Turning Point, but also Joyce runs an excellent organisation which could be providing services better or providing a service to these people. I am frustrated that the Government does not always take on board, and engage with, the opportunities to deliver services that we know will work for people who are marginalised and I think it is frustrating that the Government has not engaged with the idea of safe injecting rooms. I think it is frustrating that, although we have had a lot of support for our Connected Care service, what we want is a partnership with a government that, how can I put it, is willing to invest with us in mainstreaming services and service approaches that we know, because we have done the work, will work. If you look at the history of the third sector, you will see the start of many things that the public now take for granted, such as social housing, the Health Service actually and the Probation Service, and what I am suggesting and what frustrates me is that, given that is the case and given that we have more sophisticated methodologies now of assessing need, that cycle could be faster, I guess, and we could be working more in partnership. As I say, it is not either/or, it is and/and, so that frustrates me, yes.

Q24 Paul Flynn: Joyce Moseley, I do not think you operate in Wales, as far as I know. Do you? Do you operate to a large extent in Wales?

Ms Moseley: We are just starting to and Communities that Care, a small organisation, we now house them, they have become a part of us, but they still retain—

Q25 Paul Flynn: It is about time since you have been going since the 1800s!

Ms Moseley: 1788.

Q26 Paul Flynn: Well, there is a certain lack of ambition there if you are just getting into Wales now! You tell the story, which is obviously

³ Turning Point, *The Crack Report*, July 2005

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important to you, of what happened in the mid-1800s when the Government and Newgate Jail wanted to pass on some of the young offenders and you made the point of saying, "Well, we'll accept them, but only if it is within the spirit and the tradition of our organisation". How much are these remarkable results that you have down to the fact that you are picky about the people you take? Are you selective in the number of people you take, please do not be offended by this, because it does seem extraordinary high, the record of achievement that you have?

Ms Moseley: If we have got the contract to deliver, say, bail and remand services, for instance, there is no picking and choosing at all; you take what the court is working with.

Q27 Paul Flynn: Well, why do you make that point? What is so special about the Rainer tradition?

Ms Moseley: If I can finish, what we will be picky about is whether we go for that contract or not and, as I said before, whether we are prepared to work in the way that some contract is set up. I want to add a bit to the previous question about the frustration. I think that the concern I have is that the good ideas that are around at government level, policy level and the difficulty of getting those translated into practice on the ground, that delivery chain is too difficult and there are too many hurdles, and I go back to your example. I know that Victor's organisation and mine together would love to provide criminal justice drug services to a whole community and really work with community groups and so on, and we know that could work and we have got evidence from other parts of the world. We cannot do it because nobody at the commissioning level is thinking in those ways, so there is something about those good ideas being translated into mechanisms to get it to happen which is what I am frustrated by.

Q28 Paul Flynn: You quoted an example, an initiative by the charities which was taken up nationally, and it was needle exchanges. That happened under the Tories, so it was a long time ago. You take a large campaigning role as well, and Turning Point probably does, but are there other issues you would like to see changed?

Ms Moseley: The two things certainly I would quote more recently are bail and remand for young offenders and care-leaving. Rainer, when it was known then as the Royal Philanthropic Society, did start those two services and campaigned to get them to begin statutory responsibilities and those have been very recent changes and we can show the direct relationship between what we innovated and then what became a public service as well as the Probation Service which, people have recorded, we started back in the 1870s. What we would like to see change now, well, certainly if I look at young offenders, I think the 26% increase in the number of young offenders who have been brought into the criminal justice system in the last few years is an unnecessary waste of public money as well as an ineffective way of dealing with young people who are at the very early stages and is often as a result of

unanticipated consequences of other things. If you take the police target to increase their rate of bringing people to justice, you can see a direct relationship with that target and the number of young people being brought into the criminal justice system. Therefore, if I was criticising the Government, which I have, I have been on the Youth Justice Board and been very involved in those deliberations, the increased criminalisation of young people and the increase of custody for those young people just does not work and it is not having an effect on the young people in those communities.

Lord Adebawale: With reference to the issue that you are most interested in, I think, which is the third sector, the one thing that needs to change really is the commissioning.

Ms Moseley: Absolutely.

Lord Adebawale: It needs to change in the following ways: first of all, the Government needs to define clearly what it is, and the one thing I know about large, complex systems is that you need to define what is important; we then need that definition to be applied ruthlessly and the mechanisms of commissioning, in my view, need to be defined; and the commissioners need to be held accountable for commissioning outcomes.

Q29 Paul Flynn: Your memorandum lays stress on the amount of energy, time and research that goes into it, huge amounts of your time spent doing a job you should not be doing, preparing to win contracts. This really is an awful waste of your time.

Lord Adebawale: I think poor commissioning leads to poor procurement and poor procurement leads to poor contracting. A lot of the commissioning or so-called commissioning that both Turning Point and Rainer are subject to is not commissioning, it is purchasing and purchasing based on price, not on value or on any other kind of analysis. I am not blaming because I think many local commissioners are up against it and they feel the need for it to be a price-based purchasing model, but I think governments need to be really clear about the commissioning issue because that is the thing that defines how public money gets spent and what it gets spent on and, until we get to grips with that, I think we will be wasting it across the piece.

Ms Moseley: That sort of commissioning and contracting means you do not get out of us what potentially you can get which is the innovation, the different ways and the transforming of services rather than just transferring out in the same vein because there is no, if you like, 'wriggle room' within a contract for us to try out and experiment, and that is a real loss for everyone and a waste of public money, in my view.

Q30 Paul Flynn: Can I make a final point which does not apply to your organisation, which I think we both regard as being a splendid organisation in every way, but, as a general rule, criticism of the nature of charities is that charities have a vested interest in continuing the problem they are dealing with and expanding their area of work, whereas statutory bodies have a vested interest in diminishing the

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problem. The example, I will give just a brief one, is homelessness and rough sleepers. We know there has been a reduction in rough sleepers in this city to about a third of what it was and everybody would agree with that, but there has not been a diminution in the activity of the charities looking forward; in fact there has been an expansion and they have been empire-building in those areas. Is this not the nature of the third sector, that they do have that vested interest in expanding, exaggerating and continuing the problem they deal with?

Lord Adebowale: I cannot really speak for, and I think it is important that I do not pretend to speak for, the third sector, but what I can say for my own organisation, sadly, is that I do not believe we will ever be short of work. We have doubled in size and the numbers of people that we see have continued to increase year on year. I think the nature of the challenge changes and, therefore, the nature of the organisations that are dealing with one challenge changes and, in that sense, the organisations in the third sector are no different from organisations in the private sector. If the market shifts and the needs of the market shift, organisations will look at the services they provide and look to change them. Now, I do not see there is anything wrong with that and the example that you have given is something I know something about, having been the Chief Executive of Centrepoint. We campaigned very, very hard to end youth homelessness and to certainly end the sort of homelessness you are referring to on the street. When the Government invested in the targets to reduce street homelessness, we supported that and, alongside a lot of other organisations, put services in place to achieve that target. However, simply because we have taken people off the street does not mean that those people cease to be vulnerable or cease to be in need of support in their own homes, and I am speaking theoretically and I am going beyond, I guess, my brief here, but your question is an interesting one. What it boils down to is that, if an organisation sees that there is a need for end services in a transformed market because things have changed, I personally see no reason why it should not change its service offering to meet that need. I do not think that is the same and I am sure that you would find it appropriate to express alarm at the thought that any organisation in my sector was seeking to generate a social challenge, and I think it is a rather cynical comment and it is not one that applies to organisations in other sectors. My organisation would be more than happy to see the end of substance misuse as a social challenge in this country, but the reality is that it is unlikely and the kind of society in which we live means that there will always be people who have those challenges and require an appropriate level of support, and my organisation is ready to hear from them, as we are from people with mental health problems and learning disabilities, of which there are 1.5 million people in this country.

Ms Moseley: I will perhaps go a bit further than Victor and say that I do have concerns that sometimes there are too many charities and that there is an element of the survival instinct which

takes over sometimes. Speaking for Rainer, we have a clear statement of intent by trustees that, if it looks as though it will improve services for young people, we will discuss with any other organisations the idea of mergers and alliances and working together to try and reduce the sorts of things you are talking about. As an instance that I know about, I thought it was sad, but very brave, decision, for instance, of the Family Service Unit, the FSU, to join with the Family Welfare Association and that is painful because of histories and so on, but, having made that decision, what they have created is a very strong organisation for families, so I do not think we have the right just to exist because we exist and I think we should, as trustees of organisations, always be having that as a question in our minds.

Lord Adebowale: I absolutely agree with that and I would give the example of a service that Turning Point used to provide, a significant service actually in London, which was HIV services in the 1980s when there was an increased level of funding and for the statutory sector there was a different type of response. We looked at our core skills and we decided not to continue providing those services and we do not now. Some would argue that that was premature, but that is a decision we took and we will continue to stand by. I agree that no organisation in the public sector, third sector or the private has the right to exist simply because you exist and I think we would all agree with that.

Q31 David Heyes: I want to continue with this core issue, I think, about the problems of poor commissioning and perhaps try and tease out of you some of the ideas you have got and some of the thoughts you have got on how that needs to be addressed, but I will just preface it with a comment from my own experience. The last respectable job I had before I became an MP was as a CAB⁴ manager and my recollection of that—I am going back six or seven years ago now—is that maybe more than half of my time as the leader of that organisation went into dealing with issues about bidding for contracts, the monitoring process on contracts and dealing with all those kinds of very complex issues which, in an ideal world, I would have liked to have delegated to somebody within the organisation, a kind of contracts management. Of course the resources were never available for that because you could never get full costs recovery or it was always difficult to get that and it was very difficult, almost impossible, to generate the surplus that would be needed to fund that kind of back-up, so I am very familiar with the kinds of problems you are talking of. I think it would be helpful to the Committee to get some more of your thoughts on the record about the problems first before we maybe turn, as a second question, to the potential solutions.

Ms Moseley: If you take the commissioning process, it is made up of whole different sections; I think that has to be part of the clarity of definition that Victor referred to. I think it has to start, and this, I do believe, is the democratic responsibility of, say, local

⁴ Citizens Advice Bureau.

authorities or the Government to assess the needs of their local area, but that has to be done on what I term 'intelligence-led commissioning'. You need to look at the data, you need to be talking to the people providing services to get ideas, you need to be looking at your resources, et cetera. Those are the people who actually need to know something about, if it is young people in our case, their needs and they need to understand the risks they face, the risk and protective factors around them and so on; they need to be in some ways experts. What happens at the moment is that that process gets, if you like, contracted into a shortened version where procurement professionals, the ones with the legalese, contracting bit, are leading that process rather than being the next stage at the point where those commissioners with knowledge are deciding the sorts of services and the sorts of outcomes they want to achieve. I also think there needs to be the ability to enter into a preferred provider status at some point so that we are experts in providing services and that expertise needs to be listened to and needs to be discussed with commissioners so that there is an agreement reached about the outcomes and how those outcomes are reached. I think when it comes to the contracting, and Victor has already mentioned it, longer-term contracting, contracting which is about outcomes, clear responsibilities around monitoring and what results are required and clear outcomes about shared problem-solving. Often very unforeseen things happen with the sorts of client groups we are talking about and something might happen in that local community, more drug-dealers will come in and change the nature of the offending patterns of young people, for instance, so you need to be able to be fleet of foot and discuss those with your commissioners at a point rather than a rigid approach to the contract you have which allows no room to respond and work flexibly with what is happening.

Q32 Chairman: Is there something about EU procurement rules which makes intelligent commissioning more difficult than it ought to be?

Ms Moseley: No, I think EU procurement rules are often something of a smokescreen.

Lord Adebowale: I have been involved in a number of attempts by the Government to define 'commissioning' in a way that is helpful to both them and us, not just the third sector actually, but I think the private sector, as I have said.

Ms Moseley: The CBI have done quite a good paper on it.

Lord Adebowale: The CBI, yes, so it is not just the third sector, but commissioning, as I understand it, is the means by which you understand and manage the marketplace in the interests of providing a service for individuals and their communities, and it should provide a platform for procurement. It is not the same thing as procurement, and this is the point about the European rules. I could give examples of commissioners who have refused to talk to us because they consider it to be commercially sensitive and you think, "Well, actually we are the very people you should be talking to", commissioners who go

fishing for it and put us through a massive process of questions and information and then basically take the information and give the contract to someone that was already providing it, and I am sure you are familiar with that one, commissioners that commission on the basis—and they call it 'commissioning', but it is not commissioning—of a year's contract and you have a chat with the commissioner and you say, "This problem has arisen", and the commissioner personally says, "Well, I don't like that client group. If you work with that client group, we will end the contract", and we say, "Well, there is a need in that particular market and in that particular area of service", and they say, "Well, if you do that, we will end the contract", so we go ahead and do it and the contract is ended. Therefore, commissioning which is not commissioning is expensive because every time you end the contract you have to go through the whole process again and sometimes it happens on an annual basis and it is the money wasted in that process and the bureaucracy of it, so there is a real problem, as you know. As you may be aware, the NCVO⁵ tended to focus on the contracting end through the Compact and, I have to say, I do not want to speak for anyone else, but my personal view is that the Compact is still giving birth to the kind of vision the NCVO would like and I have yet to have a manager come to me and say that the Compact has been on the table when there has been discussion with commissioners as commissioners tend to be non-commissioners and tend to be focused on the price. Those are the kinds of problems that we are seeing which, and I am speaking for Turning Point, in virtually every case result in wasted money, wasted public taxpayers' money and possibly poorer services than non-commissioning. Of course, if you repeat that several hundred thousand times, you are looking at a lot of waste and I think that issue does not just apply to the third sector, but I think it applies to the private and public sectors as well, to be honest.

Q33 David Heyes: I think we need to move on to ideas about ways of resolving that. You both kind of make the exhortation that the Government, local authorities should do something about it, yet the context is a great imbalance of power, is it not? I guess, Joyce, as a Director of Social Services, you have hugely more resources. You are sat on top of a much bigger budget than you do as head of one of the largest voluntary organisations, that is true, and any local primary care trust or local authority, any single one of them is going to be massively bigger than the biggest voluntary sector organisation, so there is this huge imbalance of power there and it is not sufficient, therefore, to just exhort them to change their ways. How do you get them to do that?

Lord Adebowale: There are some things that I think we need to do. First of all, as I have already said, the commissioning needs to be defined. I think it is one of the things over the next five to ten years that the Government, no matter who is in power, will need to

⁵ National Council for Voluntary Organisations.

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get a grip on as a key way of doing business as the Government moves much more into the commissioning of services rather than the provision of them. That is not a statement of preference, it is just the way it is. Commissioning is going to become very important, I think, to define it and as the skill of doing it, and that is what needs to be done. I think that the regulation or the regulatory environment needs to hold commissioners accountable for the outcomes of their commissioning practice, so, if you go to an area where a particular community has not got a service, literally has not got a service, and you say to the commissioner, "Why is that?", and they say, "Well, we haven't got enough money", I think the question ought to be asked, "Can you audit-trail your commissioning process? Show me how you arrived at this situation", because sometimes it is not about the money, it is about how the money was spent which starts with commissioning. So there is a question of accountability for commissioning outcomes which I think regulators need to take on board which they are not doing sufficiently, in my view. If they did so, then commissioners would have to engage with the market in a clearer way. On the contracting issue, certainly in social care, and it is something that Turning Point has done a lot of work on, in the building business, if you are going to commit a lot of taxpayers' money to a building, you have to use a JCT⁶ contract, a standard form of contract which has clauses in it, which is appropriate to the size of the contract and which is clear as to where the risk is and it is not loaded on one side or another. However, in social care it is still the case in too many instances where contracts, as Joyce has pointed out, are often loaded in such a way that we take all the risk, there is no risk taken by the purchaser of that service or they are not really getting the value out of that contract they should be doing, it is unclear and basically the lawyers might benefit down the road, but certainly the client does not. What I have been arguing for is better standardisation of contracting across the piece which I think we could do with, certainly in social care. Those are some of the things that I think would help in getting to grips with both commissioning and contracting. Procurement has been the detail and I would leave procurement alone. There are files and files on procurement practice, some of it coming from the EU, and I think less is more in that case, but I think that commissioning and contracting need some attention.

Ms Moseley: I would add a couple of things to that. At the moment, the Government is putting some money into training 2,000 commissioners across the country. Now, if those commissioners, say, from local authorities are trained on their own, we will be back to the same thing. We ought to be being trained and discussing what 'commissioning' means across sectors so that actually there is an opportunity to understand each other's drivers. I go back to what I said, that local authorities do not know how to buy and we do not know how to sell. We actually need to understand where each other is coming from so that

we can both contribute to a better commissioning process, so I think there is something there about making discussion and training open across the sectors. I think the other key driver we have to change, and it is probably the only driver now, I look back with rose-coloured spectacles to the Community Care Act when I was told, "You have to spend 83 % of your money in the independent sector", and that was a huge watershed and a big change for the voluntary sector and the private sector obviously. That is not going to happen. I am sure no government is going to come in and say where public money has to be spent by whom, at the local level. The only driver there is is through the various inspection regimes on public bodies and at the moment there are no aspects of that which encourage. It is starting to happen, but there is little which is in there which will encourage good, creative commissioning processes and that, I think, will be across the whole lot, whether it is Ofsted, whether it is the joint area reviews, whether it is through supporting people, housing and so on. I think there is something there which could be cross-government so that you have actually got some consistency about what is being looked at; back to Victor's definitions issue.

Lord Adebowale: Mr Heyes, your point about the power thing is very important in relation to what Joyce has just said because in the health sector, for instance, where you are getting an increasing number of foundation trusts, the theory is that they will compete in a mixed economy. However, there is an experience I fear, which has happened in other places, where actually what you get is a kind of false economy, a false market in which the foundation trusts are supposed to be independent but also have a relationship to the commissioners that they have known and have historical relationships with. Basically, they want to keep their market size, their market share, and they are in cahoots, for want of a better term, with commissioners against any other interlopers, as they are seen, into those markets. Therefore, whilst it is not public or it is not known, suddenly you find that these contracts that come up for tender are all being won by former trusts that are now foundation trusts in exactly the same way as they were before because nobody is questioning that and nobody is saying, "What was the commissioning framework? What was the procurement process? How were these contracts designed?" I think that is something that the Government needs to pay attention to because there is no point in having a mixed economy if it is skewed.

Ms Moseley: Or if there is not political leadership at the local level to say that actually it is something they want to see, and I think there is still discussion to be had there.

Q34 David Heyes: Ironically, I found myself in a position locally, as an MP, of being asked by voluntary organisations to intervene as advocate and make the case against the local authority for the unfair pressure and the unreasonable expectations that were being placed on the voluntary sector.

⁶ Joint Contracts Tribunal.

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Lord Adebowale: In a sense, if the commissioning is right and the procurement platform is right, then it should be transparent and everybody would see that and there would be no need for a special plea because everybody would know what the score is.

Q35 Chairman: When you talk about more accountability for creative commissioning, do you really mean that that should be done by the regulator, by the inspector? Is that the mechanism?

Ms Moseley: I think they should be regulated and inspected on.

Lord Adebowale: I am with Joyce on that. At the end of the day, given the ecology of regulation that we have, if X amount of money has been spent, the basis of that expenditure surely must be accountable to someone. If there is a section of the community that is getting a poor service or no service, it seems to me that either that section of the community should be able to complain or make a case that says, "Well, how come X amount of money was spent in this way and we're still without a service or with a poor service?" The commissioner should have to account for the process that was gone through in order to provide the procurement platform that procured the services that are now in place, "Can you audit trail? What methodologies did you use?" One of the things our organisation has been pushing through the Connected Care process is the methodologies, the actual techniques that commissioners use to engage with the communities, who often are surprised by the approach which again is odd, in getting them to help design the services that they will use, and it is getting those techniques applied by commissioners consistently and holding them accountable to it which I think will change the commissioning landscape alongside, as Joyce has said, increasing the professionalism of that particular skill and I think, until we do that, it is going to be hit and miss.

Q36 Chairman: Yes, I understand the argument. I just wanted to ask you more precisely, who do you think is probably going to hold commissioners to account?

Lord Adebowale: You have got the Audit Commission. There are a number of bodies and I think each could have a role in the regulatory framework. I am not qualified to go into the detail of their statutes, but it seems to me that it is not unreasonable to be looking to the Audit Commission, the Healthcare Commission and others and to say, "Can you look at the commissioning framework?"

Ms Moseley: I think it is something that certainly the new Chair of the Audit Commission, who I know was personally very involved in the development of commissioning around the Community Care Act, would be interested to see. I think it would also be interesting to look, and my instinct says you will find something, at good services out there as defined by things like Ofsted and joint area reviews, is there a correlation with the extent of working within a social market of those authorities or, the other way round? If you come across authorities where services are defined as poor, can you see that actually they failed

to look outside of themselves into a social market to help improve the services for their residents and their communities.

Q37 Kelvin Hopkins: Your strength has been, and your role in the past has been, providing for niche sectors, largely for the excluded minorities, not the included majority—that space between the provision of absolutely vital social services, education, health, police and where there was maybe no provision in the past. So you have not concentrated on universality or equity, but you have just been dealing with problems as you found them and provided for people who, if they were not provided for, society would not really bother about very much. With drug addicts dying, we would still function, but we could not function without education or without a broad health service. Do you think there is a natural boundary between what the third sector should do, your sector, and what should be statutory provision because the reason you are here and the reason why we are doing this inquiry is that the Government is now pressing for your sector to take on a wider role and to take over what in the past would have been regarded as more statutory, general provision? Is there a natural boundary and are you reluctant to move in that direction?

Ms Moseley: If you take universal services, my view is that you cannot see the sorts of services we deliver outside of the concept of the universal services. I think if you take, say, care leavers where there is a responsibility on the State because they have often taken over the parental role, or young offenders may be a better example, if you are not actually putting intensive services in there to change their way of behaving, the whole of that community, the universal, suffers for that, so I do not see a separation out, but it has to be looked at as the whole and we have to strengthen universal services, for instance the education service, when it comes to young offenders much more at that universal level, the school level, in order to continue to offer a service to young offenders because we know that a lack of education is so correlated to offending rates. I would want to see our services to young offenders working absolutely in partnership with the universal education service because that is how you are going to get the best results for the individual young people, but stopping them offending is surely a benefit to us all. When you said that nobody cares about the drug addict dying, they certainly complain about the number of offences and housebreaking because of the way we do not deal with the addiction problems that are there. I do not know whether I have quite answered your question.

Lord Adebowale: Putting it another way, I think it is a very interesting question and it gets to the heart of the issue. It is interesting that nobody really asks the question of the private sector, whether there are any areas in which the private sector should not be providing a service or indeed the public sector. No one has really debated that issue. I know there have been people who think certain things, but it has never really been encapsulated in a debate. I would say two things. We provide a drug service in Central

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London and I am pretty certain that, if that service were to close today, or I can guarantee actually, you would notice the difference by Monday morning as you walked through the West End. Now, it is funded by the taxpayer through one means or another. Is that a public service? I think the people walking through Soho on Monday morning would probably argue that it was. The fact that it is provided by a third sector organisation, no. We provide the service and I think it is very much a public service as opposed to a luxury which could affordably not to be provided, say, if people did not put their hands in their pockets and fund us. If someone were to have said to me a few years ago, "Should you be providing this service? Should it not be provided by the local authority or the local health authority?", I would have said, "Well, if the local health authority can come up with a value-based proposition that the commissioners, whoever they are, are willing to buy, fair enough". However, if we can come up with a service which keeps those substance mis-users out of nuisance and stops them from dying, because of course people dying on the streets, I agree with you, certainly some men or women on the Clapham omnibus would say, "I don't care", but they would care if they saw the body and they would certainly care when they saw the bill to the NHS, so I think we are providing very much a public service and I do not really have a wall that says, "This far and no further" because I do not think we provide a luxury service to society. I do not think we provide add-ons where it does not matter if it goes bust or goes under because I think it would matter and I think it would matter a lot. We provide the service to one in 400 of the British population and I think that, if those services were to be withdrawn, you would notice the difference.

Q38 Kelvin Hopkins: I am putting my thoughts into a somewhat cynical question. I agree that the work you do is absolutely immensely valuable and I am not in any way decrying it. What I am trying to get at, and you made the point earlier, is that much of what we have now as statutory provision started as voluntary sector organisations—education—churches started to educate people in Scotland and it developed from there. Health was provided by voluntary organisations and it gradually progressed towards being statutory, state provision. Is what the State is now suggesting a move in the other direction, moving what is now statutory into the third sector? Is this the Government's objective, rather than reaching out to people perhaps even now who are not being reached and providing more of the kinds of things that you do and I think would be immensely valuable? Our surgeries are full of people who need services such as this.

Lord Adebowale: I will tell you what I think is unhelpful in this debate; it is talk of takeover. I am not interested in taking over public services in the sense that will not bid. We are very clear about it. I do not want to provide services to people with, say, learning disabilities cheaper than the public sector, but to the same standard as the worst provider in the public sector or the private sector. In other words, if

somebody says to me, "Can you replace a public sector service cheaper?", I will say, "Well, I want to provide a better service", let us be clear about that. I am not interested in takeover, I am interested in partnership. I can understand people in the public sector services who are working and have got families and hearing that they are going to be taken over. It sounds like, a loss of jobs, reduced rights, et cetera. I have to say, Turning Point's and indeed, if I may say so, Rainer's terms and conditions for our staff are strong and certainly would compare with any public service and long may it continue because I think our staff deserve it. I want to work alongside public services and I think we do on many occasions and I will also work alongside private sector services in the interests of, as I say, Turning Point's mission and our service expertise. In doing that, I do not see that there are areas of no-go, providing that it is adding value, not just replacing cheap with cheaper. I personally and my organisation just are not interested in doing that and we are not interested in takeover talk either.

Ms Moseley: Whilst we do that sort of work and will be delivering services to the public, that does not stop, and should never stop, the emergence of other organisations or us doing it for a need that becomes apparent. I think what we probably do is innovate in the way services are delivered to a known group, young offenders or whatever. You were talking about the Damilola Taylor Trust or the Suzi Lamplugh Trust, fantastic, they come together around a particular issue, around something and start to highlight things and I do not see why that should ever stop because third sector organisations take on, and start delivering, more of the services to the public.

Q39 Kelvin Hopkins: If I could approach it another way, all of this has been driven by an ideology coming from our political leaders that they want to reduce the role of the State. They want to dismantle it and load its responsibilities on to others with private sector commissioning, the Nicholas Ridley agenda, which was to get rid of local authority provision of direct employment entirely and farm everything out to private contracts. Now, is the third sector being used to an extent as one possible way of unloading what is now statutory, state provision, on to another sector. And is there a danger that organisations like yours could become companies over time and could become more like the private sector, operating on a contract basis but doing essential public services?

Ms Moseley: But there is another way of looking at it which perhaps my over-enthusiastic optimism is responsible for, which is actually that looking at a social market is about improving the quality of services. I think whilst we move into a social market in terms of provision, what I would want to see—this goes back to the discussion on commissioning—is a much strengthened role for those local, democratic, public services which is about being held to account for what they are delivering to their local population and how they are communicating and defining those issues with their local population. Honestly, as a

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Director of Social Services, I could not understand why we were delivering inhouse all the services we were delivering. They were not done well and others could do them better. However, I maintained or felt I had the absolute responsibility with the local politicians and Members to say, "Let's understand the needs of our community and what it is that we ought to be providing here", and this was in an inner London borough, so we knew we needed particular types of services which an outer London borough would not need, and we were responsible for that. Who provided it was not the issue and that did not diminish, in my view, the responsibility of that local, public service.

Q40 Kelvin Hopkins: Essentially, you are saying what I was saying earlier, that there is a kind of interface at that point. Say, if a child is being abused, you have to have a responsible public authority to deal with such a situation. You cannot have a private company, saying, "That's a bit difficult. We'll not do that one".

Ms Moseley: No, no.

Q41 Kelvin Hopkins: So there is an interface between what has to be provided by direct state provision and what can be done by other organisations.

Ms Moseley: But, as a Director of Social Services, I could easily have said, "We are responsible for ensuring that a child who is abused gets a service and, therefore, I will contract with a private or a voluntary organisation", and of course the NSPCC has the power to do that, "to investigate all child abuse inquiries". If that is what the contract is, it is not about picking and choosing and I would not see it as picking and choosing either.

Lord Adebowale: I think your question is almost a general, political question in that there are two arguments and both arguments equally, if they were to succeed, would, in my view, distort the reality. One argument says, "Let's just have a market. Let's not have a government, in a sense, local or national, to define 'commissioning' and let's just leave it open to the market and every man for himself and the devil take the hindmost". That is one argument, and I am talking extremes here. The other argument, which is equally present sometimes in the room, is that the State should do everything, that the only provision that charities—Turning Point is a social enterprise, a particular type of charity, it is worth emphasising—should be doing should be at the very margins of what the State does, voluntary, two or three people doing what they can.

Ms Moseley: Out of the goodness of their hearts.

Lord Adebowale: That kind of thing. Both of these arguments are extremes. You have suggested that the third sector or certainly my organisation or Joyce's might be used in some way. I think we are savvy enough to be able to argue our case clearly, and I hope we have done, and present our services in sharp contrast to those extremes because I think the balance is, as Joyce has quite rightly pointed out, that people want services that work and that are effective both in terms of cost and value, that is the end of it. I think we have reached an interesting point

where the debate is sophisticated enough to allow that to happen. What would worry me is if the debate became pulled in either direction to the point where it was impossible to actually get the kind of flexibility that people demand now, that people demand of their services that meet their needs, not the needs of the politicians or the Government, but their needs, and that is what I am here to do really.

Kelvin Hopkins: I would like to pursue it, but I have had my time.

Q42 Mr Prentice: Kelvin has stolen my script really! We are where we are because the role of the third sector is being massively expanded or massively hyped, and I am still not entirely sure, but the Government tells us that it wants to open up supply and we talked earlier about what the Government is doing to open up supply, the training of commissioners and so on. The Government tells us that it wants to open up direct support, such as training and professional development, but what is actually happening on the ground to take that forward?

Ms Moseley: I think the gap between rhetoric and reality is still there. My communications at central government level, I think, are very genuine discussions about how to open up a social market. I think that what I talked about earlier, the gap then down to the delivery point where most of the commissioning is either at local authority level, LSC⁷ funding, there is that gap particularly, I would say, at local government level where I do not think the arguments are as accepted around the notion of social markets as they are at central government level.

Lord Adebowale: I think "hype" might be a good word actually in the sense that I have not noticed any massive shift in the paradigm.

Ms Moseley: Some of it is going the other way actually and getting taken back inhouse.

Lord Adebowale: Absolutely, or local or central government. I will not go into it, but I can think of instances where large contracts, big money, have gone to the private sector and it has never touched the sides and there certainly has not been a debate asking, "Is there is a not-for-profit way in which we could deliver this service?" It just has not happened. There has been an assumption, which, you could argue, is based on hype, that the private sector will do it better, and I would argue that that is an indication that they are better lobbyists than we will ever be. I am kind of bemused by the question in a way because I think the evidence is that on the ground the public and private sector services are not being swept away in favour of the third sector, firstly, and, secondly, as I have said, I personally and my organisation have run alongside a particular set of values and we are not interested in talk of takeover because I do not think it helps the debate. When you talk about growth, the growth in public, government funding over the last year has been, what, 1.5 %; hardly a revolution.

⁷ Learning and Skills Council.

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Ms Moseley: For the last few years actually.

Lord Adebowale: It has hardly been a major shift in financing. The PFI, public finance initiative, and the like were designed for the private sector and no such government intellectual rigour has been put into the financing of the third sector.

Q43 Mr Prentice: I was going to come on to ask you about the voluntary finance initiative that you tell us about in your memorandum. Have you spoken to the Treasury about this and what kind of response did you get?

Lord Adebowale: We have put it to our umbrella bodies. What kind of response did I get? Well, from some people short, sharp—

Ms Moseley: Shocking.

Lord Adebowale:—and not repeatable, and from others a considered response. The fact of the matter is that we have not got VFI. We have got futurebuilders which is to be noted as a good thing, but it is by no means anywhere near the financing that the private sector enjoys.

Q44 Mr Prentice: Forgive me, but the futurebuilders fund, what exactly is that?

Lord Adebowale: It is, in short, a venture capital fund, I guess, set up by the Government and I think it was £125 million that the Chancellor set aside to create a step change in the ability of third sector organisations to compete in delivering public services and it was designed to do two things. One is to give grants, which it does not give lots of because I was involved in the design of it, but largely it is really about investing, so my organisation has received recently, after a long and very detailed application process which certainly would be on a par with any private sector investment approach, £10 million which we will be investing in services which will, we and futurebuilders believe, increase the effectiveness of the public sector spend in a particular area, so it is venture capital, but it is dwarfed by several orders when it comes to the VFI and PFI; there just is not a comparison.

Q45 Mr Prentice: That is interesting. Back on this hype and spin, the Government tells us that a large number of local government services are still largely provided inhouse and there is the suggestion that perhaps they could be floated off to the third sector, foster care and adoption and so on. I know you do not want to give us lists and I know you are not interested in poaching, but are there services currently provided by the State which would be seen as mainstream services that you think could be better delivered by the third sector over and above those which you have mentioned already this morning?

Ms Moseley: I would say there are mainstream services that I think and know Rainer could deliver better than they are being. It goes back to our very early discussions, I think you can talk about, “The third sector automatically delivers things better”, but I think it is a particular organisation. I think there are some services, because of the nature of the

people they are dealing with, where the third sector has the edge by being the third sector because of the feelings people have towards the statutory sector.

Q46 Mr Prentice: So I am not going to get a list for the reasons that you have just explained?

Ms Moseley: Well, I could certainly give them. There are the care leaving services we run where I think the young people, by their nature, as older adolescents are starting to fight against authority anyway and the authority in their lives is the local authority because they are their parents, so actually us delivering services often can deal with some of that in a better way.

Lord Adebowale: As long as what I am about to say is taken in the context of what I said earlier which is not about takeover, it is about partnership, I think there are substance misuse services, some aspects of mental health services, and it depends again because mental health is a big service and it can be subdivided into several different areas, certain learning disability services, offender management and employment services, all of which and aspects of which would benefit, I think, from review and better commissioning. Whether the results of that commissioning would be that the third sector plays a better role depends on how good we are at engaging with commissioners and putting in strong ideas.

Q47 Mr Prentice: I wanted to go on to this business about how good you are because one of the criticisms is that in the third sector there are not necessarily complaints procedures in place, and you talked earlier about all the regulators that are looking over your shoulder. Do we need an ombudsman, a kind of third sector ombudsman, a charities ombudsman, to make sure you do what you are supposed to do?

Lord Adebowale: Well, what can I say. We are regulated to within an inch of our lives clearly.

Q48 Mr Prentice: You said that earlier in fact.

Lord Adebowale: Certainly speaking of Turning Point, I have a whistle-blowing policy which is, I think, better than any you would find in the statutory sector, we have internal policies which are transparent and which are available for people to see and the Charity Commission are very clear about their role. I am unconvinced basically of the need for an ombudsman to do what you have suggested any more than I would have an ombudsman for the private sector in that regard. We like to think we do what we say on the tin and, if we do not, then there are many mechanisms by which we can be held to account.

Ms Moseley: If any commissioner worth their salt was going to put a service which was about young people, young offenders, employment, with organisations that did not have those basics around complaints and so on, they should not be doing it.

Q49 Mr Prentice: One final question is about the nature of the people that you employ and who are employed in your organisations. You told us that

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you have got the same terms and conditions, or in Turning Point the same terms and conditions. That is not true across the sector, is it?

Ms Moseley: Probably not.

Q50 Mr Prentice: People are doing the job on the cheap, volunteers coming in. That is not the case?

Ms Moseley: I can only talk for Rainer here.

Q51 Mr Prentice: No, I am not talking about your two organisations, I am talking about the sector more generally, that volunteers get involved because they like the idea of working for a particular organisation and they may take less than the market rate because they want to be associated with that organisation.

Lord Adebawale: What can I say. Again it is one of those questions. I think if you were to compare the third sector with the private sector, you would find the private sector more than ready to employ cheap labour under appalling conditions. Speaking for my own organisation, we do not. My staff and I have got to look at ourselves in the mirror and we pride ourselves on good terms and conditions for the work that is done and I baulk at the critique that the third sector is cheap labour. Having said that, we have said, I think both of us, that there are some practices in the statutory sector that expect us to do that and in fact would want to take advantage of that.

Q52 Mr Prentice: Well, that is an important point that you have just made, is it not?

Lord Adebawale: Yes, and it is unacceptable. We ask for full costs recovery not because I want to drive a Rolls-Royce and buy a private island, but we ask for it because that is what it costs to provide the service which includes paying decent salaries and ensuring that the conditions under which our staff work are good.

Q53 Mr Prentice: I am right in thinking that the staff in both organisations are unionised and you encourage people to join the unions?

Lord Adebawale: Yes.

Ms Moseley: Yes, the union is there at every induction meeting we have, recruiting if they wish. I just wanted to say that I worry about bringing together, that volunteers are doing that work and

certainly I think in any organisation which is using volunteers appropriately, then they are very distinct from staff and are actually adding real and different value and it is not about doing a job at a cheaper rate.

Q54 Mr Prentice: But volunteers very often become staff.

Ms Moseley: We have a very clear process where, if we have a volunteer who has been working with us and they are trained and they are supported, and we have excellent training programmes for our volunteers, if they wish then to become staff, they have to go through the same recruitment process as anyone else.

Lord Adebawale: We have just under 2,000, I think, 1,800 full-time equivalents, but we employ volunteers and I use the word “employ” because we expect them to be police checked, we expect them to be trained, we expect them to be supervised and we do not play around with the term. I think most organisations that use volunteers that I am aware of operate the same methods, but I cannot speak for the whole sector any more than I could speak for the whole private sector.

Q55 Chairman: We shall have to end. We have had a really solidly interesting session for which we are very grateful. I hope you feel that we have covered the essential territory. I think that what you were saying about commissioning is what you particularly wanted to leave with us in terms of what we might say, so I hope you feel that we have gone where we should have.

Lord Adebawale: Thank you for the opportunity.

Ms Moseley: Thank you and, if there is anything, and I am sure I probably speak for Victor here, our organisations can do in terms of you coming and seeing and looking and talking to staff on the ground, you are very welcome.

Lord Adebawale: I am more than happy to second that.

Chairman: We may well do that, so thank you for that as well. The only alarming thing was when Victor said that his organisation only criticised when it had a solution. Now, you realise that would stop politicians in their tracks and we may have to delete that from the record! Thank you very much indeed.

Tuesday 12 June 2007

Members present

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Mr Ian Liddell-Grainger

Julie Morgan
Mr Gordon Prentice

Witnesses: **Dr Neil Bentley**, The Confederation of British Industry (CBI), **Mr Dave Prentis**, Unison, **Mr Will Werry**, Commissioning Joint Committee and **Ms Rachael Maskell**, Amicus, gave evidence.

Q56 Chairman: It is a great pleasure to welcome our witnesses this afternoon. We have Dr Neil Bentley from the CBI, Dave Prentis from Unison, Will Werry from the Commissioning Joint Committee and Rachael Maskell from Amicus. Thank you very much to all of you for coming. You know that the Committee is inquiring into the question of commissioning services from third sector organisations. We have taken some evidence on this already but we thought it would be very good to get some input from all of you this afternoon. I do not know if any or all of you would like to say anything briefly by way of introduction or if we can just get straight into the questioning. Does anyone particularly want to say anything?

Dr Bentley: I would not mind doing a bit of introduction, simply because we did not submit any evidence, for which apologies, just to give you a quick steer. I will be very brief.

Mr Prentis: I would like to do the same.

Q57 Chairman: Okay.

Ms Maskell: I would definitely like to, yes.

Q58 Chairman: If you could be fairly brief because I suspect a lot of it will come out in questioning.

Dr Bentley: I just want to set out three main points where the CBI is coming from on this agenda, what we would like to see and what we think the key challenges are. To start off with, why business has an interest in this agenda, is really because we believe our members have a triple stake in public service reform. That is business as users of public services, as funders of public services and increasingly as providers of public services themselves. There has been major investment in public services over the past decade but there are changes in citizens' expectations for public services, how they are being delivered and increasing expectations for personalised services and on-demand services. We think what we need to see are continually improving services that offer value for money and are constantly innovating. What we would like to see is real partnership between the public sector, private sector and the voluntary sector working together to deliver improvements in public services. We would like to see the public sector as a commissioner of

services going forward, not just a deliverer of services, and that is working with public sector partners and private sector partners and those in the voluntary sector. Underpinning this, we believe we need good market management; that is excellent public procurement skills, excellent commissioning skills, excellent delivery skills and project management skills underpinned by what we call competitive neutrality which is establishment of a level playing field between the public, private and voluntary sectors. Some of the key challenges we think are out there which really do need to be addressed, the beginning, the middle and the end, are better public procurement skills and commissioning. We want to see all providers of public services championing user needs, thinking about tackling social equity issues by the public sector Commissioner choosing the best provider to deliver services, involving staff in the reform agenda and the changes which are going on in public services as a result of this, focusing on quality of services, not just cost, embracing new forms of public/private partnerships (we are seeing now public/private/voluntary partnerships developing) and, as I say, treating all providers fairly through competitive neutrality. These are some of the issues on our mind. I am very happy to be here today. Thank you for the invitation and I look forward to the discussion.

Q59 Chairman: Thank you very much. Thank you for being so succinct. Dave, do you want to follow that?

Mr Prentis: Okay, Chairman. I will be succinct as well. What I would like to circulate round are three documents that we have prepared in the last two or three months. They are *False Economy? The Cost of Contracting and Workforce Insecurity in the Voluntary Sector* and also the report that we have undertaken *The Third Sector Provision of Local Government and Health Services* which we think are directly relevant to the work that you are doing and also a short statement on our support for the voluntary sector as it is at the moment.^{1 2} We think these are directly relevant to your work. What I will

¹ Unison, *False Economy? The costs of contracting and workforce insecurity in the voluntary sector*, May 2007

² Unison, *Third Sector Provision of Local Government and Health Services*, May 2007

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not do, which I could have done, is do a long harangue about the direction of public service reform and the use of market competition.

Q60 Chairman: We will take that as read.

Mr Prentis: Yes, take that as read. I will concentrate on the way in which we are talking about commissioning and competition in the markets in the voluntary sector. My worry is that approach will undermine something which is very, very dear in the hearts of people of this country, which is a strong, vibrant, independent voluntary sector. We have got 60,000 members of the voluntary sector and we believe it should be independent, innovative and it should campaign for progressive social change and it should fill in the gaps that the public sector provision misses at the moment. Its advocacy role is absolutely essential within our society. We are very, very concerned that a dogmatic push towards markets and competition in the voluntary sector will weaken the role that the voluntary sector has had traditionally over the centuries, let alone decades. It is that strength that we think we should be retaining because it makes a huge contribution to our society. The one thing that tends to be forgotten in all of this, and you would be surprised at a trade union General Secretary saying this, I am totally committed to voluntarism in our communities. I think voluntarism is at the heart of community, people doing things in their spare time for other people. We have hundreds of thousands of volunteers, not paid, just doing it for people's welfare because they want to give something back to society. I think the whole system of voluntarism in this country which is really based on the community and voluntary sector is under threat by the direction of travel that we could be going down if commissioning in the markets is brought in to that particular sector. Why would volunteers work for multinational companies? Why would volunteers work for organisations making profits? It does not work that way. I think it is an unintended consequence that this Committee should put at the top of their agenda when they are looking at the use of the community and voluntary sector. When we talk about markets and competition, we believe that there is not just one third sector. When you look at the way in which it is divided into small, middle and large organisations, there are just 306 of the 190,000 which receive 39 % of the total annual income for all charities. The Charity Commission is saying that small charities are being squeezed. What we would like you to look at is how this will be exacerbated in the rush into market, competition and commissioning. We believe an unintended consequence is that this direction of travel will lead to increased insecurity for the voluntary sector organisations, many of which do not want to be part of this commissioning process. In a nutshell, and I am not going to go through all the points I was going to make, if the community and voluntary sector involvement in public services is based on the principles of markets and competition, you are going to lose a distinct value of that particular sector. As you go along, more resources in the voluntary sector, very tight resources will have to go

into winning contracts, less will come from grants and donation. It will skew how these organisations operate and it will make them less and less effective in the jobs that they are doing for our society. It will convert voluntary organisations into service providers. The independence, the advocacy role will go out of the window, campaigning and advocacy to identify gaps in public service provision has always been an important factor of the work they do. They help to develop it smoothly so that it can be taken up by the public sector itself. Work has moved from the voluntary sector and back into the public sector knowing that they can get special, not advantage but a better feel for the way in which public services run. As the voluntary sector and community sector will have to prioritise winning contracts, all that development work they do for us at the moment, and the investment they place in that, and the ideas they come up with, will go completely out of the window because contracts will be all important. What it says in the contract will be the thing that dominates whether that organisation stays in being. The voluntary sector is not homogenous, you cannot talk about the third sector. The people who are involved in it are very, very different, some do not want to provide services and yet could be pushed into it. The competition angle means that the scarce resources which, say, Barnardo's, who we work very closely with, the National Children's Homes and other children's organisations have, they will be competing for contracts against each other. What will happen is you will push down the pay, the conditions, the training that workers in those organisations get and we have all the experience of it, it will be like school cleaning, it will be like cleaning in hospitals, the lowest contract wins and then those particular contracts are no longer fit for purpose. It will push down standards in the voluntary sector, something that we cannot possibly as a Government, and as people wanting to improve our public service, want. You cannot lose sight of the transformational role of the community sector. You cannot lose sight of the advocacy role. You cannot lose sight of its independence. What we will do is fragment far more than we need to do. There is also the equity issue, that the voluntary sector will not be able to talk about the equality issues in the way that we can, in the large public sector. Eighteen per cent of voluntary sector workers are disabled, in the public sector and private sector it is only 13 %. They will be pushed down in the rush to make sure that they are lean organisations. Their whole way of working will be affected by what is proposed. The point I would like to make to you, and I shared a platform with Ed Miliband on the voluntary sector Unison organised event in order that we could talk about how we get improvement through the voluntary sector, something that we are absolutely committed to, Ed Miliband made a very, very strong point, which I think is at the heart of what this Committee should be looking at. He said that as far as he was concerned the third sector was one of support rather than one of substitution. I think this Committee should lay that down as a premise, as a preamble, as a principle by which it judges how far

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we take public service provision being transferred into the voluntary sector. It should not be a matter of transfer, it should be a matter of how the voluntary sector and the public sector can work together to improve our public services. Thank you.

Q61 Chairman: Thank you for that. I am tempted immediately to ask you things but, in fairness, let me ask very quickly if our other two witnesses would like to say something.

Ms Maskell: Yes. Obviously I totally reiterate all that Unison has presented there and welcome the opportunity to answer questions today. As far as Amicus is concerned, we are now part of Unite and as a union we, too, have got 60,000 members working within the not-for-profit sector. I think what that does echo is that trade unions are represented over the sector and are representative of the people on the ground in the sector delivering services and therefore really do understand the impact of certain policy decisions at this time on their organisation but also on the service users. The whole *raison d'être* for organisations is to deliver to service users and therefore in day-to-day experience they are seeing the impact of the whole contracting market and what that means. Also, as unions, obviously we see the impact on employees within the sector and the whole experience of terms and conditions now being put in that competitive realm. We are seeing a race to the bottom within the contracting market and one thing we have experienced, certainly, is organisations now turning to us with the plea that we cut terms and conditions, whether it is pensions, training budgets or whether it is core terms and conditions, additional allowances and so forth, in order to meet the market demands to win the contracts because without the contracts there are no jobs and it is a very painful decision not only for organisations, going down routes that they do not want to go, but also our members having to make those difficult decisions. Likewise, as far as the stability of the sector is concerned, and I think that is one of the most important things to consider at the moment within public services, there is a public understanding that in time of need you will get a service and there is an expectation of what that service means. Obviously, reform is important, however within a contracting environment there is less stability. For a start, we are talking about short-term funding cycles, as has been the experience to date, often 12 months long. If you can imagine the experience of an employee in that scenario, once the clock starts ticking on that 12 month period, you will be wondering at the end of that period how you are going to pay your mortgage, feed your family and what about your own career and opportunities there. What we find is that within three year funding cycles that is not long enough to bed in somebody as an employee. Extend that to a service and thinking strategically about designing a service and delivering services, there is no way within a three year period that can be delivered. Certainly if we are talking about delivering at the public services where there is

that stability moving into this insecure environment, what are we saying to the public within that environment about what their expectations can be of the public service delivery? We would also express real concern about this whole concept of the ethos of the third sector and what this whole contestability, marketisation, is actually doing about the ethos. Again, we have organisations coming to us and saying, "Do not put out a press release about the shocking funding situation because if our organisation is named we know we will not be winning the bid next time round". While all the right words are coming out, we want the third sector to be strong on advocacy, the reality is that they are not able to be strong on some of the issues which really do impact on the eventual delivery of service. Why? It is because they are in direct conflict with their funders regarding the funding of human policies which are detrimental to the service users. Straight off, organisations are being silenced in this whole environment about third sector working together, we have found organisation by organisation, and I think the children charity example is key in that. Organisations which used to work very collaboratively, very closely together to produce the best services possible, for instance for children and young people, are not speaking to each other now because there may be something that they can put in their bid which will give them the edge over the other organisation. It is direct conflict, almost war, trying to win these contracts, and the huge financial cost to organisations has contractors swinging between organisations. It is incredibly painful for these organisations, stopping them planning and, needless to say, a very serious detriment to the employees within the sector. Actually if you think what the impact on the service user is, often the most vulnerable in our society, they are no longer able to have those stable relationships with an organisation. Often it takes, for instance in areas of mental health, a long time to adjust to a particular way the service is delivered to find that constant change can often be more detrimental than having the service in the first place and, therefore, the whole contracting environment is damaging to those who closely depend on the services. One thing that we would say about the whole thing of closeness of the commissioning as well is that it does throw out a huge bureaucracy for organisations. One thing that we are finding is that organisations which would have been putting resources into the front line of delivery of services are now putting resources into form filling in order to draw down resources for the next cycle. For small organisations which had a niche market and a very specific delivery this is very damaging for their organisation and many are just not able to engage in the process. I am sure many other comments will come out within the process of questioning but that is just by way of introduction.

Q62 Chairman: That is very helpful. Thank you for that. Will?

Mr Werry: Thank you, Chairman. I can hardly say absolutely nothing, can I, after all that.

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Q63 Chairman: What you should do, really, is just say something so we can understand what the Commissioning Joint Committee does.

Mr Werry: Thank you, Chairman. That is all I want to explain. It is an inter-disciplinary body covering all the disciplines in local government, wider local government I might perhaps call it, all the disciplines involved in commissioning work and in competition plus the local government contractors' organisations and the in-house organisations. Our objective is to produce practical guidance to practitioners, for which purpose we are trying to get to the bottom of exactly what different propositions and initiatives are trying to achieve. Our object is to try and work out who is going to have to do what to make that happen, if possible without too much collateral damage. I like to think of it being a fairly street level exercise. We do indeed produce guidance about that, including recently the third sector guide. I have to say I sense that your objective might be something similar; looking at the subject in a street wise fashion, in order to sort out the practicalities. If so, I am delighted to co-operate in any way I can. Perhaps I ought to add, among all these disciplines, I was myself an auditor, a district auditor for Birmingham long ago, but I have put that behind me and I try to accommodate all the other viewpoints that we collect.

Q64 Chairman: Thank you very much. I think what is interesting, listening to most of you, is that up until this point it is fair to say we have had people come in and give us undiluted enthusiasm for increased third sector provision, despite Ed Miliband saying on record that he wants to expand third sector provision, that is what he sees as the direction of travel. Our job is to say, "Look, if that is the objective what flows from that" and that is what we are trying to explore. Let's start with basics, then. As I say, we have had these enthusiastic accounts given to us about the great virtues of using the third sector, the added value that comes from that. Listening last week to Turning Point and Rainer, where they were pointing to the kind of things they were able to do and the way they were able to do them because they were not the State, my question would be, if it was the case that the third sector is able to provide services in a way that has advantages over the way in which the State can provide services, then presumably we would want to use them, would we not?³

Ms Maskell: If I can start by giving you an example of one of my representatives, a social worker who worked for the local authority, he was funded in such a way that he had a caseload of over 30 people to look after, moved to third sector and had eight. If those kind of resources are switched, so we are talking about more resources being made available, then obviously you are going to be able to deliver a far superior service. But the whole argument is the fact that there is additionality, and we recognise that that is the third sector's prime purpose. It is good at moving on the debate, at working and finding

creative solutions to situations, and has always done so, but also it is there as an addition, so you have the core service and then, with the extra resources put into that service, of course you can deliver, if you like, a top service. We want to see that across the board but that takes money to be able to deliver, so we are talking over and above. We are not saying "more for less" because the sums do not add up.

Q65 Chairman: Dave Prentis, you talk about gap filling, and you think that is fine, but more than that is not fine. It is clear the Government is not interested in gap filling; it is interested in developing mainstream, third sector provision, as it is interested in developing private sector provision. It wants a mixed economy of provision. Now, apart from an ideological objection to this, if this is either more efficient or it produces better services, why would we not be interested in it?

Mr Prentis: When I mentioned gap filling that was part of a whole range of issues around the voluntary and community sector, including the innovative role and advocacy role it plays, and the way it could transform the provision of our public services if we do it on the right basis. What concerns us more than anything in the increasing role of the voluntary sector is yes, that we should take measures to improve and probably increase the role of the voluntary sector, but it should not be based solely on markets and competition. It should be based on what the voluntary sector does best, and that is not necessarily part of the equation. We talk about if there was a level playing field, if it was not an ideological push, if we were looking at how we could improve the voluntary sector, and in our submission to you we come up with a number of recommendations about how this can be done without using competition and without using markets. We do talk about full cost recovery, which is a major issue because when the voluntary sector has taken over the work it is not getting full cost recovery, and that is the Audit Office saying that, not me. Rachel has mentioned contract length and the way in which a bidding process takes away from the other work that the voluntary sector organisations are undertaking, but we are not saying that we want in any way to restrict the voluntary sector; we want to expand it, to make it better, to help us develop solutions, but we want it more collaborative rather than competing with each other for contracts. The smaller voluntary sector organisations will go under because they will not be able to provide the resources needed for the bidding process; they will not be able to provide decent pay and conditions, and lots of their resources will go into putting in bids and tendering which they will not get. And all our experience of commissioning and of competition is that over time it goes to the big players, and is that what we want the voluntary sector to become?

Q66 Chairman: But if the claims that are advanced for the third sector are true, that is, that they have characteristics which enable them to offer a better quality of service than the State can provide in a

³ Qq 1-58

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variety ways, if that is true and you may dispute it, then presumably we would want to develop that provision, would we not?

Mr Prentis: You are talking in generic terms that the principle could be true. We are not that far away from you because what we are saying is it should be a level playing field, and if there is to be development of a particular voluntary organisation we need to know that it will improve things. But the whole emphasis on markets and competition is it is a bidding process, and usually under that process the lowest tender wins, and it becomes very much a means of not being able to talk about quality and how we can improve it. As a union we have 1.3 million public service workers; we have never ever argued that everything has to be in the public sector. What we have said is that the push through commissioning and through contracting is leading to a worse service, it may be cheaper but it is a worse one, and you are saying, "If we could prove this", but show us the evidence because nobody has yet.

Q67 Chairman: Can I add this to my questioning? I was expecting, you, Neil, to be rather more negative about this, because when you think of the arguments about bringing the private sector into public provision over the years, here in a sense it seemed to me from your point of view the argument had been largely won, that is, that it was absolutely appropriate for the private sector to provide a range of commissioning functions, but no sooner are you there than suddenly the Government gets enthusiastic not about you, but about the third sector and wants to bring them into the picture, and I thought you might find this a little bit threatening.

Dr Bentley: Not threatening in the slightest; the CBI believes competition works. We are very much in favour of an increased role for the voluntary sector. All of our work being produced on public service reform is founded on the principle of the mixed economy and diversity of supply, and we talk all the time about public, private and voluntary sector working together to deliver that. The best provider, whoever the public sector Commissioner decides should deliver a public service should be based on who is the best provider, from the private, the voluntary or the public sector. I think that what we are seeing is developments of new models of delivery, and yes, the voluntary sector can reach parts of the community that other sectors cannot reach. I am sure Rainer, Turning Point and Stephen Bubb from Acevo have probably been here telling you about what long traditions they have working in communities. There are lots of examples where they are able to do that better than the public sector, for example, but what we are seeing developing is also the private sector and the voluntary sector working together in joint bids to work with the public sector. It is particularly prevalent at the minute in offender management where we have seen Turning Point and Rainer and the private sector organisation called Serco working together to get ex-offenders back into employment, and we think that is an excellent model and the way forward for public service provision. I think some of the issues that Dave and Rachel have

been raising about contract length, funding, terms and conditions of employment all come back to public sector procurement skills and market management. How does the public sector procure to deliver services? All of these, funding issues and employment terms and conditions and contract lengths, have to be properly considered and the public sector needs to think about properly funding these contracts to get the best quality service, not driving down to the lowest cost. None of us wants public services on the cheap; none of us wants a return to local government compulsory competitive tendering; we all have an interest in making sure there is proper funding for public services, and that responsibility lies with the public sector Commissioner to make sure they have all of that right before they go out to tender.

Q68 Chairman: On exactly that point we had, as I say, Turning Point and Rainer last week, and we have heard it from others, who when asked what for them is the big issue, say it is the Commissioner, and it is their demand for what they call intelligent commissioning, and they think at the moment there is too much unintelligent commissioning going on. Is this true? Are you remedying it?

Mr Werry: Thank you, Chairman. It is a fair point but it always needs looking at more deeply when people say that. The people who say it are, by and large, the people who lose and the people who are not getting enough work, and they say it of all sectors, of course, not just local government or whatever. I am very anxious to get to the bottom of why it is that we have particular types of contracts and what size contracts should be, and things of that sort, and that is part of the reason why the small third sector bodies are not getting much of a crack at the whip. It is because so much of procurement is directed towards maximising savings and competitive clout and all the rest of it. Small contracts are very unfashionable so it takes a bit of an effort to get them established, and this goes right to the heart of the argument about the third sector—that, by and large, the big third sector providers do not need any particular change, which may very well lead people to put your own question in a slightly more forceful fashion, Chairman, which is if the third sector is so good, why are they not winning now? That is the crunch question. I think there is an answer to that for the small third sector providers which is that so many things are geared up to bigger contracts for bigger operators. It is not because there is not a level playing field; you just cannot make the level playing field right. The intelligent client has first to decide which sorts of service provider are going to give them the best deal and if, indeed, they give it to big service providers—well, leave it like it is. It is ideal for that. But, of course, if that was the case there would be no work at all virtually, apart from a bit of lotting and things of that sort, as Neil has mentioned. Apart from that there would be very little in it for them, and they complain about that, and I confess I feel a little bit of sympathy for that. I feel intuitively that there must be one or two, or perhaps more, types of work which the right small

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third sector bodies would be very good at. I cannot prove that, there is no evidence whatsoever that I know of to prove that, but I think it is worth a try, and that means that to make something happen purchasers are going to have to recast the packages and contract conditions and payment mechanisms and all the rest of it which they use at the moment. I do not expect them to do it at the drop of a hat because for every winner there is going to be a loser, so you burn your boats if you do that because big contractors are not going to apply, I should not think, for a welter of small contracts, and possibly not the in-house organisations, so it is a pretty fundamental change we are asking for. Nevertheless, I think with care it should be tried, and then it will find its own level, I think. We will start to suss out what things small third sector bodies really are good at, and of course if we establish there is some particular line of country they are good at then we go a bundle on that, and authorities would normally arrange for that sort of work to be offered in such a form that they would readily tender for it.

Mr Prentis: You can always find any argument that you can agree on 70 % but it is the 30 % which causes the difference. Neil would see advantage in the voluntary sector developing public service work as long as it is in the image of private sector delivery, and this is the problem with markets and competition, that what we are doing is mirroring the private sector within the voluntary sector and obviously it is of interest to the private sector advocates like Neil, but the issue which you have to face is the vulnerability of the voluntary sector as well and the fact that you are creating a vulnerable work force by pushing through commissioning and markets in the model of the private sector. When I did a CBI conference with John Hutton and John Cridland both of them were arguing that the way to get public service reform is to raise the morale of the work force, and the commissioning process is worsening the morale of the work force both within the public sector but especially in the voluntary sector, which you are saying may well be able to improve the public services. I think we have given you details of the survey that UNISON commissioned but what it found was that to win contracts on costs led community and voluntary sector organisations to cut staffing, pensions and training, and that was impacting on service delivery; it said that one major charity with a commitment to staff training and development has had to cut its training budget by 50 % in the last two years in order to compete, and that staff were expressing great concern about the lack of continuity of care for service users caused by reductions in staffing levels and turnover. That is what has been created by the model based on commissioning in the market. Other models could work and the voluntary sector could be developed, but the only model that is being talked about at the moment is this competitive environment through which work is transformed.

Q69 David Heyes: I am having some difficulty forming a question on that. I am so taken with what Dave and Rachel said which matches my own

experience as a voluntary sector manager before I became an MP. Given what you say is the truth it is difficult to formulate questions that do not have heavy bias within them, but I will try. I will give you an example that might provoke you into giving more examples from your experience. My local area does not have a debt advice service for this any more, and it is because the CAB⁴ who won the contract from the LSC⁵ and faces competition, saw that that undermined the voluntarism. We had a very strong voluntary group of people giving the advice free of charge and the introduction of paid staff and the requirements of the contract meant that there was an exodus of volunteers. The competition that took place to make sure that the CAB won the contract meant ultimately they were not able to offer sufficient rates of pay or working conditions or pensions to be able to retain the staff; huge advertising costs because of increased staff turnover and so on, just a spiral of decline, at the bottom of which I do not have a money advice service in my area and I am battling with the LSC to get something done about it. That is my experience of the real world and the question is would you like to expand on that from the experience of your members?

Ms Maskell: I certainly would and I am very familiar with the example you gave because I know that for the CAB to win back that contract the employees were working 24/7 excessive hours as were the volunteers to try and ensure that service delivery was up to scratch, and yet they still lost that contract, so I think it does show people within the sector were more than dedicated to try and work to win things for their own organisation, and that does bring in the point about people working in the sector. We know from research that 20 % reduction in their salary is one of the prices they paid for working in the sector, and therefore over dedicated to deliver the service for those that most need it, and they too are echoing concerns you raise. I will give a couple of examples around the pain of contracting. There is a public example about voluntary action in Manchester where they lost a contract to the Scarman Trust, and as a result of that all the community links were lost and therefore, although on paper it might have been a cheaper bid that came in, what you lost was the value of the sector, the links into the community, the relationships, which is often how the sector works. It is not a very neatly boxed sector, and unfortunately, as a result of that, the service delivered is far worse for the people in Manchester because, if you like, the heart of what an organisation can deliver might cost a little bit more but it was at such value. How do you put a price on some of those factors? Another example is an organisation which delivers social care within housing associations. That organisation lost a contract to a private sector organisation not familiar with the territory which then subcontracted on the work to another organisation employing people on little over the minimum wage, and certainly for those working within the contracts the ability to be creative was ripped out of their job descriptions, and for those people dedicated to the

⁴ Citizens Advice Bureau.

⁵ Legal Services Commission.

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sector it lost all meaning, and therefore you are losing the very things which the sector is so well able to deliver. With those examples, what it shows is that the third sector delivers on a slim financial level in order to be able to deliver the best service it can, and therefore it is not about charging too much for the contract; it charges what has to be delivered. One thing we are incredibly fearful of is that this whole contestable market is just a Trojan horse down to the private sector involvement, because it can come in cheaper because the terms are worse, and I would want to draw to your attention the fact that of all organisations 77 % have said they are experiencing turnover problems, and retention problems of employees in the sector, recruitment and retention is 16 % across the economy, 21 % in the third sector. Now, if you are talking about delivering services to vulnerable people that has a damaging effect on those services, so if you put into the equation the cost of the contract retaining employees and expertise within the sector it is equally important. Finally, when talking about organisations contesting for work, what we are often talking about is going to multi sources of funding and multi contracts. One small project may well have contracts within a number of organisations, a number of PCTs, a number of local authorities, in order to deliver a service, each one having its own bidding mechanism, its own auditing process. From a very small organisation it just gets totally tied up in a whole bureaucracy in order to deliver what it knows how to deliver, but unfortunately the layers are put in between which are costly for the organisation, so that does need to be pointed out.

Q70 David Heyes: Does anybody else want to kick into the open goal I have created?

Dr Bentley: I think the example of organisations losing contracts happens all the time. The point I made earlier is the public sector Commissioner is choosing the winner based on a set of criteria which they have set out in the bidding process, and if they are funding and willing to choose another provider, whoever that is, to deliver that service, then they have made that decision based on transparent and open criteria, and if that service fails or if the service delivery is impaired in some way, then that provider is not going to win the contract second time round because they will not have delivered what the public sector Commissioner wanted. Now, that is part of contestability and part of the competitive market which is about trying new ways of working, driving up innovation, driving efficiency and helping to improve the service delivery to users. Now, if that is not the case in certain circumstances then the current incumbent will not win again.

Q71 David Heyes: What you have just said is completely at odds with what you said earlier about the rhetoric about partnership and public and private working together. On the one hand you put forward that argument and want to have it sit with the opposite argument which is it is a harsh world, and whoever fights hardest wins.

Dr Bentley: It is, and they are not incompatible. You have competitive processes to decide who is going to win a contract, which you can do on your own or within a partnership with other organisations to bid together for contracts, and once you have won it then you have to work in partnership with the public sector to make sure you are delivering the best contract possible to make sure you maintain that contract and win the service on re-bid. Those are the principles we believe are delivering the public service reform.

Q72 David Heyes: We would say these issues can be addressed in getting commissioning right, so would it be legitimate, in picking up concerns about staff retention and employees getting proper working conditions and as part of the commissioning process, to specify good levels of pension and levels of pay that were consistent with comparators in the public sector? Is that happening? Can you give us examples of where that is working?

Dr Bentley: Last year the Institute of Employment Studies did some research on behalf of the CBI to look at these issues of good employment practice in contracts, and they went round and interviewed contract managers, employees, union representatives and employers to talk about these very issues and terms and conditions of employment. We have set out a set of 10 good practice guidelines and the first is that public sector procurers must take good employment practice into account when they are choosing whoever they want to deliver that service, whoever the best provider is, and that has to be a priority for them in terms of terms and conditions, investment in skills in training, in terms of good employment relations and pensions. It is all set out in the report which I would be more than happy to share with you.⁶ That is why we engage with the TUC and other public sector unions to work on these issues; why we are sitting down together to work on developing employment compact in public services around skills and access to unions and access to employment advice. All of this is about joint working together to address some of these issues.

Q73 David Heyes: Is Neil's rhetoric about getting the commissioning right and so on happening in the real world?

Mr Werry: It does not happen in tender evaluation, which is the crunch point. Are conditions of employment a legitimate factor in tender evaluation? In general, no, and it is important for us to think about why that is. It is because TUPE⁷ and the way in which TUPE has been managed in the United Kingdom is designed to make it not a factor in tender evaluation. What happens now is that the employees of the service currently employed, whoever is employing them, move to the new provider, and the more that third sector bodies move into services on annual contracts or period

⁶ CBI, *Working Together: Embedding good employment in public services*, May 2006

⁷ Transfer of Undertakings (Protection of Employment) Regulations (TUPE).

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contracts, the more they themselves have to cope with this. It has been made particularly watertight in the United Kingdom because, although it is European legislation, the British Government has exercised a right which it was given by the EU to apply it to pensions as well, for which TUPE European style does not apply, and they have gone beyond even that to say that while the contract is running the employer almost always will need new starters to fill any vacancies, and the requirement now is that they have to be given the same terms and conditions as the transferred staff. So the law is very hostile.

Dr Bentley: I do not think it is because TUPE requires the information and consultation of employees before the point of transfer. They have to be involved in the process of transfer and before the decision is made to transfer employees. What we are saying, and we have evidence to back this up, is that public sector employers need to be considering this more in the procurement decision-making process and to involve employees in that process to make sure they understand what is going to happen. This is about managing change and I do not think the public sector has been brilliant at managing change through this process, which is where you get the instability and uncertainty referred to earlier on.

Mr Prentis: If you want to know what is happening on the ground rather than what we talk about as theory read the report that we put before you, *False Economy: The costs of contracting and workforce insecurity in the voluntary sector*. Very briefly, the voluntary organisations suffer all kinds of job insecurity, threats of job losses, changes in terms and conditions, groups such as the elderly and disabled are particularly vulnerable, 12 % of the workforce are in temporary contracts; there is major evidence of worsening staff/client ratios to meet the contracts; and again—and this is an issue for the public sector—local authorities more often than not are focusing on cost rather than quality, very similar to compulsory competitive tendering which you should all have learned from. The profound unease amongst staff usually amounted to what one described as a “sword of Damocles” hanging over them, and usually they had to wait until the last minute before they found they definitely were able to remain in employment. The issue about TUPE is that it does lay down basic European rights but we all know that private companies are getting round TUPE by employing agency workers, paying the rates they want to rather than the rates for the TUPE staff. There is still a two-tier work force within this country despite the commitment of the Prime Minister, which was genuine, and there is still a major issue of lack of monitoring of that agreement which came from the Prime Minister. I have to give him his due, this agreement came directly from him, and yet when it comes to monitoring across the public sector, what monitoring takes place? It does not.

Q74 David Heyes: One way of addressing these concerns about staff being inadequately treated is good trade union organisation, so I want to hear how difficult it might be to organise in the voluntary sector compared with the other areas—

Mr Prentis: Very briefly, the voluntary sector is fragmented. You are looking at the bigger organisations like Barnardo’s, and we are very large in those bigger organisations. In the smaller ones where you get turnover it is quite difficult because of the fragmentation, but despite that there is no aversion to the trade union in the voluntary sector. The one thing we know about the voluntary sector is that we really do work closely with the employers. Many of the things Rachel and I are saying are the employers in the voluntary sector and the people who have developed it have developed it out of commitment rather than they want to be making private sector bonus salaries that we all read about. They are happy with their lot and they want to make a difference within society. They are as much concerned about what is going on as trade unions and staff are.

Ms Maskell: One thing we note within Amicus is the voluntary sector is the fastest growing sector of the union. Putting that in context, we are faced with turnover challenges but also organisations are totally geographically spread, so we may have one organisation employing 2000 people but, in fact, there are only ever about five or six people working on over 100 projects, and it is trying to build that organisation which is a constant challenge for us. The majority of employers within the third sector are employing one person. That is the challenge.

Mr Werry: Perhaps I should apologise for raising the question of TUPE at all, Chairman, but it is useful. Whatever happens the voluntary organisations, or the small ones, are now going to be in the position of having all the problems of staff transfer which we are talking about; they will not be using their own staff for a term service contract which they tender for; they will be receiving the local authority staff on transfer who will bring all their conditions of service with them and, indeed, their pension rights. How different people might abuse this procedure I would not wish to go into, but I think we should flag up that there is this major problem which the small third sector bodies need to address.

Q75 Chairman: Is it a problem?

Mr Werry: I do not know because it has not really arisen yet. The volume of contracts at this level is fairly small, as we have heard. The large third sector bodies know all about it and are geared up to it and know they are going to receive the staff.

Mr Prentis: There is a major problem with pensions and training.

Q76 Mr Prentice: Would that always be the case? Let’s say a local authority wanted to float off fostering services to a third sector organisation. Are you saying that third sector organisation would be obliged to take the local authority employees that were dealing with fostering? Why could they not just advertise and hire new people?

Mr Werry: That is a fair point. It is not every contract that attracts TUPE. The law is a bit different from what happens. The law is that if the work is to be done in a sufficiently different way

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under the new contract then the staff who did it in some different way do not transfer. That is the law of TUPE. But the weight has been taken off that because the United Kingdom government has gone out of its way to say in the Cabinet Office code of practice that even where TUPE does not apply the Government expects its principles to be applied, and by and large they are. What that adds up to is that there are very few exceptions to the TUPE rule.

Q77 Mr Prentice: I am not an expert in TUPE but does this mean, if the TUPE regulations were going to apply in work that is transferred between local authorities and the third sector, we would not see much work going across because TUPE would be just too restrictive?

Mr Werry: Well, it might have that effect, I could not say it would not.

Dr Bentley: I think what we need to avoid is TUPE avoidance in the third sector. I am sure colleagues will talk about the trade unions supporting the third sector but I am not sure there is the capacity to make the resources in the sector available to deal with transfers of staff. I honestly do not know, because there has been a huge amount of build up of resource in the private sector to be able to do this. They are very complex regulations and there are complex processes to be gone through, but I am sure if this came up in your discussions with voluntary sector organisations they would be able to advise you, but it is certainly a big issue about capacity building and capacity and professional HR management.

Q78 Mr Prentice: We have had some very good memos submitted and I am looking at a memo from Amicus that says this about the CBI: “The campaign by the CBI to push for a system of competitive neutrality in public service contracts is ... part of a campaign to bypass the third sector and privatise public services rather than constructively reform them.”⁸ So that is what Amicus thinks, that this is all a smokescreen, and you just want to privatise these public services.

Dr Bentley: We are very much in favour of bringing in the voluntary sector. The work we have done on competitive neutrality has been endorsed by the voluntary sector and we work very closely with the voluntary sector in developing a lot of our policy positions. The organisations you have been talking to come along to our events and have been involved in our policy making or involved in the work we have been doing.

Q79 Mr Prentice: Why is there such a misunderstanding, then, between the CBI and the unions?

Dr Bentley: There is an ideological difference between whether there should be other providers involved in providing the public service, and we do

not believe there should be that division, but there should be a mixed economy of supply.

Q80 Mr Prentice: And that is not ideological?

Dr Bentley: No, because what we are saying is that the best provider should provide. It should be the private sector where it is appropriate, the public sector where it is appropriate, or the voluntary sector.

Q81 Mr Prentice: We have spent a lot of time talking about terms and conditions, Dave Prentis talked about the two tier work force, we heard about pensions, we heard in the union’s memorandum about turnover in the voluntary sector, low pay in the voluntary sector—it is all documented in memoranda put to the Committee—so are you saying it is possible to have a level playing field when that is the reality on the ground?

Dr Bentley: It is possible, yes.

Mr Werry: If I may, in a way everybody is right in this debate! There is an important point behind it which is that you have to ask yourself, if the third sector is to get more work, by what mechanism are they going to get it? One way is to go for grants, of course, but my feeling is that does not have very much future in it for one reason—because the third sector keeps saying: “We want full recovery of costs”, and it is a bit hard to have any arrangement of full recovery of costs without people saying: “Well, OK, we are going to pay you all your costs but what exactly are you going to do if you are going to charge us the full cost?” So no power on earth can stop it becoming a contract, so really what we are talking about is contracts. If, indeed, they are biggish contracts we are talking about, and additional big contracts, it could very well be that the client authority has said: “These are a good idea, we will put them up for competition”, and it could very well be that unfamiliar biggish third sector bodies will be beaten by the private sector. Nobody can stop that either.

Q82 Mr Prentice: It is like the force of nature?

Mr Werry: Well, there is the propriety in the law and all sorts of things that come into play when you are putting work up for competition. You cannot say that is only in a particular sector. Anybody who is legally qualified to tender can.

Q83 Mr Prentice: You speak for the local authorities, do you not? Why were leisure trusts created, and is it a good thing they were?

Mr Werry: I am sure it is a good thing but they are outside of the competition, in a way. Very often businesses have been sold but the key thing about a leisure activity is the property and all the facilities and so forth, and the authority leases those. The authority usually retains them.

Q84 Mr Prentice: This sounds like a three card card trick. The unions would say that this is just the way of privatising public services, the creation of leisure trusts.

⁸ Ev 118

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Mr Werry: They could do but they are up against the difficulty that most of them are voluntary and the staff, by and large, have had a say in the sale of their organisations.

Q85 Mr Prentice: I am looking at the UNISON memorandum here and they say that Trafford Community and Leisure Trust and Wigan Leisure and Culture Trust were both set up as charities after it became possible for charities to provide public services which public authorities have a statutory duty to provide. UNISON has grave worries about these organisations which emerge merely to boost competition often by removing sections of the public sector. Now, these leisure trusts are all over the country.

Mr Werry: They are indeed.

Q86 Mr Prentice: And they have taken work from local authorities?

Mr Werry: It is not quite true to say they boost competition, that is a bit of a technicality, but they certainly boost rolling back the frontiers of the State, and what is more it is about to go a stage further because there is a good bit of pressure now on authorities not to retain the assets. A virtue is being made of giving or selling the assets to the trustees or whatever.

Dr Bentley: Are those leisure trusts, and I do not know to be honest, delivering a better service, a more efficient and more innovative service than the local authority was able to do? That is surely the question, because public service reform is about delivering a better service to the public and in all of this debate the public get lost. We are supposed to be thinking about the outcomes of public service delivery, not getting caught up in debates around who is doing what and why. It is about efficiency, innovation, and better value for money.

Q87 Chairman: Do we know the answer to that question, Will?

Mr Werry: It is certainly true to say that they have a reputation for providing a rather insecure service, or at any rate the private sector competitors have. The incidence of bankruptcies and so forth has been fairly alarming.

Q88 Mr Prentice: This is one of the problems, that the Government is ideologically committed to moving great tranches of public services to the private sector and the third sector, and there is not the evidence, and if there is you will tell me because you used to be the auditor in Birmingham, on the ground about how these third sector organisations perform in practice. So where is the evidence? Can you tell the Committee where the evidence is that the third sector performs well in these circumstances?

Mr Werry: It has never been my business to look for it but I have to agree that in the highways and byways where I have been I have seen no evidence of it, either way.

Q89 Mr Prentice: So it is all ideological, is it not?

Mr Werry: It is surprising that a major national exercise is based on—

Q90 Mr Prentice: No evidence?

Mr Werry:—supposition.

Dr Bentley: I do not represent the voluntary sector and cannot talk on their behalf but if there is no evidence to say that these leisure trusts are not delivering a good service then why are so many local authorities procuring them to deliver it?

Q91 Mr Prentice: I was not just talking about leisure trusts but about the third sector generally, and I quote in my defence this document that has been produced by the third sector chief executives, Acevo, and it says here on the need for better evidence: “Although politicians have championed the third sector role in service delivery for nearly a decade, data on the quantity—let alone the impact—of third sector provision remains inadequate.”⁹ And that is the chief executives of the organisations you are talking about saying the evidence is not there.

Ms Maskell: Certainly Amicus in all its dealings with the third sector has been asking: “Give us the evidence”, and they have come back and said to us: “There is not the evidence base, we need to build it”. So we are all searching for the questions you are searching for. But one thing I would like to draw out rhetorically is “Are we creating an environment where people are good at winning contracts or good at delivering services?”, and if we look behind that at what the voluntary sector is, the majority of voluntary sector organisations are run by volunteers. They are not experts at filling out the contracts, in order to know which buttons to press to win the bids for their organisation. Their expertise is delivering to service users and getting that niche service to the people that really matter, and therefore if we are looking at the whole contractual environment we have not seen any evidence that if you have a contract and you can put the right words in the right boxes you are going to deliver a better service. That is the question we have been seeking, and today I think confirms there is not the evidence base for this whole public service reform on contestability.

Mr Prentis: This is what you as a Committee are going to have to look at. In a nutshell, is this really about rolling back the frontiers of the State or is it about public service improvement? We would argue very strongly that it is about an ideological rolling back of the frontiers of the State and not at all about improving services. We have no evidence and we believe there should be an evidence-based approach to public service provision. There is diversity there that everything we do is based on taxpayers’ money, and we should be ensuring that it improves our public service, from wherever it is going to be provided. There is no evidence base whatsoever about this push into the voluntary sector that says this whole approach is a model for improving public service delivery. The biggest disappointment about the work that is going on really is that people in

⁹ Acevo, *The Case for Change: Third Sector Provision of Employment Services*, October 2006

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position seem to talk about how we can do it, not whether or not it is right that we should do it, to improve the service.

Q92 Paul Flynn: We have had interesting role reversals in that we have a leader of the CBI telling us he does not believe in compulsory competitive tendering and a leader of a trade union saying he believes in people working for nothing as volunteers. The Bill that introduced compulsory competitive tendering in July 1987 was wildly applauded by the CBI at the time, and we were told by the then Government that it would not reduce standards at all because you could measure the price of the contracts and so on but also the quality of contracts, and there was no danger of an erosion of contracts. Where were you on the road to Damascus when you changed your mind?

Dr Bentley: Learning from what actually happened on the ground: that there was a huge drive from public authorities and local authorities to drive down costs, and that affected quality of services and the quality of services that alternative private sector providers were able to deliver. That is what we do not want to see happening in the voluntary sector or for other providers, which is why we keep talking about quality of public service provision, and that needs to be properly funded by the public sector. Coming back to employment terms and conditions as well as the quality of service delivery, we have learned from those mistakes. We may have said at the time that that was the right thing to do but we have learned and we are no longer saying that CCT¹⁰ was good. We have learned from that and we have got to move on from that and not return to it.

Q93 Paul Flynn: So what is the major change? Most government policies from all parties is evidence free. It is ideological and based on prejudice, bias or the first thing that came into the Prime Minister's head. Policies are not based on evidence per se. Why should we think now that we can go ahead into this section and have effective services? Are we not going to repeat what we did with CCT?

Dr Bentley: Not if we start from where I am starting from and talking about partnership. One of the things we have been advocating recently, particularly in local government, is a national forum for supplier dialogue between local authorities and suppliers to make sure they all understand what it is they want to achieve and can work together to deliver.

Q94 Paul Flynn: Mr Prentis, is your enthusiasm for voluntary work curbed when those volunteers take the job from your low paid workers?

Mr Prentis: It is an issue, of course, and I said at the beginning it is surprising that a general secretary of a trade union would say this, but when you look at the trade union we have 40,000 volunteers, shop stewards who represent our members for free. There is an issue in our society, and it is at the heart of public service provision and the ethos of it, that all

of us have rights in our democratic society but I also believe people have responsibility to give back whatever they can, and I think the volunteer movement is tremendous within our society. It gets people involved in their communities. There is community in our country and people are involved, and I have seen it in hospices and I have seen volunteers working with people who are dying and thinking how can they possibly do it? I have seen it when I was having chemotherapy myself after major surgery and listening to the volunteers in the next beds suffering very badly from cancer. It is a tremendous thing to be able to volunteer and I think the way in which we are now bringing the profit motive into public service and saying that everything can have a value and a cost means we are going to undermine what has been an essential component of our country, not in recent times but going back 100/200 years. I think that is something that is worth keeping.

Q95 Paul Flynn: If we want to look at evidence of what is likely to happen by handing huge numbers of public services over to the third sector we have to look at America, where this has happened, and to a great extent, where they have Nicholas Ridley's paradise of meeting now and again dishing out the contract and that is it. Do you regard what has happened in America as paradise, hell or purgatory?

Mr Prentis: It is not something that you could regard as relevant to this country, unless you are looking for mistakes. But, extending the remit of this Committee, if you look at the Local Government Bill which Labour is now putting through Parliament, there is no doubt that built into it are all the ideas that Ridley had in the 1980s, that local authorities could become just commissioners of work meeting once a year to sign contracts, and the voluntary sector are going to be sucked into this new approach. The point I will make is that there is no evidence that this is being done to improve services; it is merely about process and who provides the services. But in everything we do, in any change we make, we should ask will this improve the service to the user? We get dismissed as a producer interest, but our members are public service workers who provide services and also use the services themselves, and the interests of the user have to be paramount. Changes that are happening now are not perceived by our communities as improving the services that they have—it is all about markets and competition and politicians. When you go out and knock on the door in the next election and ask about public services and markets and competition, you think they are going to vote for you?

Q96 Paul Flynn: Is the CBI agog at the American experience?

Dr Bentley: We have not looked into it and we do not represent the voluntary sector, I am afraid, but we have learned from the experience of the private sector and we believe we have evidence which shows that public service outcomes have improved. The LEAs that were outsourced at the end of the 1990s and that were failing their GCSE results at A* to Cs

¹⁰ Compulsory Competitive Tendering.

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are three times higher than the average of other LEAs. In the prison estate, the decency agenda, the time spent out of cells in constructive activities, has been taken up across the Prison Service. In two public sector prisons we had competitions which ended up bringing back the management of those prisons into the public sector, based on the improvements that had been adopted. In the Health Service waiting lists have been cut by the involvement of the private sector, and in local government we are seeing improvements, for example, involving users in street scene management contracts. These are the sorts of innovations that are helping to improve the delivery of service so it does not become about process necessarily but about delivering a better public service.

Q97 Paul Flynn: Ms Maskell, you referred to I think 60,000 you represent who are involved in the not-for-profit area. Can there be a more bleak and less helpful title than “not-for-profit”? Why are they not called “more-than-profit”? “Social gain”? Why should anyone define themselves by what they do not do rather than what they do do? I realise it is not your phrase but if we went out calling ourselves the “not-the-sleaze” party or “not-the-slum” party I do not think we would sell ourselves very well!

Ms Maskell: Certainly the title of the sector is one of constant debate and is constantly changing and “not profit”, “non profit”, “third sector community” and “voluntary sector”, all have been titles not adequately describing the sector, so as organisations and as a sector itself it continues to evolve its title, but what is behind it is the fact that organisations themselves recognise it is about service; it is not about their own financial margins; and it is not about making a profit out of the system, and that is really what drives and motivates the sector.

Q98 Paul Flynn: You made a key point saying that the danger is the contracts are going to go to those skilled at winning contracts rather than those skilled in delivering services. We are all aware of this, I think. There are people who are very good at getting grants and writing prospectuses and so on. Is this a major problem now? Is the area of winning contracts becoming specialist where you can have some ramshackle organisation that is there with the service, and you do not know until you are way down the line that they have failed to deliver? Is this a real threat?

Ms Maskell: It is, and it is a threat to service delivery. One of the things that we have found is that within an organisation, for instance, a project manager whose role is really about strategic development of service and also overseeing staff and delivering service is now full time bidding for the next round of resources, so what you are doing within organisations is concentrating their focus on winning contracts but also forcing them to be involved in subcontracting work themselves in order to deliver services, and what they are not doing is delivering the services. So for an organisation, say a project manager, with around £32,000 that they will

get paid, before they delivered the service and today they are trying to get more resources for their organisation. It cannot be a good use of public money, and one of the things we are finding is that voluntary income to these organisations is dropping because people do not want to pay for what we have already paid for in our taxation system, and also the number of volunteers is dropping.

Q99 Paul Flynn: Is there any added value from the third sector? We were told about Bulky Bob’s in our Liverpool and Warrington group that collect bulky items and then recycle them to a great extent, and they are employing mainly ex-offenders and mostly ex-convicts. Is this an example of added value in the public sector?

Ms Maskell: I would say yes, and there are lots of opportunities for added value. If an organisation is drawn into the mainstream delivery of services it is not able to do the additionality which is really why it is there in the first place. So what we are finding is organisations—I can think of a large children’s charity which both of us worked closely with, and that organisation is totally reorganised, restructured, and has given itself a new identity and a new emphasis in order to win contracts to run services as opposed to doing what it traditionally did. Now, I think it is sad day when contracts are driving what organisations are about, as opposed to organisations driving what the services need.

Q100 Paul Flynn: The *crie de coeur* we have had from all voluntary bodies is that up to 40 %, some say, of their time, energy, resources, attention is given to winning contracts and looking to surviving next year and the year after, and the other part of their work is being machine monitored with people looking over them and making sure that things are right, so they are only using half their time delivering on the job they are doing. What do we do about that? If we move into an area where there is more tendering, people are going to be doing less of the jobs they should be doing and more worrying about the future.

Ms Maskell: Certainly in some areas it is even worse than that. If you look at Supporting People funding 50p in every pound is spent on the administration of that funding stream, and what we find within organisations is that huge resources are being shifted into this whole contracting market, with expertise being brought in just to deliver services, and we know that 1 in 20 bids succeed across the sector. If you multiply that up it is a lot of wasted resources, and if you are a small organisation you are hardly going to put resource into something where you may not succeed at the end of the day. So bearing that in mind, it is a huge risk that organisations are taking. Why should they take a risk in delivering services when they have been delivering services in a concrete way for a long period of time? The sums do not add up, and that is where we have been saying “Give us the evidence.”

Dr Bentley: It is a philosophical question, because I have been on platforms with speakers where some are very pro service delivery and contracting and

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some are not. There is clearly a lively debate in the third sector about its fundamental role and whether it is to deliver a public service or whether it is to promote volunteering and continued to be funded on a volunteering basis. Nobody is forcing any voluntary sector organisation to do one thing or the other, and individual organisations need to decide what their role is and how they are going to be funded, be it through donations or not, and if they want to deliver public services, I have seen some of the submissions to this inquiry where some voluntary sector organisations are arguing that delivering services and campaigning and doing all the other voluntary work they do are not mutually exclusive, and it is up to those organisations to decide what is in their best interests to do.

Q101 Paul Flynn: Finally, is there a danger that if this goes ahead with the bureaucracy and all the people monitoring the services and this great monster sucking on the services it will not improve the services and we will create unnecessary bureaucracy that is wasteful and does not add to the value of the services in the end?

Ms Maskell: I think the NCVO¹¹ put it neatly about transferring and transforming services, and what they are saying is transform by all means but do not transfer, and I think this whole bureaucracy which you describe is the reality which is being created within organisations. One example that we always look to is Northern Ireland where the whole issue of marketisation and competition cannot take place because of the sectarian issues. There if you pitch organisation against organisation you create a whole plethora of political issues let alone the delivery of services, so I think there are models out there which say you do not have to go down this line of competition and you can still deliver services, but unfortunately we are not seeing that drive on these shores.

Chairman: I do not think we will adopt the Northern Ireland model. It is quite an extreme argument!

Paul Flynn: I am grateful to you. Thank you very much.

Q102 Mr Prentice: Just picking up a couple of points, Amicus believes that the Government has another agenda; it is not being straight with people; that a lot of what is happening is a stepping stone to privatisation—you used the words earlier “Trojan horse”. In paragraph 16 of your memo you talk about housing associations possibly considering flotation on the Stock Exchange, and then you go on to say that they should be used as a stepping stone to full privatisation. Is it the case that housing associations can just decide, and legislation does not need to be amended or anything, to go public and be listed on the Stock Exchange?

Ms Maskell: This is one of the issues that came out within the Cave review, about whether housing associations should be able to be floated on the

Stock Exchange.¹² What our members will say within those organisations is they will automatically lose some of the ethos and the ability to deliver to service users. The majority of our members work in housing associations where they have an additionality of social care attached, and as a result of that there is a great fear it will just go down the route of other organisations and corporates, and will not have the vested interest and *raison d'être* of being about the services that are delivered.

Q103 Mr Prentice: I was surprised when I read that. I am not up to speed as much as I should be but do you have a list that you can give us of those public services that you think are on the hit list, secret or otherwise? We know from the Freud report what is going to happen in Jobcentre Plus, the work being floated off, people with disabilities, getting them to work and so on, and we have heard about offender management and we are told constantly by ministers of the Heineken effect, that the third sector can reach parts and reach people that conventional public services cannot reach, so can you give the Committee some kind of idea of those services which could be floated over to the third sector, if not now then maybe in a note subsequently?¹³

Ms Maskell: Just answering the first part of your question, I do not think it is a covert agenda. It is very clear. What we are seeing is an opening up of the market. Reading the action plan on behalf of the third sector on public service delivery, it talks about public, private and third sector very clearly in parallel, not preferencing the third sector at all. Therefore what we are saying is we are seeing, because of best value principles or competitive tendering, call it what you want, the fact that on cheaper options the private sector does come in and with local authorities, PCTs, on strained budgets, trying to get their costs down they are going with the cheaper bids if the same services are being delivered. There are a few exceptions to that, but the private sector is increasingly winning the contracts.

Q104 Mr Prentice: What about the other point, the Heineken effect, that good as public services are and committed as the people working in them are, there are certain client groups which are very difficult to reach—people taking drugs or whatever—and the third sector is uniquely positioned to reach those people? When we heard from the chief executive of Turning Point last week he said people would be seeing dead bodies on the streets of central London without his organisation, and he clearly felt that Turning Point was filling a function that conventional public services could not fill. Was it legitimate to say that?

Ms Maskell: Often what we find is that people working in the third sector have worked for local authorities, PCTs, and are the same people with the

¹¹ National Council of Voluntary Organisations

¹² Department for Communities and Local Government, *Every Tenant Matters: A review of social housing regulation*, June 2007

¹³ Department for Work and Pensions, *Reducing dependency, increasing opportunity: options for the future of welfare to work*, March 2007

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same skills base and the same training and the same ability to deliver, but there is an issue about resourcing, and if we are talking about additionality you get state funding plus that, additional eyes, ears, hands, to deliver your service, and that is when you are able to pick up more work, have a niche delivery and work closely with service users in order to get results that you desire.

Mr Prentis: Both of our submissions praise the community and voluntary sector and the work they are doing. They do work alongside the public sector in many respects, and they have ways of working which means that they can be very close to very vulnerable people that they are working with. We are not coming along and hopefully we have not given you the impression that in some way we want to denigrate the third sector; that is not the case. Our argument is that they provide a very valuable role and we should be nurturing it, rather than changing it out of all recognition.

Q105 Chairman: We are at the end but could we have one more go at this? Gordon mentions Victor Adebowale, the chief executive of Turning Point who came along last week, and he said that he was making no claim for the intrinsic superiority of the third sector over the State or indeed the private sector, but that sometimes the State was better for doing certain things, sometimes the third sector was better, and sometimes the private sector was better at doing certain things. Is that not just a sensible approach, not to have any ideological predisposition in favour of one of these providers rather than another, and to say: "Where they can be most useful we should use them", and that the commissioning process, if it is done properly, bearing in mind all that has been said about the need to get fixed on costs and all the rest of it, is what intelligent commissioning should produce? Now, if that is the case, are we not all gainers?

Dr Bentley: Yes. I could not agree with you more.

Mr Prentis: How do you do the assessment of which is better? Who provides the better service? How is the assessment done? Our experience on the ground is the assessments are not done because the push is always to privatise them. The push is always that the work has to be transferred, and when this has been raised we are told that we have to grow the private sector, the voluntary sector. Now you are putting forward an ideal which has not been limited in this country, and I think there needs to be a real debate on the grounds that you are saying now, which is not taking place. The push is always in one direction. The push is not: "Well, let's find out which is the high quality service, where it can best deliver from, how it can improve things for the users of the service." The push is always one way and that undermines a lot of what you are attempting to say there. Nobody actually carries out fairly the assessment to find out whether or not it is better that it stays within the public sector, stays within the voluntary sector, or is a private sector issue.

Q106 Chairman: Final word, Will?

Mr Werry: Thank you, Chair. I have long since lost any feeling that I have any influence on anybody else's feelings about it at all—

Q107 Chairman: No, but you have an aura of wisdom about you which I keep looking at you for!

Mr Werry: Basically you have to be right, I think, let's find out who is best, nobody could really resist that argument, but there are lots of practical ifs and buts about that making all propositions so difficult, and so many arguments, some of them being put forward today, to the effect that the wrong person wins anyway, and also that the mere act of having competition gets people's thoughts in the wrong sort of channels. I will not say whether that is a complete answer, either of those points disposes of the proposition that in competition the best man wins, but I do say that they are serious propositions and that they have to be addressed. I do my utmost myself to address them. Not only do they have to be addressed but you have to keep an eye on them, because they change. One of the things that has slightly bothered me recently is that you get a lot of difficulties with long-term contracts because they have to be re-negotiated, and everybody says how good they are at re-negotiating contracts, never do they say they made a mess of it, but it is very hard to see how well the parties do; it is a very hazardous business. But the longer the contracts that people want, and they want longer contracts all the time, the third sector wants them, the worse this practical problem becomes and the faster the rate of change in the world in pretty well everything, the more intense it is. So it is a real question, a real serious problem that we all have to address. It is far beyond our scope today but I only mention it to justify my own non intervention!

Mr Prentis: Just on this point, one of the big issues is about contracts being flexible, and the flexibility you need to develop public services goes out of the window because of inflexible contracts 25/30 years long, and it is a major effect. When it comes to government departments, say the Department of Health, wanting to cut back on its expenditure, it cannot where there are contracts in some areas of the Health Service—40-50 % of the expenditure—but only in those areas which are still within the public sector, so it is skewed. And what you are finding now is that a school has been built under PFI and is no longer required, you are going to have to pay for the cleaning and servicing of that building for 25 years. We have built PFI hospitals which are now community hospitals, and some of those big PFI hospitals may not be needed. Independent treatment centres are put in places where they are not required, and the question I want to put to you is why is it the competitive approach which is the one that drives change and not the collaborative approach?

Dr Bentley: I do feel I have to reply. One of the issues around where, for example, PFI contracts are let and where hospitals are built and schools are built is around needs analysis, and it is difficult to predict future needs analysis as demography changes. Contracts do need to be flexible and there has to be

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re-negotiation and flexibility built into those, but if you want the private sector to take on the risk of funding these projects long-term there need to be long-term contracts to spread the cost of that risk, and that is what we are seeing now. But improving service design and construction design has to be taken into account upfront now so that, if hospitals are no longer in the right place or school rolls fall, those buildings can be used for another purpose.

Q108 Mr Prentice: The Government wants to force-feed or grow the private sector in health so that independent sector treatment centres got an 11.2 % uplift in carrying out exactly the same operations as the NHS. Just for the CBI, do you think the Government should, when it is negotiating contracts with the third sector, offer a premium in order to grow the third sector, because there cannot be a proper market if there are not enough players?

Dr Bentley: There was a pump-priming of the ISTC¹⁴ market in order to encourage providers into that market because—

Mr Prentice: That is taken as a given. I am talking about whether the principle should apply to the third sector as well, a premium.

Dr Bentley: If the Government takes the view that the voluntary sector can help with a policy objective and needs to encourage them by pump-priming the market then yes, they should.

Q109 Chairman: That raises questions about competitive neutrality though, does it not?

Dr Bentley: Yes.

Mr Werry: And the law, Chairman. There are limits.

Chairman: I am grateful to you all. We have had an interesting session and the fact that we did not have a unanimous view amongst the people here was a great advantage and enabled us to get under the skin of some of the arguments. We hope at some point to make sense of some of those and we are grateful to you for helping us along the way. Thank you for your time.

¹⁴ Independent sector treatment centres.

Thursday 5 July 2007

Members present:

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Kelvin Hopkins
Julie Morgan

Mr Gordon Prentice
Mr Charles Walker
Jenny Willott

Witnesses: **Mr John Stoker**, Commissioner, for the Compact, **Mr Campbell Robb**, Director-General, Office of the Third Sector, and **Mr Richard Gutch**, Chief Executive, Futurebuilders England, gave evidence.

Q110 Chairman: Welcome to our inquiry. We are delighted to have with us Campbell Robb, Director-General of the Office of Third Sector in the Cabinet Office, John Stoker, who is the Commissioner for The Compact, and Richard Gutch, who is the Chief Executive of Futurebuilders England Ltd. Thank you very much indeed for coming along. We have invited you together so that we can stimulate some discussion amongst you. You have all given us some interesting written material and we are grateful for that. That means we do not have to ask you to say anything at length to start with but we are very happy for you to say something briefly if you would like to.

Mr Robb: I would welcome that. I am really looking forward to this. Thank you for the opportunity. We have a new Minister for the Third Sector, Phil Hope, who was appointed recently. We are delighted by his appointment. He has a lot of experience in the third sector and was previously the chair of the all-party group on voluntary organisations and charities. Ed Miliband has been voted to be the Chancellor of the Duchy of Lancaster with overall responsibility for this area. Whilst we are talking particularly about service delivery, we have a much wider agenda in the Office of the Third Sector. We have a whole range of roles for the sector and this is only one part of what we are doing. Where those charities and voluntary organisations, the third sector organisations, really want to play a part, we make sure they have the capacity to do that and that government is a particularly good partner in doing that. That is the aim of what we are trying to do. It is not just about service delivery but about all aspects of those services. It is about the creation of services and the design of services. I hope that is something we can also discuss when we get into the discussion about that wider role for the sector, because a lot of the more significant campaigning charities, for example, the RNIB¹ and the Refugee Council, deliver services but also have a very strong in their independent voice and that is something that we really welcome. We have put in place a series of measures, particularly, in the Action Plan, which I think has been circulated to you, and I am really looking forward to having a debate and discussion with you.²

Q111 Chairman: Thank you very much indeed. John, would you like to continue?

Mr Stoker: Chairman, I have a couple of preliminary points about Compacts. They are about relationships which go a lot wider than financial ones—although we are obviously talking about commissioning today and that is quite an important bit of the background. Although they have something of the character of books of rules, about how you behave together in partnerships, the aspiration for the longer term is that they are one route to changing people's basic working cultures and assumptions and practices, so that we might wind up over time with a mainstream working culture which favours partnership between the sectors. So there is that aspirational aspect to them as well. I have three, I suppose, headline concerns in the commissioning area at the moment. Firstly, although, as I have said, Compacts are much more than books of rules, and there is good practice in observation of the books of rules bits, there is also some inconsistency and a lack of full delivery of the book of rules bit and that can be an obstacle to the development of the more positive working culture that is a longer term aspiration. I have a bit of a concern, as well, about a side effect of the trend in financing relationships away from grant and towards procurement, in so far as it risks inculcating in public-sector people the idea that the commissioning relationship is all they have to concentrate on to the exclusion of the wider relationship between the sectors, which is part of the Compact arrangement and which is not disconnected simply because you go into this new relationship. Finally, that movement towards a procurement model and away from grants poses some special issues for some smaller local bodies that traditionally have been grant financed. I would like to encourage public commissioning authorities to think about those issues and to do what they can to mitigate effects in that area in the way that they do their commissioning.

Q112 Chairman: And Richard.

Mr Gutch: Thank you and thank you for inviting me today. I would like to give a quick bit of background and update on Futurebuilders. It was the result of a Treasury review in 2002 that was looking at whether the third sector could be playing a bigger role in public service delivery. It concluded that it could but it was being held back by not having access to

¹ Royal National Institute of Build People

² Cabinet Office, *Partnership in Public Services: An action plan for third sector involvement*, December 2006

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finance to grow and develop its capacity, and by having quite a lot of skills and systems weaknesses, in terms of business planning, financial planning, IT, that were holding it back in terms of winning contracts. The fund, which is now a £150 million fund, provides investment to third sector organisations to help them develop the capacity to deliver public services. At the moment we are working in five areas: health and social care, education and learning, children and young people, crime, and community cohesion, but from next April, the fund is going to be working in all forms of public service delivery. We have offered over £100 million in investments to 225 organisations. It is important to be clear: we do not fund the delivery of the services ourselves. We are helping the organisation to get to a point where they can win contracts from local authorities, PCTs, Learning and Skills Councils, which will fund the ongoing provision of the service. We mainly lend money. This raised eyebrows initially, in the early days of Futurebuilders, but the concept is that the organisation prices the cost of the loan into their service price when they negotiate with a commissioner in just the way that a private sector provider would, except, of course, they are working on a non-profit distributing basis. Finally, Futurebuilders England Ltd is itself an independent non-profit company. It was set up by Charity Bank, NCVO,³ Northern Rock Foundation and Unity Trust Bank who successfully won a tender from the Treasury to manage the fund. We have a contract, which is now with the Cabinet Office, to manage the fund, so we are an independent company though obviously working under contract to the Government.

Q113 Chairman: Perhaps we could start broadly and then focus on some specific areas. One of the emerging themes coming out of our inquiry is the distance between rhetoric and reality in this area; that is the distance between some of the rather high-flown statements about what the third sector is going to do for us in terms of public services and the rather modest presence that it has and then some of the issues surrounding that. Let us try to have a go at this again. Can you tell me what the Government position is. How much of the public sector does the Government think could be run by third sector organisations?

Mr Robb: The Government has not set any targets in this way for this. As it stands, what we are talking about is quite a small proportion of public services more generally. There are a number of estimates around that but, for example, the estimate most commonly used about the NHS is that less than 2% of all the delivery of the money spent through the NHS is spent on the third sector, so it is a particularly small part of the wider agenda. The Government is not necessarily interested in a blanket approach to this. It is not saying that all third sector organisations are unequivocally better than all public sector or all private sector

organisations. It is interested in finding where third sector organisations can deliver better services for users, and, where that is the case, ensuring that those organisations have the capacity to do that, are contracted with properly and paid properly to do that. It is not about a blanket approach; it is finding those places where they can really add value and create a partnership between the public sector and the third sector.

Q114 Chairman: It wants to increase the role but it does not know by how much.

Mr Robb: It has not ever set a target for that in that sense. The nature of problems we are facing as a society are always evolving. One of the biggest and best things about the third sector tends to be its innovative approach to solving new problems as they arise. You could say now, “We want to do it in this area,” and in two years a whole new set of solutions are created by the third sector that then you would want to support. So there is no set target but we want to find where it can do it best.

Q115 Chairman: The paper that you produced at the end of last year—

Mr Robb: The Action Plan.

Q116 Chairman: —talked about five main areas.

Mr Robb: Yes.

Q117 Chairman: The position is that we do not know how much in general the Government wants to turn to the third sector to provide but we do know that those five areas are—

Mr Robb: There are specific areas that we think, working with other departments, we might be able to investigate with the third sector. Substance abuse is the example we have talked about before. Stopping re-offending by people who come out of prison is an area where there is evidence, for example from Crime Concern, that they have a particularly strong record. We would want to explore those areas to see if there is more the third sector can do in particular areas.

Q118 Chairman: On the Futurebuilders side, do you see yourself matching these areas? Would you have a similar agenda?

Mr Gutch: Yes. Obviously we will be embracing all those areas from next April. I think the Government has set a policy context within which local commissioners and local third sector providers can operate. It is really a matter for how the commissioners and the third sector providers respond to that policy context before one can answer your question. We have lots of examples of local commissioners and providers doing really imaginative things. I mentioned in our evidence an organisation called Building Blocks Solutions. That works in the East Midlands providing a service to seven GP practices, providing non medical support to people with mental health problems. The GP has a choice: they will either refer them for acute care or to formal counselling or to this social enterprise that will provide a listening ear to people, to help them

³ The National Council for Voluntary Organisations

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sort out the problems that are making them depressed. It will point them in the right direction, whether it is to relationship counselling, debt counselling or whatever, and that service has been evaluated with extremely positive results. It is saving the GP practices money and it is providing patients with a much better option than simply being prescribed medication. I could see that happening in every GP practice in the country. At the moment it is only happening in seven.

Q119 Chairman: It is difficult to get a sense of whether we are talking about a series of interesting experiments or a wholesale transfer of mainstream public services into a different provider model. Campbell, you are shaking your head.

Mr Robb: Absolutely not. That is not the Government's intention at all. The Government's intention is, wherever possible, to use the third sector as a partner or as a delivery mechanism to transform public service to the end benefit of users. It is not about identifying areas where the whole of that particular service can be taken out. It is about finding those kinds of examples where they really make a difference and, wherever possible, creating the right environment where commissioners and others can have the tools and the organisations to get that to scale if we want it to happen. The areas that we have identified in our plan are areas where we believe there are characteristics which the third sector provides: innovation; flexibility; closeness to users. That is not to say that the public sector does not do those as well but we will look at those to see if there are better solutions to current public sector engagement. The Government has not talked about and certainly in that document is not talking about a transfer.

Q120 Chairman: The Opposition, of course, has done. It is talking about social responsibility which seems to involve basically saying the state has failed and the solution to all social problems is to be found in the third sector.

Mr Robb: I am sorry, who is saying that?

Q121 Chairman: The Conservative opposition, the alternative government, which is a hugely radical perspective. If I worry about the lack of reality in some of the current stuff, this seems to me to go into the realm of fantasy. Perhaps I should not look at you, perhaps I should look at the others.

Mr Gutch: Could I comment on that point. We only invest if there is going to be a clear improvement in public service delivery. We are not interested in investing in an organisation just so it can take over something that used to be in the public sector and then run it in exactly the same way. We are looking for a significant improvement. The acid test for whoever's policy it is must be: "Is this going to result in better services for users, for patients, for people on the ground?" That is the test that we always look at.

Q122 Chairman: The other thing we are discovering is that the evidence base for this is either thin or non-existent. Obviously we have had this recent report

from the NCC⁴ which is not terribly positive in terms of these great claims that are being made for the extra value that you get from third sector delivery. Is there a serious evidential base for moving in this direction?

Mr Gutch: I would say there is not at the moment. There are certain reasons why the third sector has the potential to improve public services and it is to do with the way it is structured, its independence, the fact that it is not bound by departmental boundaries and the fact that it can involve users in the running of the organisation. These are all things which provide the potential to deliver really good services, but I think you are absolutely right: there is not yet a good evidence base. One of the things that we say to every one of our investees is, "You must prove your case. You must be able to measure the outcomes, the difference you are making." Part of our investment is often to help you do that. In the example I gave earlier, the evaluation they did was funded by Futurebuilders: they talked to the patients, they talked to the doctors to build up that evidence base. But, yes, it is a long way from being there and it does not follow necessarily that, just because it is a third sector organisation, it is going to be better, but I think there are certain things about the way the sector is structured which give it the potential to do some things really well.

Q123 Chairman: Before I hand over to colleagues, could I ask John one question. In your paper you were flagging up some real concerns. In particular, you were flagging up whether some aspects of this Compact, this agreement between the Government and the third sector, is consistent with the competitive environment of the contracting and tendering process.⁵ You say, "Difficulties arise with the financial commitments partly because most competitively funded services where the third sector is involved in delivery are not exclusive to them as providers. They are bid for also by others in the private or public sector." Then you say, "On a 'level playing field' it may not be straightforward for commissioners to deliver consistently and fully the Compact financial undertakings to third sector partners unless these have been built into the terms of the programme concerned at the outset". That is an explosive statement, is it not, the idea that somehow the nature of the competitive market in which the third sector is now being required to operate is inconsistent, as you are saying, with financial undertakings given in terms of the Compact?

Mr Stoker: It does not have to be and should not be. I am not saying there is anything intrinsic about this; it is really the way that the procurement is managed in relation to the commitments that are being given in the Compact more than anything about an inbuilt clash. I am saying that sometimes people do not think early enough, when they are designing procurement procedures for services, about how they are going to observe their commitments. From memory, the Compact itself, in the funding and

⁴ The National Consumer Council

⁵ Cabinet Office, *The Compact*, November 1998, Cm 4100

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procurement code, does very clearly make the commitment from Government that all the Compact commitments, whether they are about procurement or whether they are wider ones, are consistent with rules of government accounting and European Union procurement. It is a question of management rather than a problem about basic compatibility, I think.

Q124 Chairman: But the issue comes back often to this question of whether the third sector should be treated like everybody else or whether, in fact, because of undertakings that have been given, they should be treated differently. That seems to me to be a rather fundamental issue.

Mr Stoker: If the Compact was delivered, they would be treated in some ways differently. That is partly because there are commitments to consultation which are in there: commitments to a voice at the table when needs are being defined and programmes are being put together to meet them; special consideration for black and minority ethnic groups and community groups. These are all there. They do not exist in the same way for other sectors. If you read what the Compact says, in some specified areas the Government is saying that it and its agencies will behave in particular ways, and it might not with other sectors that did not have the same social value and the same effect on community cohesion, the same ability to create social capital

Chairman: Let me bring colleagues in.

Q125 Jenny Willott: You have been talking about the role of the voluntary sector in this area of work as being to improve services. It sounds like you are really talking about the third sector coming up with good ideas, piloting them in small areas with small organisations and then the idea being nicked by the public sector and carried out on a broader scale across the country as a whole. Is that a fair assessment of what often happens?

Mr Robb: It is one of the models. I recently visited a great project in Coventry. You say, "This is fantastic. Where else are they doing that?" and they say, "In Cornwall". You say, "How is it in Coventry and Cornwall?" and they say, "Because the person who set the project up here moved to Cornwall". That is how good practice is shared, by people changing jobs. It is obviously not a good way to do it. When there are good ideas and they look like they will work across the board, like the one Richard was describing, we are interested in how we get that to scale, how we support that, how the Government shares that good practice. But that is only one model. Turning Point gave evidence.⁶ They are a national organisation, delivering public services on a national scale, in what they consider to be innovative ways which provide them better than they would be by other providers. There is a whole mix of things that we are looking to do and it is not just about the delivery, as I was saying before. We want to introduce commissioning which involves users, sometimes in the design of the service, sometimes

using the third sector to help them do that. There is a whole range of models that we want to have, and that is just one of them.

Mr Gutch: As Campbell says, there are all kinds of situations. Mention was made of Turning Point. Turning Point are developing five rehabilitation centres in different parts of the country for people with drug and alcohol related mental health problems. They describe these as "Priory style centres but at not-for-profit prices". At the moment PCTs are paying for a lot of people with those kinds of problems to be treated, and the only way they can get them treated is in the private sector. Turning Point is helping to develop a quality service on a non-profit basis. That, if you like, is the reverse of what you said. The point about user involvement is really important. One of our investments is in Barnet Voice for Mental Health, which is the establishment of a safe house for people with mental health problems, where they can go at weekends or if they have a crisis and cannot get into the state system very easily. It is run entirely by people with personal experience of mental health problems themselves. Peacemaker, another organisation in which we invest, is run by a group of Asian people who were caught up in the Oldham disturbances in the North West. They are doing community cohesion work in schools, in communities and with local authorities, rooted in their own experience of those problems. I do not think you would ever find a private sector organisation that would be able to work in quite those two ways, because, as I said earlier, it is to do with the way third sector organisations are structured that they can involve people directly on their boards, in the delivery of services and so on.

Q126 Jenny Willott: A lot of the areas you have just mentioned are issues that are difficult politically, around race, drug abuse and things like that. Could it be seen as a way to palm off to the voluntary sector issues that are slightly difficult politically?

Mr Gutch: They are not being palmed off. They are being paid for by the public purse.

Q127 Jenny Willott: But it puts it at arm's length.

Mr Gutch: It is to do with the ability to take risks. I think it is true that third sector organisations, because of their independence, are better placed to take risks.

Mr Robb: On many occasions the users themselves are afraid of the state. Drug users and others have a difficult relationship with the state. The third sector organisations can often act as a mediator and ensure that people can get closer to what they need and to some employment services as well. That is a very positive thing, that the state is using an intermediary to begin the process of getting people back into society through drug rehabilitation and other things. There are advantages to that. This is commissioned by public sector commissioners, who are looking at this through a lens of: What is the best value for money? What is the best service? What is the best end point to the user? It is not a matter of palming off difficult issues at all.

⁶ Qq 1-55

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Q128 Jenny Willott: In terms of the role of the third sector and their involvement, is it necessary for them to deliver the services? Or would you achieve the same improvement in public services by just involving them in the design of services and ensuring that you have much better user involvement in the design and then leaving it to the public sector to deliver?

Mr Robb: Both, is the answer to the question. We would want to see much more third sector engagement in the understanding of which services should be used in a local area; where residents are talked to using a third sector organisation perhaps as a consultation mechanism to understand what users want from a particular service, say for mental health, then it might be that the public sector or the local authority is best placed to deliver that. That would be absolutely fine, if that were the case, but sometimes the local authority or the commissioner might judge that the third sector provider was the best provider to do that. Again, it is not a blanket approach, but we believe there is an advantage in involving the third sector in all these different areas, and, just because you are involved in designing a service, does not mean you should end up delivering it. It might mean that you are best placed to do so, but it might mean that other people are best placed to do so too.

Q129 Jenny Willott: What is the disadvantage of using voluntary sector organisations to deliver services?

Mr Gutch: One of the reasons why Futurebuilders was set up was because there was a concern from a lot of public sector commissioners that the sector did not have the capacity to be a very reliable partner in the delivery of services. They might have lots of good ideas but they do not always have the systems in place to back them up. I think that is one of the worries that a lot of commissioners have and that is one of the reasons why we are trying to work with commissioners and say, "Look, if you are interested in perhaps commissioning more from the third sector in particular services areas, we can invest in organisations to help them get stronger, to level the playing field so they can compete better, and overcome that concern about them perhaps not being sufficiently businesslike to enter into a larger, longer contract."

Mr Robb: I would not say it is a disadvantage but there is an issue of scale. Many of you are in constituencies where you have programmes which you think are absolutely fantastic, many of which are very small local organisations, and there is that problem of how you transfer a really good idea throughout the country. Sometimes that should be the job of the public sector. Occasionally it might be that you want a voluntary sector organisation to deliver that but they only have the capacity to do it in one or two regions. So there is an issue around scale, and the ability of certain services to go nationwide if you want them to.

Mr Stoker: It is a bit difficult to generalise on this. The answer will be different in different places, at different times, in different circumstances, in

different services. The one thing that we probably all regard as fundamental—the real basic assumption—is that you have the services delivered by people who are best placed to do that. Sometimes that will be the public sector directly, sometimes that will be the private sector, sometimes it will be a voluntary and community sector organisation. It depends very much on what the service is, where it is happening, down to personalities when you are talking about the local scale at which some of these things happen, but the bottom line is always the quality of the service provided to the user.

Q130 Jenny Willott: What is the disadvantage to the third sector of delivering these services?

Mr Gutch: There is a potential disadvantage of their agenda getting distorted. Obviously the whole concept of commissioning is that you have to provide what the purchaser wants to buy. One of the things that voluntary organisations have to be very clear about and their trustees have to be very clear about is "Would getting involved in this particular bit of public service delivery be consistent with our mission, consistent with what this organisation is there to do and the values it brings to it?" That is an assessment every single organisation needs to make for itself. I think it is very wise to try to retain the capacity to do other things besides just delivering public services under contract, so you retain that ability to campaign, to try out new things that commissioners do not want to pay for. I think you are very wise not to have all your eggs in one basket.

Q131 Jenny Willott: My background is the voluntary sector. We used to deliver public services to some extent and one of the issues we had in delivering the public services was resentment by the public sector of our involvement. I used to run Victim Support South Wales. Our ability to do our job relied fundamentally on the police's buy-in to our services. If they did not pass our information on and they did not contact people, we were not able to do so. How much of a problem is that? If you are talking about increasing the role of the voluntary sector in delivering public services, has any work been done at looking at the relationship between the public and voluntary sectors and how you overcome those problems?

Mr Robb: The Office is running a programme with the IDeA⁷. Over the next two years we want to work with 2,000 commissioners across public services, local and national, to make sure that we are finding the right balance. The Government is becoming a really good partner in this, across the board, to understand that and to begin to examine how commissioners can work with the authority. The disadvantage to any partnership is when one of the partners does not understand the benefits that the other one brings. Part of the Office of the Third Sector and the Action Plan is about making sure that the Government, where it wants to deliver public services with the third sector, is a really good partner. In doing that, it gets it right, it understands

⁷ Improvement and Development Agency

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it and it sees the benefits it brings. We have a whole series of measures which we think will begin to do that, to help the public sector to see where the benefits are and to get it right when it does do that. If we can get that right, to go back to your earlier question, that will be about that whole range of issues, not just the delivery of the service or the mechanisms of doing it. It will be involving them early, right through the board, and seeing the benefit for users. I am happy to talk in more detail about some of the programmes if you want, but we do have a number of programmes in place to do exactly that. Futurebuilders itself does a lot of work with commissioners, in advance of giving its grants, to make sure that the partnership is in place to deliver the service.

Q132 Jenny Willott: We went to New York last year and looked at how they commission and deliver public services through the voluntary sector there. One of the things which came out very strongly from that was that the voluntary sector there is now so huge and powerful that they are not innovative any more and the innovative ideas are now coming from the public sector because it is much smaller. Do you perceive there is a risk that might happen here if we do scale up the delivery of public sector services through the voluntary sector?

Mr Robb: You did mention you had been to New York in our previous session. It goes back to the question partly of scale. The third sector is tiny in comparison to the public sector, and the amount that is delivered is still tiny in comparison to what is delivered by the private sector, so we are nowhere near that kind of situation. The big trick the Government has to get right is to get the things it wants from the third sector—that innovation, that flexibility in the contracting process—and that it does not squeeze it out in the big bear hug that you have with the state. You have to find a way to ensure—and this is what the Office is involved in in the programmes we have, having issues like the Compact Commissioner and Futurebuilders—that you retain the flexibility, the innovation, the excitement, the risk-taking, at the same time as ensuring you have good use of public money and you are getting the desired effect for users. That is the path we are on in the Office and that we want to get to through the Action Plan. We are absolutely clear that we do not want to squeeze out the very best from the third sector.

Mr Gutch: Interestingly, when I worked at NCVO, I went in 1990 to the States and wrote a report called *Contracting Lessons from the US* which perhaps you might be interested to see.⁸ That also highlighted the danger that the sector can get too large, too bureaucratic and lose what was the whole idea about it, what was special about it. I think we have an example of that, to some extent, with housing associations in this country. They have grown and grown and there has been a need almost to reinvent some of the things that were special about housing associations, in terms of providing for groups of

people who are at a real disadvantage in getting access to housing. I think the trick lies in the commissioner specifying the service appropriately. If they specify about needing to involve local people to work with local communities, that is going to point in the direction of organisations that are not multinational charities but have found ways of retaining that local route which I think is often so important.

Mr Stoker: A lot of organisations in the third sector would say to you that they are a long way from running out of ideas, because they would like more scope in the current commissioning arrangements to implement their ideas. One thing I hear quite often is that the way that services are specified does not favour the transformation which is the aspiration of the third sector participant, because they are really quite closely specified on a model that the commissioner really has pretty much firm in its own mind. They would like a bit more scope, please, for their bright ideas, if anything.

Mr Robb: If you look at some of the very big organisations—and you had Turning Point here—they are what you would consider to be large, £100 million organisations. They are some of the most innovative care providers in this country. They are getting to scale but still retaining, because of their trustees, because of their management, because of their ethos, that which is special and different and innovative about it. They believe very passionately that they can grow bigger and still deliver a service. Lord Adebawale definitely believes that Turning Point can grow bigger and still deliver a service which is innovative, flexible and close to the user. It is not necessarily just a big and small thing. Small organisations can be stifled as well. I just wanted to be clear that it is not just about that; it is not just scale that can create that kind of problem that you may fear.

Mr Gutch: I think partnerships are often the way forward between the larger nationals and local organisations. We are doing quite a lot of work with some of the bigger charities, working in partnership with a number of local groups in a particular area.

Chairman: That was very interesting.

Q133 Julie Morgan: Do you think it is possible to be critical of government/local authorities when you are in receipt of contracts with them?

Mr Robb: Absolutely, yes. I do believe that. Both in my current role and my previous role at NCVO I absolutely passionately believe that some of the biggest critics of local authorities and the government are organisations that are in receipt of funding. The Refugee Council is a perfect example which took money from the Government to help do the assessment programme and was one of the strongest critics of the Government's refugee policy. I think it is entirely possible to do that. We have to make sure—this is the job of the Office and other bits of government, the very existence of John and the Compact—that organisations do not feel they are under threat when they do that. It is one of the first lines in the Compact that the Government is committed to allowing organisations to be critical

⁸ NCVO Publications, *Contracting Lessons from the US*

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and to be in receipt of funding. We have to make sure we live up to that and the Office wants to do that both at national and local level and we have to make that happen. The interesting issue about scale here is that the danger of self-censorship perhaps happens more at a local level, when you are a small organisation in receipt and your total funding comes from that local authority. That makes you more vulnerable in a particular area to do that and there is a lot of evidence emerging that local Compacts are beginning to be a good mechanism for giving people confidence not to self-censor. In answer to your question: yes, I do believe that but we have to really work at it.

Q134 Julie Morgan: I certainly think at a local level it is more difficult. My background is in the voluntary sector as well and I think that in delivering services for a local authority you are inhibited in what you say.

Mr Stoker: My experience is the same as yours. You do quite often hear people who say that they have a frustration or they feel that part of the deal in the local Compact has not been delivered, but they grit their teeth and they do not confront it because they are afraid that there might be damage to relationships. The view I take on this is that you can only judge this locally because personalities are obviously going to be quite an element in this. But my first instinct would always be to encourage people to make the challenge and call the bluff because that is the only way that you are ever going to move attitudes and practices on, even if it might get you into conflict locally on occasions. I suppose, fundamentally, here we are, we have these local Compacts, we have the Compact at national level. To attitudes which say, "We know it is there but we are a bit too anxious to try to rely on it" there is no system answer. If you have a system and you decide not to use it, the system has failed you. My first advice is always to be courageous about this and to confront it. Of course you can do that in a constructive way; you do not have to do it abrasively. The Advocacy Programme, dealing largely with national things, based at the NCVO, does say that, although they are often involved in circumstances of disagreement and conflict, there is often a constructive path out. You can actually work constructively with people to get through problems

Mr Gutch: Clearly there is a danger but an awful lot depends on how you go about it. The reason why a voluntary organisation, in a sense, is able to speak out is because of the experience of its users. It always has to go back to that. If it seems to be adopting an ideological position, rather than talking about the experience of the people it is working with, then I think that risk becomes higher. What makes it legitimate for it to campaign is if it is talking about its users' experience.

Q135 Julie Morgan: I want to ask you about the accountability of third sector organisations. What rights do the users have in third sector organisations? We know they have rights with public services. What are the differences?

Mr Gutch: One of the themes perhaps of all our answers is that this is varied. I could not claim that every single third sector organisation is incredibly accountable to its users, but I would say it is certain that a lot are and if they have any sense they need to be working on that all the time. A legitimate question for people to ask is: What gives you the right to say this or do this? It has to be the fact that you are in touch with your users, with your local community, if that is the kind of organisation you are. It is up to the organisation to get that right.

Mr Robb: I agree with what Richard is saying. There is a lot of work going on now in the third sector, led by many of the umbrella organisations, to take this forward and to make voluntary organisations, third sector organisations, really understand their accountability mechanisms and become more transparent and accountable. They are accountable through the commissioning process, which is a separate issue. Also, we as the Government recognise that if we want organisations to play a greater role in service delivery, and that is because of users, we also have to make sure that those small organisations have the capacity to do so promptly and the ability to do that. We fund organisations like Capacitybuilders, to get down to the local level, to give frontline organisations the understanding and the means and the ability to make sure they are speaking on behalf of the users that are regularly in touch with them. Over the next few years, we want to make sure that we can support the sector to get up to speed on this and make sure it is good. As Richard says, it is variable. Some organisations are extraordinarily good at this. Some of the mental health charities and others have spent a lot of time getting users on to their boards, into their actions and employing staff so that they really are at the forefront of some of this work.

Q136 Julie Morgan: If you are receiving a service from a third sector organisation and you are dissatisfied with that service, do you have any less rights than if you are receiving it from a local authority?

Mr Robb: Nearly all third sector organisations should have complaints mechanisms that do that. It depends on whether it is a service funded by the local authority as well. There is the Charity Commission obviously. There is the Fundraising Standards Board now if your concern is about fundraising. If it is through a commissioned piece of work through the local authority then, ultimately, you could go back to the local authority to say that you were unhappy with the service. The recent NCC survey work seemed to suggest that third sector organisations were achieving a level of satisfaction equal to and in some areas better than other service providers.

Q137 Chairman: On that point, the evidence is troubling, is it not? The Charity Commission survey last year found that 69% of charities did not have any complaints processes at all, including 40% of those charities which were providing public services. The Independent Complaints Reviewer for the

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Charity Commission has told us, “In this growing area of public service, the citizen remains unprotected by redress mechanisms other than the courts.”⁹ Surely, for a sector which claims to put users first, that is a worrying finding, is it not?

Mr Robb: One of the things we will be working on, through our commissioning programme and with commissioners, is ensuring that those contracted to provide public service delivery have adequate means of redress for service users if they feel the service is not up to what they want it to do. We will work with people to make sure that is the possible. A great deal of very small, tiny charities may not need that, but the figure we will be most interested in is the 40% of organisations that they say are delivering public services that do not have complaints mechanisms. We would want to work with commissioners, the sector and others, through support for the sector, to make sure that the service users feel they have adequate redress through the normal mechanisms that you would have in other sectors.

Q138 Julie Morgan: But you have no surety that they have.

Mr Robb: This is partly the responsibility of local commissioners and whoever is buying the service. Central government cannot manage all of those contracts between a local area and a local authority. If they are buying a service from a local charity, it would be not unreasonable for them to say, “What are the mechanisms by which we can find out if there are complaints about this service?” or “What are your mechanisms to do that?” That has to be done on a contract by contract basis. We would expect and hope to find ways that make that appropriate for very different organisations. You would not want the same redress mechanisms for a small £10,000 contract as you would for a £2 million contract to do something else. We would expect that to be done through the commissioners and the contractors primarily.

Q139 Julie Morgan: If you are in receipt of a service from a local authority, you have clear ways of redress which could end up with the Ombudsman, for example. Is this clear—

Mr Robb: This should be through the contracting mechanism. In a contract that you take out with a local authority, the local authority would normally, I would assume—and, Richard, you might know more about the contracts themselves—have that mechanism of redress in that, built into the contract.

Q140 Julie Morgan: If the service is contracted from a local authority, they would have the same rights as users of the local authority service. That is what I am trying to find out. Is it the same?

Mr Gutch: A good commissioner should make absolutely certain when they contract with a third sector provider that that third sector provider has systems in place to ensure complaints can be made and dealt with, and, ultimately, yes, the matter could be taken up with the Ombudsman.

Julie Morgan: So they have the same methods. Thank you.

Q141 Paul Flynn: Do you think there are weaknesses in some charities that are used as fronts for commercial organisations to advance their causes? Shall I give you an example? There was one charity set up in 1990 by a man who was struck off as a solicitor for stealing his clients’ funds. It was set up almost entirely with money from the pharmaceutical industry. The person who set it up disappeared from the organisation and so did £40,000 of their funds. I will not mention the charity because it is still in business—under new management, might I say—but up to three years ago they were getting 80% of their funding from pharmaceutical organisations and they were distinctly silent in pointing out adverse reactions to medicinal drugs. Do you think this is a danger that is inherent in charities? Obviously you would not get this in the public sector.

Mr Stoker: I have to remember which hat I have on here because I was the Charity Commissioner for five years and spent a lot of those five years worrying about abuses of one kind or another.

Q142 Paul Flynn: The Charity Commission did investigate this organisation in the mid-1990s and did not come up with any conclusion. It allowed the organisation to continue, as it is continuing today.

Mr Stoker: I do not know any of the circumstances of the particular case. The point I would make is that vigilance is obviously important, and the existence of oversight. The other thing is that the charity sector never has been immune from abuse but you can say exactly the same about any of the other sectors that might be involved in the delivery of services, whether it is the public or the private sector, in extreme cases. Where cases like this come up, it is of course extremely important to take them seriously and examine them carefully but it is dangerous to generalise from the particular to the general.

Q143 Paul Flynn: Mr Gutch, would you like to comment on this?

Mr Gutch: In a sense, all the things we have said that are good about the third sector mean that it is going to be vulnerable occasionally to somebody trying to exploit those very freedoms, that very independence which is what is valuable about the sector. The way to address that is through having systems in place, with the Charity Commission and others. Of course it is a risk and it comes with the territory of having a sector that thrives on independence and people starting up new things and doing things in different ways.

Q144 Paul Flynn: Could I give you another example, Mr Gutch. When Viox was exposed as a drug that caused 144,000 heart attacks and strokes to people with arthritis, on the Arthritis Care website they gave advice which was: “Don’t panic if you are taking it.” There were one million prescriptions a year for it. I would have thought the advice: “Don’t panic” is not the correct advice, if you are taking a

⁹ Ev 240

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drug that is likely to give you a heart attack or a stroke. I think the advice possibly should be “Panic now.” Also on the site next to the advice was a little notice saying, “This website has recently been refurbished with help from the pharmaceutical company, the manufacturers of Viox”. I understand you were Chief Executive of Arthritis Care for nine years. Is this not an example of where there is an influence on a splendid charity like Arthritis Care by money they are getting from a company that wishes to push their products under the guise of the charity?

Mr Gutch: You are right, I was the Chief Executive of Arthritis Care for nine years and I took Viox for three years myself

Q145 Paul Flynn: I am glad you survived.

Mr Gutch: All charities like Arthritis Care, that are working in the health field, have a very difficult tightrope to walk in their relationship with the pharmaceutical companies from which they may get sponsorship. In the case of Arthritis Care, they have a medical advisory committee with distinguished rheumatologists on it who will have advised the executive about what should be said in relation to the news that was coming out about Viox. Charities like Arthritis Care and all the other ones, the MS Society, et cetera, have a balancing act between not terrifying the members and users and being responsible in the way in which they report on medical research and so on that is coming out. They may not always get it right but it is very difficult. You would have found lots of GPs that would have given different advice on Viox.

Q146 Paul Flynn: Arthritis Care have a long record of recommending drugs which were later taken out of circulation because they had adverse reactions. Is it not human nature? If you are in an office and you are getting a lump of money and you know that if you do not get that money coming in you are going to have to sack John or Jane, does that not inhibit you? Is your mouth not bandaged, when you should in fact criticise drug companies when adverse reactions appear?

Mr Gutch: Arthritis Care would never recommend a particular drug. It would provide information about the choices that patients face and it would provide them with advice about the questions to ask of their GP and their rheumatologist.

Q147 Paul Flynn: There is the particular example of the charity I mentioned and then charities, like Mind, which take not a penny from pharmaceutical companies but have had a heroic role in exposing the dangers of Seroxat. Two other main mental health charities were completely silent and in fact defended Seroxat and attacked *Panorama*. Could I turn to your document which you take as an example of a company that you would regard as an exemplar, I presume. It is one that is having services in acupuncture, chiropracture and homeopathy. These are services without a very secure scientific basis. If I came along as a faith healer for some other organisation or if I was “Placebos R Us” and giving

people a drug with nothing in it, would somebody be likely to support me—10% of my patients would be killed immediately.

Mr Gutch: I think the point to remember about Futurebuilders is that we are investing in organisations that want to have a service commissioned by a PCT or by a local authority. We only invest in that organisation if the PCT, who we talk to, have said “This is a service that we want to commission.” We do not have to make a judgment ourselves about whether that particular service is right because the PCT are the people who will have the authority on that; they are the people that are going to be paying for the service.

Q148 Paul Flynn: As Jenny pointed out, we went to America and one of the alarming things we found in America, concerning its future and the direction that the Government and the Conservative Party wishes to go, is that there was evidence that the third sector have taken over a huge area of work there. The difference between that and the public sector is that the third sector has a vested interest in continuing the problems that they have, and when problems diminish, the bureaucracy does not diminish in the third sector. The case we have is on homelessness, which was a huge problem in New York, as it was here, and it has gone down to a core of homeless people now, but the bureaucracy is still intact. The amount they are spending on that is a huge amount, and that is more likely to happen in the third sector than it is in the public sector, which has an interest in diminishing the problem.

Mr Gutch: I think any third sector organisation worth its salt will be constantly assessing the needs that it is trying to address. Let me give an example in the field you have just mentioned. St Giles Trust, which is one of the organisations we have invested in, were focusing entirely on street homelessness. As a strategic change, they are now working with ex-offenders, and, as you know, that is major social challenge. So, they have done exactly what you fear they would not do. They have said, “Street homeless is no longer quite the issue it was. We as an organisation have been doing street homelessness for hundreds of years.” They made a strategic choice to focus their work instead on ex-offenders, preventing reoffending, which is, obviously, a major issue. So, I think it does not follow necessarily, what you said.

Q149 Paul Flynn: You are nodding, Mr Robb.

Mr Robb: No, I am nodding at St Giles’. They are an excellent organisation.

Q150 Paul Flynn: Could I give another example then, if you say the tendency is to go into other areas. The tendency, surely, is to either change the definition of homelessness or to— . We talk about people who are homeless, and people who are underhoused or in poor housing are classified as homeless and the charity continues. You have seen the hardcore homelessness in London, and, obviously,

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the figures have reduced to at least a third of what they were, yet the charities are expanding, they are not reducing in any way.

Mr Stoker: Can I contribute a personal experience here. After the bombings in July 2005 I was asked to take over efforts to set up the charity to have a fund for the victims, and that fund set up distributed the proceeds of public contributions almost exclusively to the victims and closed down, from memory, I think in October last year. So, I think I would say that that is not unique, that reflects a tendency in the sector to see a job, get on with it and, when you have finished the job, move on to the next thing and avoid creating permanent structures with a cost which does not contribute to the ends of the users. I am sure that practice varies, but, again, I think it would be dangerous to generalise too much from the particular.

Q151 Paul Flynn: Have you any comments on the American experience? Is there anything which you have learned from it that we should avoid here because they are so far in advance of us in this direction?

Mr Stoker: I know quite little about the American experience. I think, on the scenario where services which have been competitively contracted to third sector bodies in this country took on a bureaucratic life of their own, there is always a risk, but I do not think it is generally likely, simply because of the shortage of resources. There are fewer resources than there are people competing to use them. That is constantly making both commissioners and suppliers look at ways of doing things smarter and doing things differently. I think once that pressure is in the system, it is not likely to lapse into a kind of lazy continuity of the kind that you describe.

Q152 Paul Flynn: Mr Robb?

Mr Robb: I think that the Government is committed to finding those solutions which will benefit users. It is not in the business of creating a perpetual hegemony for any one particular sector. We are so far away in terms of scale from what you describe in New York in terms of that, I do not think that is the case, and we are very, very conscious of ensuring that there are accountable, good contracts which ensure that problems are identified and solved and move on, and this country is particularly adept at identifying and changing what a contract is for as it perceives the need to be there. I do not believe that is a place that we are moving towards.

Mr Gutch: I would make two points about the American experience. I think from the commissioning side, it is very important not to be tempted into just having a few very large contracts. I think it is important to specify them in a way that makes it possible for smaller organisations to compete to provide the service and to bring out in the specification the real value that they are looking for in terms of the way the service is provided. If it is all about big is best, then we will end up with the sort of thing that you saw in the States. On the third sector provider side, I think there is an obligation on every third sector organisation that is entering, or is

involved in, public service delivery to be continually asking itself, "Is this the right thing for us to be doing? Have we got the balance of our work right? Are we still campaigning? Are we still doing new things as well as providing public services?" That is something you cannot legislate for. I think it is about each organisation continually reassessing that.

Chairman: Thank you.

Q153 Kelvin Hopkins: You have said at the beginning of your presentations this morning that the third sector is really meant to supplement and complement the public services rather than replace them. There is, of course, an interface and a slight overlap there but, by and large, they are there to supplement, doing things which perhaps the public sector cannot or will not do or is ill-suited to do. Is that fair?

Mr Robb: I think mostly that is the case, yes, absolutely. Again, it is about an assessment of the need of the user, what is it that is needed, and the supplementing thing. It comes back to the innovation thing. There is growing evidence, for example, that people who are diagnosed with cancer, if they are in an area where they have a very strong cancer network run by one of the charities in that area (most of the evidence in this area is around breast cancer support), they are really supported, they have got people that are there when they are diagnosed and they are supported and it seems that they are more likely to have a good prognosis. In some areas the PCTs are now supporting that, because they think that from diagnosis to support to treatment, there seems to be better evidence that that is working. So, that is an example where you can really supplement something that already exists. But in certain places of care, residential care, perhaps previously provided by the state, is now provided by different providers, so it is a mix and match area, but in general, I think, this is right, yes.

Q154 Kelvin Hopkins: Lord Adebawale, who came before us recently, used the same figure you did, about 2% of overall public spending on public services is really in the third sector, and he did not anticipate it getting any larger. The real drive, he thought, was in some areas for privatisation, not for the third sector. The third sector was just a minor component of the ideological drive coming from central government. He also said that voluntary sector services over time become statutory. Many of the things we have now, like the Health Service and education, started off as voluntary sector, third sector, but became so important that they had to become statutory and provided by government. Universal provision was necessary, these services were essential for the economy, they had to be statutorily funded and publicly accountable and that is the way things have gone. Is it possible that some of the services that are now being provided in the third sector might eventually move more into the state sector rather than the other way round.

Mr Robb: That is the point I think Richard was making at the beginning in the example he gave about GP surgeries and people with mental health.

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What the state and the public sector is trying to do and get better at is finding those examples that you might wish to take to scale that really make a significant difference across the board. Wherever that idea comes from—it might come from within the public sector—there are lots of examples of really innovative care; they exist within the public sector. This is not a discussion which is saying that the third sector is better than the public sector at all, but what I think we are interested in is finding those ideas, and sometimes it will be about taking them to scale, and that can take a very long time, or it can happen very quickly. An example would be kids clubs that really were not a national provision 10 or 15 years ago and are now considered to be something that the state should provide in every school. That is an example of something that started in the third sector and has been mainstreamed across the board. So, yes, that is a definite possibility and I think that has to be done in a way that reflects on evidence, that reflects on usefulness and reflects on the scale.

Mr Gutch: I think there is a very important distinction between what happened in the 20th century with services that started off as voluntary services, which were funded mainly through a voluntary source of income, eventually becoming statutorily run and statutorily funded services, and what is happening now, which is more about services being statutorily funded but provided by the third sector. One of the biggest investments is in a school called The TreeHouse Trust, which is a special school for severely autistic children who are all paid for by the local education authority, but I could never see that school becoming a statutorily run school, because it is absolutely part of the life-blood of that school that the parents are completely involved in the running of it. They will do some extra things as well, which the state is not able to pay for. There is a very big difference, I think, between that kind of situation and what happened in the early twentieth century.

Q155 Kelvin Hopkins: That leads on very much to my next question, which is that one of the great advantages of the voluntary sector is that a lot of volunteers are involved, particularly where there are family interests. In Mind, for example—parents of autistic children are likely to get involved in autistic charities and so on, and the state will not do that. The third sector thus draws extra resources into provision, and very good resources, because there will be this personal concern, personal care about the people receiving the service. Is not that really the most important role for the third sector, where you draw in volunteers, people who have a personal concern about the people receiving the service?

Mr Robb: I think it is worth pointing out that there are hundreds of thousands of people who volunteer in the public sector as well, in hospitals, in schools, as child leaders, supports and everything like that. People do choose to volunteer in the public sector as well and make a massive contribution to doing that; so volunteering does not just happen in the third sector and with voluntary organisations. I think it is

one of the potential benefits that you get from contracting with a third sector organisation that they may have a group of volunteers who will add to the service that they do. What most contracting is about is paid staff delivering services to a quality which meets the standards required. Many organisations choose to add to that service by the use of volunteers that help them to do that as well. So, there is a benefit there, but I would not say it was the only benefit that you get from contracting with a third sector organisation in the delivery of services.

Mr Gutch: One of the examples in our submission was a John Grooms centre for extremely disabled young people. They have got a contract with the PCTs, and that pays for the basic service that is specified by the Commission, but they are also using voluntary income to provide a fantastic service that is way beyond what the Commissioners are able to afford. I think that is a legitimate aspect of this as well, so long as it is quite clear what the Commissioner is able to specify and pay for, and then, if the charity wants to do something over on top of that through voluntary income, that is fine.

Q156 Kelvin Hopkins: One of the concerns that has been raised is that the voluntary sector, the third sector, covers a vast range of organisations, absolutely fine organisations like Mind, for example, which I visit regularly. Housing associations are regarded as part of this third sector, but they are now rapidly growing in size and merging and becoming vast landlords, effectively, moving towards being private companies. That is the likely future, particularly if an opposition party becomes a government, which may not happen, but we will see. Is it not part of the drive of government, and particularly the opposition, actually to allow that sort of thing to happen, to move things into the private sector, first of all by getting them into the voluntary sector? Certainly it has happened in housing.

Mr Robb: I can only comment on what we are implementing as a policy at the moment, and, as I have said on a number of occasions, at the scale that we are talking about, the drive is to find those areas where the third sector can deliver better services for users, to allow the state to work in partnership with them, either as a delivery mechanism or by transforming what is already being delivered by the public sector. It is about transforming public services for users wherever it is possible, and in the areas that we are talking about there is not that level of scale. Victor Adebawale would say that he can do five times as much as he does already and believes that he would be able to do that efficiently at a scale and, he would argue, I think, better than the private sector or the public sector can do it.

Mr Gutch: I think the housing association example is a very interesting one because it does, in a sense, give us an idea of what could happen more broadly. First of all, you must remember, they are non profit distributing, so they are not a commercial company. Also, I think you are getting newer, more specialist housing associations now forming and working with particular communities that are having problems

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with access to housing, and also housing associations are beginning to work in partnership a lot more (which is something we are keen to invest in) with local groups in their area, with local refugee organisations, for example, and seeing themselves as having a wider social responsibility in the areas where they are the mainland landlord.

Q157 Kelvin Hopkins: My final question is about the costs of commissioning other organisations other than direct state provision, because the commissioning costs are always enormous for organisations. I know my local authority, for example, whenever they have to bid for things, half of their staff seem to be involved in bidding. Voluntary organisations, particularly those very small ones, sometimes spend half of their resources on bidding for contracts when they want really to spend their resources not on bidding but actually providing the service. Is that not an inevitable problem, and how can that be addressed?

Mr Robb: Richard is in the business of exactly this, but maybe I could go first. I do not think it is an inevitable consequence of delivery of public services by outside bodies. I think it is possible, and there are good examples around the country where commissioning is light-touch, is proportionate to the size of the organisation and the size of the contract that is being led. There is always a balance to be struck in this process between ensuring that public money is well spent and is looked after and that we are confident that it is being spent on what we wanted it to do and ensuring that the transaction costs for reporting on that are appropriate and reasonable. The Better Regulation Executive, working with the Office of the Third Sector, has got a whole series of work over the next year to ensure that, wherever possible in the training of our commissioners, we are allowing and making sure that we find that balance. We support commissioners to ensure that the contracting and transaction process is not a barrier to entry to small organisations, does not take up their time, but retains the confidence of the commissioners that they are getting what they want from the public money they are spending.

Mr Gutch: I think a lot does depend on good procurement practice, and I think this concept of proportionate levels of paperwork is very important, and, of course, the length of the contract. One of the things I found when I went to the States was that so many of the contracts were just annual, and so no sooner had you bid and won one than you were having to work on the next—that clearly is a nonsense. So, good procurement is part of it. The other thing I think we touched on earlier is the concept of partnerships between larger organisations and smaller ones where the larger organisation does have the resources to do tenders and to enter into negotiations and it can then subcontract with lots of smaller organisations in a particular area. We are also investing in consortia. These are consortia of small organisations that might together enter into a contract, say, with a Learning and Skills Council, a larger contract for a

longer term, and perhaps between them have one co-ordinator who can deal with that side of things allowing all the different local groups do what they do best, which is providing adult education and training for disadvantaged people, and so on. I think there are ways of addressing the issue. It is not going to go away, because we are talking about public money and, clearly, there has got to be a process for deciding how that money is allocated.

Mr Stoker: There are a lot of things that you can do to improve performance. I agree with what Campbell and Richard have said. Three-year funding, to which there is a clearer commitment in the Interim Report of the Third Sector Review in December, will obviously reduce costs in that it makes our procurement processes less frequent in some cases. There is some very interesting material in our written evidence, for example, in the evidence from CIPFA¹⁰, about ways in which the work can be specified and lots packaged in a way which is friendly to the size of organisation that you are looking for to run the procedures. Clarity of messages from the public sector commissioner about exactly how much money is on the table: I think there was an example in our written evidence of one charity's experience where their chance of getting a result was something like 5%, and they were putting a lot of money into applying.¹¹ The other thing, which the Compact says, which voluntary and community sector organisations can do, which sounds simple, but I am told it is sound advice that is needed, is that before you commit too much by the way of work, time and resource you should satisfy yourself that you are actually eligible for the funding stream that you are interested in. To the extent that you go down the line a fair way before you establish that, that is obviously your time wasted and the commissioners'.

Chairman: Let see what other outstanding issues we have left.

Q158 Mr Prentice: Partnership in Public Services, the action plan, is very interesting.¹² Have you hit all your targets so far?

Mr Robb: We are certainly progressing towards some of them. We have a plan in place to do that, yes.

Q159 Mr Prentice: You talk about developing support and the development of an innovation exchange?

Mr Robb: Yes.

Q160 Mr Prentice: You are looking for a strategic partner. Has that been done?

Mr Robb: Yes, we went through a tender process and we are hoping to announce this week who the winner of that is.

Q161 Mr Prentice: Who is that?

Mr Robb: It has not been made public yet. I am not sure exactly what the process is.

¹⁰ The Chartered Institute of Public Finance and Accountancy
¹¹ Ev 225

¹² Cabinet Office, *Partnership in Public Services: An action plan for third sector involvement*, December 2006

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Q162 Mr Prentice: It is just that this was published in December, and you say you were going to do this over the next three months. That would be the end of March, and now we are in July.

Mr Robb: Indeed. We went through a proper procurement process and a tender process to make sure that it was done openly and accountably, and that has taken longer than we had anticipated. We hope that the announcement is made this week, or next week and we hope the exchange will be up and running in the next few months.

Q163 Mr Prentice: I am still not clear in my own mind whether we are going to see a huge transfer of work from the public sector to the third sector or whether it is still going to bump along at 2% or 3%. There are all sorts of contradictory messages that are being sent out. Mr Robb, you told us earlier today that there is nothing here to frighten the horses, and yet in this document you mentioned that departments are increasingly turning towards the third sector to deliver public services and you also talk about the commissioning frameworks that are being developed by the Department for Health, the commissioning for health and well being. That could cover everything, could it not?

Mr Robb: Yes.

Q164 Mr Prentice: Then a commissioning framework, underpinned through statutory guidance, being developed by the communities department for local government by April 2008. The material that we have had from the National Audit Office certainly gave me the impression that we would see a wholesale transfer of services, whether to the private sector or the third sector, as part of the Government's drive to get this commissioning up and running?

Mr Robb: I obviously can only talk about the aspects of this which relate to the third sector, and the level of measures in there are about, as I have said all the way through, ensuring that, where it is appropriate, where commissioners believe it is useful to do so, the third sector can play a role in delivering services for users. We believe that that is appropriate because we believe that there are benefits to be had for where that is done properly and accountably and through the procurement process. It is about ultimately ensuring that the public sector and the public services have the capability to meet the needs of their users, and we believe that, where it is appropriate, the third sector should deliver those things.

Q165 Mr Prentice: I do not know if I am going to wake up one morning in 2008 and find out that a lot of services provided by local authorities have been floated off, whether to the private sector or to beefed up third sector organisations being supported through contracts or grants by public money. The National Audit Office says quite clearly that these local area agreements, all flagged up in the latest local government White Paper, will encourage local authorities to move away from a traditional service perspective towards a commissioning role. That seems like big stuff to me, and, yet, listening to the

three of you, it is all down played, nothing really to worry about, it is something that will happen in the margins, and I want to know whether that is true: if it is something that is going to happen in the margins or whether it is something that is going to be genuinely transformational. Can you understand?

Mr Robb: Again, going back to the point, I believe where third sector organisations are contracted properly to deliver services, they can transform those services. At the current proportion of delivery by the third sector, I think it is unlikely that you are going to wake up in 2008 and find that to be the case.

Q166 Mr Prentice: Are there local authority services that are ripe for transfer or could conceivably be transferred? When we had a little seminar, I think I mentioned adoption services and a whole series of services provided by local authorities for children.

Mr Robb: You did.

Q167 Mr Prentice: Is that an area that could be floated off?

Mr Robb: Ultimately, the decisions will be made by the local authorities or the local area agreements.

Q168 Mr Prentice: Is it going to be statutory guidance?

Mr Robb: Statutory guidance on how to contract, where it is appropriate do so. I do not believe that statutory guidance is about saying you must. It is about where it is best to do so, where is there evidence to do so, working with the organisations like Futurebuilders to find those innovative ideas that make it happen. Ultimately, many of these choices are made by local commissioners and local authorities and will be in the domain of that area.

Q169 Mr Prentice: If we are going to get services transferred, if they are conditional, would it be appropriate to expect third sector organisations to provide roughly comparable terms and conditions for their staff? Would it be appropriate to expect them to offer pension entitlements that do not mirror the public sector but are broadly comparable? Would it be appropriate to expect third sector organisations to show that their staff have the skills and qualifications, and that they are spending money on training their staff to deliver services that have been transferred from the public sector?

Mr Robb: In any contract and agreement we would expect that the public sector provider provided all of the appropriate costs that would allow those things to happen.

Q170 Mr Prentice: When I spoke to the probation people in my constituency they were complaining that the third sector organisations that would take over some of the work would not have the same emphasis on qualifications, staff training, and so on, and you are saying that is just fiction and would be covered by the contract?

Mr Robb: It would be partly covered by the contract, we would hope. We are also as a Government investing in the third sector in terms of visibility to increase its workforce skills and improve through

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capacity building. There are a number of initiatives to ensure the voluntary, third sector organisations, not just those that are delivering public services, have the capacity do that. As part of their bidding for this process, they should be taking into account those things, yes.

Q171 Mr Prentice: Are there any areas where it would be inappropriate for third sector organisations to take on what is now universally seen as the role of the state? I am thinking of access to benefit entitlements, and so on, where people are in receipt of benefits, money from the state.

Mr Robb: I am not sure. I think that may be a question you might want to ask ministers. The approach that we are taking in the Office is to find those places where they can deliver better for users, and the Government has never ruled anything in or ruled anything out. The approach we are trying to take in the Office of the Third Sector is an evidence-based approach, working with departments, users and providers to find out which areas those are.

Q172 Mr Prentice: I understand. It would be a big change, would it not? If we are talking about employment services being moved from, say, Jobcentre Plus into the third sector, if employees of the third sector organisations could determine whether a member of the public, a citizen, could receive a state benefit, that would be a big change, would it not?

Mr Robb: That would ultimately depend on whether there were third sector organisations who wished to do that well. That would be a choice for trustees and management boards of charities themselves. Ultimately, that would be their choice as to whether that was something they felt was appropriate for a charity or a third sector organisation to do.

Q173 Mr Prentice: Can I just ask Mr Stoker about the Compact going back to 1998? We know that a huge amount of public money is going into ethnic minority organisations. Mr Gutch told us about Peacemakers, I think, in Oldham. In paragraph 13 of the Compact it talks about black and ethnic minority voluntary and community organisations and that the concerns of those organisations will be addressed through a specific code of practice which will reflect their distinctive needs and circumstances. Has that code of practice been published? I do not know. What does it say about their distinctive needs and circumstances?

Mr Stoker: Yes, it has. There are two codes actually. There is one which is for community organisations; one which governs black and minority ethnic organisations. In both cases they are basically about the spirit of dealings between public sector bodies and the groups concerned. They are very largely about making allowance for the fact that some organisations in both categories will be less well resourced than organisations of other kinds. The codes encourage public authorities to pay special account in consulting with organisations of both kinds and to bear in mind particular needs.

Q174 Mr Prentice: Should we not be moving away from that, corralling black and ethnic minority organisations separately?

Mr Stoker: I think maybe we should. Certainly if that code was being produced these days, it would be much more about diversity issues, generally expressed and much less about a particular sector, but it just reflects the fact that the Compact and the codes have developed as they have over time.

Mr Prentice: Thank you.

Q175 David Heyes: To continue Gordon's questioning on the Compact, it must be getting on for its 10th birthday now. Certainly since it has been put together is over 10 years, and it was put together at a time of great optimism, with the arrival of the new government. I can certainly remember my signatures on a local compact somewhere, together with the mayor and various other workers from the voluntary sector. It seemed to me that it was rhetoric and is still rhetoric. We are still a long way away from achieving the fine aims of the Compact. Just to quote it, it does say it is a starting point, not a conclusion, and it is a general framework for enhancing the relationship between government and the voluntary and community sector, but over and over again in your evidence today, and the previous evidence we have had, we hear "we have not got there yet, we are still a long way away". Why is it that, 10 years after the Compact, it is still rhetoric?

Mr Stoker: It is not all still rhetoric. There is good practice as well as bad practice. Every year there is an annual review of the Compact where ministers sit down with local government leaders and also people from the third sector. I went to my first of these last November, and everybody did freely admit that there was still a gap to be closed between the level of commitment at the top and delivery down the track. Sometimes that is because of what is perceived, I think, by public sector bodies as a *force majeure*. Other priorities which come in, sometimes about resources, sometimes about leadership, either at the top or in the line, sometimes simply about a cultural change which has not yet completely happened and which has got more steam behind it in some areas than others. I think that the solution to this for the long-term (and it will take some time to get to a better position) is not to sacrifice the aspirational aspects of the Compact, this idea that you should move towards relationships between the sectors which are genuinely different and are based on fuller synergy and mutual understanding. I think that the answer in the short-term to increasing confidence in the process, particularly in the voluntary and community sector, is to do the knitting better and for the public sector partners in particular, not only the public sector partners but public sector partners in particular, to put systems in place so that they are better satisfied that they are actually living up to what you might call the "book of rules" bit of the Compact.

Q176 David Heyes: Are things being done to that end?

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Mr Robb: Absolutely. I admit to having been involved in the Compact since its launch in 1997, and I was actually involved in the negotiations between the sector and the Government when I was in the sector. I think there is an interesting thing about it. I think it does work in places. If you go to Tower Hamlets or Sheffield, in some local areas they have taken this concept and they have really used it and they believe it helps the relationship at a local level. The thing about it as well is that it has been evolving. Over the years it has been looked at a number of times and, essentially, when you look at it, you say, "If we did not have this, we would have to invent something very like this", and it has been evolving over the years. The creation of John's post is another staging post on the way to saying: "Which bit of it is not working? How do we fix that?" We have done that. I think the Compact Commission is a really exciting development. I think it is a real opportunity, independent of government, to take government and make sure it is living up to its commitments under the Compact and also for the third sector to live up to its commitments under the Compact as well. I do think it is a way of thinking about a partnership between the two sectors, which is very helpful.

Q177 David Heyes: The reality is huge disproportions of power. It is a clumsy use of that disproportional power by governments and by public sector bodies that is the main source of complaint in terms of things like constantly talking about good procurement practice, a quality commission, and so on. We have been saying that for years, and there is little evidence that it is happening.

Mr Robb: The creation of the Office of the Third Sector is one of the attempts by government to put in place the mechanisms based in the Cabinet Office to really drive this kind of practice across government; the creation of the Compact Commissioner is another way of doing that. I think there is evidence. There are places where it does work, there are places where it does not work and we have to really push to make sure that it does, and I think as regards the imbalance of power, you are right, and part of the reason for having a Compact in the first place is to say that we recognise that and the public sector recognises that and here are some of the ways that you can try to redress that balance of power by thinking about how you commission, by thinking about how you consult, how you really work with organisations. So, the Compact is there to redress that balance. We have not been totally successful at doing that, but we need to keep working on it.

Mr Stoker: What I will say is that I am absolutely sure that at the strategic level in government—and most places in local government too—there is absolutely genuine commitment to making the relationships work. If you look at developments in central government, since around about 2000 every spending review that has happened since has centred round looking at ways in which the voluntary and community sector can be enabled to play a fuller part in society as well as in services. There has also been money put where the Government's mouth is in

the shape of capacity building, both through Futurebuilders and also Capacitybuilders. So I do not think it is a question of lack of genuine will to get these partnership arrangements working better, it is just that there is quite a long process of cultural change which is going to take a sustained effort to get through.

Q178 David Heyes: What you have just described as genuine commitment in local government earlier has been described as continuing short-termism in contracts, continuing insensitivity to the needs of the third sector in formulating contracts, and so on. Is that genuine commitment?

Mr Stoker: There is scope for improvement. I think the point in this is that you often get a different perspective and a different kind of engagement if you talk to either, say, a leader or a chief executive in a local authority about partnership between the sectors than if you then talk to the person that, maybe two or three tiers down in the organisation, has spent a career procuring the services as a procurement professional, they have a narrower view often.

Q179 David Heyes: And a very tight budget?

Mr Stoker: And a very tight budget, and used to thinking about things in cost terms rather than in terms of broader value for money, and it is the leadership and the cultural change and the systems to iron out the differences between those views which is the gap in the market at the moment, I think.

Q180 David Heyes: It is the level playing field argument, is it not? They want the establishment of a level playing field between the public, private and voluntary sectors. Given the worthy intentions of the Compact, given the need to be sensitive in putting contractual arrangements in place, how is that consistent with the competitive neutrality that the CBI particularly are arguing for?

Mr Stoker: The level playing field, when it comes down to the bottom line, which is the quality of services delivered to users, is the same for everybody from every sector. The way you can reconcile it with the third sector locally—say you are a local authority, you are, for the first time, moving to procure, on an authority-wide scale, a service or an activity which has previously been financed perhaps by grants in smaller local pockets: you can think about how you parcel up the work because if you parcel it up in certain ways it is going to be more accessible to small and voluntary sector bodies than if you package it up in others. You can think about ways in which you can actually enable some of the smaller organisations that are present locally to get together in consortia to bid for that in circumstances where they might not be able to do that on their own. They can do all of that without actually moving away from the level playing field.

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Q181 David Heyes: Really?

Mr Stoker: Yes.

Mr Robb: I am not sure that the level playing field— . There are a whole range of reasons why the playing field is never necessarily level. There are many voluntary organisations who would say—

Q182 David Heyes: A carefully contoured playing field.

Mr Robb: A carefully contoured playing field, indeed. Ultimately, it is about those who wish to buy services, those who wish to commission services, really understanding what it is that they wish to buy and being willing to pay extra for something. We were talking earlier on about the benefit volunteers bring to a particular service. If that is the case, are they willing to pay more for that particular service? The examples that are most difficult to commission for are people with multiple needs, a small charity that is supporting drugs users. If they are successful at what they are doing, there are savings to a local authority across the board and through police and all other things like that. It is very hard to measure what that success is, but commissioners have to be really aware of what they are doing. That is how you create a level playing field, because the Commissioner, the buyer of the service, is exactly clear about what it is they want to buy and they understand the cost that they are willing to pay for that and sometimes they may wish to pay a premium from the third sector or from the private sector or from the public sector because they think they will get something extra for doing that.

Mr Gutch: I think, in our experience at Futurebuilders, we have got quite a long way to go before worrying that the level playing field is becoming uneven in the wrong direction. Our overwhelming experience is that commissioners still view the third sector through grant spectacles—they do not treat them in a business-like way—and the kind of contracts that a commercial provider will expect to get—take refuse collection or something, which will be long-term contracts, fully reflecting the costs of the provider in providing the service—are miles away from most of the funding relationships that third sector organisations experience at the moment, so we have got a long way to go to get this bit of the playing field up to the level.

Q183 David Heyes: One last point, if I might. When we had the trade union people in a few weeks ago with David Prentice from Unison, for instance, the top man in Unison, and these were not his words, but the impression he gave us was that what was really going on here was that the third sector, the voluntary sector was just a Trojan horse for a drive towards the complete marketisation of what we considered as public services in the past, and that the continued problems of tight public sector budgets, the drive to get costs down, and so on, meant that inevitably the third sector were never going to get any bigger than they are now and the consequence was that they will be squeezed out completely because the market would drive it. I give that as a

report, that is what the trade unions are saying, and I would be interested to hear your view on that. You are a Trojan horse.

Mr Robb: As I have said on a number of occasions, what the Office of the Third Sector and Public Services Action Plan are here to deliver is better services for users by using the third sector in appropriate places to do that, and that is what we are trying to implement, and to give the third sector the opportunity to work in partnership with the public sector to benefit users, because we believe that in certain circumstances the third sector can deliver services that are better for users, sometimes in partnership and sometimes on their own, and, as I said before, what we are interested in is good contracts that ensure that all of the different things that the contractor wants from that contract, including staff development or the full cost of that, are met through that process. That is what we are interested in.

Q184 Chairman: As a matter of fact, is it possible for a commissioner to say, “We are only interested in taking contracts from third sector providers”?

Mr Gutch: I do not think it is, but what I think it is possible for the commissioner to do is to specify the service in such a way that it is highly likely that only a third sector organisation would be able to deliver that, and that is about perhaps placing particular emphasis on the involvement in the local community, working with local people in particular ways that you would not expect a commercial provider to be able to do. I think it would be contrary to EEC procurement rules to state that you only want to procure from a third sector organisation, but you can specify in a way that makes it much more likely.

Q185 Chairman: This is odd, because if even part of the rhetoric is true, which is third sector brings distinct qualities to the provision, the user focus and everything else, it seems absurd that you cannot say, therefore, we want these services to be provided by third sector organisations. You can then do your competition amongst third sector organisations to see who can best provide it, but you would have said that you think this is the sector that you think should provide the service. Is it really the case we cannot do this?

Mr Robb: I think it is back to the carefully contoured playing field analogy, in that what we are interested in is not specifically the provider of the service. There are benefits that we think third sector organisations bring in terms of flexibility, innovation, closer to users, long-term commitment, servicing multiple needs, and that a commissioner should, if they perceive that is the problem, having gone through a process for really understanding the needs of the users, commission a service that requires those things to be taken into account and may even pay a premium for that to be the case because they believe that provides a real benefit, and then there is an open competition for that; but the public sector, the private sector and the third sector can compete on that and they have to have the evidence, there needs

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to be the evidence that that provider can provide the evidence that they can do that and that they are the best provider that is in place to do that.

Q186 Chairman: Is it the case that under EU procurement rules you cannot say, “We only want third sector providers?”

Mr Robb: Can I honestly say? I am not an expert on EU procurement rules. I am happy to get back to you on doing that, but my understanding would be (and Richard would know this better) it is the case that for contracts of this nature you have to have an open tendering process.

Mr Gutch: I think it is the essential difference between a grant and a contract. A local authority can provide a grant to any voluntary organisation it wishes, but if it is contracting for a service, then, under EU procurement rules, it has got to be open. As we say, there are ways of specifying it, and also the size of it and all kinds of things, so that you can make it more likely that it is going to be appropriate for that service to be delivered.

Q187 David Heyes: Equally, under the rules, you cannot disqualify a tender that you know to be a loss leader from a private sector organisation that is trying to grab the market.

Mr Gutch: No. If I can make one last point, in a way I think it would be odd if you could say this is only for third sector providers because, as we have been saying throughout, it is not an absolute certainty that the third sector provider is going to be able to provide the service that is needed. We are talking about having the potential to do it, but that has surely got to be put to the test.

Q188 Chairman: I am sorry to worry about this, but if something is not put out to tender, you can simply commission directly, can you not, which does not involve going through a competitive process?

Mr Gutch: This is getting into the complex territory none of us feel fully qualified to answer.

Q189 Chairman: It is pretty essential to know whether this is an area you want to develop or not?

Mr Gutch: You can have negotiated agreements with a provider. Where there is a provider in a very much niche area of provision and it simply would not make sense to open it up, then you can have a negotiated agreement in those kinds of circumstances. You would have to marshal all your reasons for doing that in case there was a challenge, but that is one of the grounds, I think, on which you can have a negotiated arrangement.

Q190 Mr Prentice: I want to ask you about faith, because before Blair politics and religion did not really mix and public money did not go to religions, but now public money goes to promote interfaith dialogue, and so on and so forth, and we are getting used to that. I asked Mr Stoker earlier about the Codes of Practice, and I see in the Compact that there was a Code of Practice promised in 1998 (I am sure it has been published) on community groups, including those which are faith based. Are there

particular difficulties about contracting with faith organisations? Just as I have been sitting here I have thought of lots of examples where faith based organisations may want to get involved—the Salvation Army doing meals on wheels, a local Muslim organisation doing Halal, and so on and so forth. What are the opportunities for faith based organisations to get involved, and are there particular dangers that we should be alerted to? Is it a good thing that faith based organisations get involved? Does it matter?

Mr Gutch: I think if you look at the history of charities, obviously lots of them have been motivated by a particular faith, and that is often what has brought people together to do whatever they are doing. The distinction we make is that there is a difference between what is the original motivation for the organisation, the value base of it, and who they are providing their services to. In most cases we would expect the service to be open to people of all faiths. Unless there is some particular, say certain types of education, sometimes there may be a case for that not being appropriate, but in most social services one of the things we would look at very carefully in assessing the application is: is this going to be open to all those who could potentially benefit from it in the particular locality?

Q191 Chairman: Forgive my ignorance, but is it happening in a big way as I speak, that faith organisations are delivering lots of services for local authorities and maybe even central government, I honestly do not know.

Mr Robb: In the context of how much the services are delivered by voluntary or third sector organisations, it is not my understanding a high percentage of those are particularly faith organisations. However, it is worth noting that there are a growing number. The Charity Commission is registering a greater number of faith based organisations and others and, as part of the consultation exercise that the Office of the Third Sector is running with the Treasury over the last year, our trade organisations have increasingly come up and said they were interested in discussing exactly those types of problems.

Q192 Chairman: Is this a good thing or are you neutral on this?

Mr Robb: We want to find out what that is and have a discussion with them. We would not be against or for. We just want to find out what those issues are and have a discussion with them, but, particularly if there is a growth in faith based organisations, we would need to ensure we had the right policies and ways of interacting with that and that people were involved in that process.

Q193 Chairman: As we end, can I ask one final question. We have had a lot of questioning about whether the state has an agenda to push third sector provision further and faster. What about the other side? Is the third sector queuing up, knocking on the door saying, “We want to do more of this? On the Futurebuilders side, we have not asked you about

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the level of demand there is for your services. Is there vastly more demand than you can meet or are you in the business of trying to stimulate the market? What about third sector organisations who want to do partnerships with the private sector? Are you interested in getting involved there? What happens when people default on your loans from the third sector? What do you do to them then? Quickly, just a sense from the supply side what it feels like at the moment.

Mr Gutch: I think you have to remember with our investment approach, as I said in my introduction, we are primarily lending money; so I think we are pleasantly surprised with the level of demand. We have had 1,300 applications, totalling over a billion pounds, and in a recent survey it was established that 25% of voluntary community organisations are willing to consider taking out a loan. Part of your question is about the appetite for loan finance, because that is what we are offering, but the other side of it is the public service delivery. I always go out of my way to say this is not for all parts of the sector. There is lots of incredibly important work the sector does which is not about the agenda we have been discussing today. There are people who want to do things through voluntary income, local community action campaigning work, etcetera, etcetera, and I

am very pleased that the Office of the Third Sector have introduced a new grant programme to support that kind of work. That is very important. So, I would say there is a growing interest. We have not had more demand than we can cope with, but I expect demand to expand, and it crucially depends on the commissioning environment: because if you are taking out a loan, in the end, you are expecting to repay it because of getting a contract and fees, and the more well developed that market becomes, the more likely you are to be willing to take out a loan.

Mr Robb: Can I just reiterate, we are absolutely not in the business of forcing organisations to deliver public services when they do not want to do that. In fact we have got a whole range of other policies which are about supporting organisations. We have got nothing to do with public services, but what we want to do is to ensure that for organisations, when they do want to deliver public services, there is a good partnership, that they have got the capacity to do it, that they are held accountable for that in an appropriate way and that we facilitate that innovation and change for users, and that is what we are interested in.

Chairman: Okay. We have had some very rich evidence, which we shall digest and use as best we can. Thank you very much indeed for your time this morning.

Tuesday 10 July 2007

Members present:

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Kelvin Hopkins
Mr Ian Liddell-Grainger

Mr Gordon Prentice
Paul Rowen
Mr Charles Walker
Jenny Willott

Witnesses: **Mr Martin Narey**, Chief Executive, Barnardo's, **Mr Philip Cullum**, Deputy Chief Executive, National Consumer Council (NCC) and **Ms Alison Hopkins**, Senior Policy Advocate, NCC, gave evidence.

Q194 Chairman: Welcome to everyone, particularly welcome to our witnesses this afternoon: Martin Narey, Chief Executive of Barnardo's, Philip Cullum who is Deputy Chief Executive of the National Consumer Council and Alison Hopkins who is a Senior Policy Advocate for the National Consumer Council. Thank you for coming to help us with our inquiry into third sector commissioning. We particularly wanted to talk to you, Barnardo's as a big provider and NCC as a big observer of these things; thank you for the memoranda that you have submitted. Would you like to say anything by way of introduction or shall we just get into some questions?

Mr Narey: I am very happy to start, Dr Wright, thank you.

Q195 Chairman: Shall we just head off and see where we go? Could I start with this business about evidence; what we have discovered is that there are a lot of arguments in this area and a lot of claims made for what the third sector can offer as a public service provider, but the evidence is slightly more complicated, is it not—and I am looking at Alison in particular because you have done the work. We have all read the summaries of the research that you have been doing on comparing user experience across sectors. Could you tell us first of all in general about the research evidence that exists on this and then what you discovered when you did the piece of research that you have reported recently?

Ms Hopkins: Certainly. First of all on the general evidence there is a host of anecdotal evidence about third sector delivery and third sector organisations, and by that I mean lots of case studies, lots of quotations. Each organisation collects its own feedback from service users but it tends to fall into what would be the qualitative evidence heading; it is little stories and quotations. It was all very convincing and all very inspiring, but when one wants to stand back and try and assess and quantify that evidence it is very difficult to do so, there is very little quantitative, statistical evidence on the third sector, partly because it is so difficult to define, it is a huge spectrum of organisations of different sizes and different governance arrangements operating in different sorts of areas. It was one of the reasons why we did our piece of research, it was partly to have a think about how one might add to the evidence base and acquire some quantitative data, but it is quite complicated to do. In part we were trying to find a

way of developing some quantitative data, but we also wanted to look at was there something about the third sector that was different in the way it delivered service, so we were looking for distinctiveness from the user perspective. As you know from the summary of the report we chose three service areas to look at, each of which has a slightly different service delivery model: social housing, employment services and domiciliary care for older people. We selected a random sample of providers from the three main delivery sectors—public, private and third sector—except for housing where we did not do private. What we found about the variation within the delivery, or indeed how the third sector stood out from the other sector providers, was that it is just not possible to generalise about third sector, so although third sector organisations hold a well-earned reputation, perhaps, our evidence showed that it was not always the case that third sector organisations were highly innovative, responsive to users, flexible and indeed they did not always make people feel part of the community which we were expecting would stand out quite strongly. In some service areas such as employment services third sector organisations really did stand out, they excelled at being very responsive to users, dealing with problems as they arose, that kind of issue. In domiciliary care that was not the case, it was the private sector providers who were seen to be the strongest on user responsive factors and things like treating service users with dignity and respect. In social housing we did not find a lot of difference at all between third sector providers and public sector providers, and indeed in both areas responsiveness to users was not a great strength. Overall none of the providers really performed very well in terms of listening and responding to their users, they tended to be much better at the nuts and bolts of service delivery, providing one-way provision of information, but not necessarily in listening and responding, which we were surprised about, we thought third sector would stand out in that area.

Q196 Chairman: You went around asking people.

Ms Hopkins: Yes.

Q197 Chairman: How many people did you ask?

Ms Hopkins: It was 1,230 people altogether, divided between the three sectors and the three services, a quite small but robust sample which we built up using random selection from given populations in the different service areas.

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Q198 Chairman: If a policy-maker said to you “As a result of doing work of this kind what conclusions would you draw about where the third sector could most appropriately be used to provide public services, what would you say?”

Ms Hopkins: From our evidence certainly the strengths of the sector would seem to be in niche services, niche specialist services, where third sector organisations have lots of scope to be innovative and flexible and responsive, the kinds of services like the employment services that they are contracted to provide, possibly in partnership with others. That seems to be where their strength lies.

Q199 Chairman: I am not entirely sure what a niche service is?

Ms Hopkins: By that I mean a service that has been commissioned, usually for a particular need or for a particular user group, so perhaps with people who have been out of work for an awful long time or particularly groups such as young black males or something like that. It is a very specified service.

Q200 Chairman: Difficult groups.

Ms Hopkins: That is one way of describing it.

Q201 Chairman: Is that your conclusion, that the third sector is particularly good at dealing with difficult groups?

Mr Cullum: Where it is quite targeted and focused where there may be particular needs. Part of what we also picked up was cases where it is not about just the narrow provision of one service but where people’s life circumstances lead into lots of other needs. One of the things that people said in some of the areas was “They dealt with me as a more rounded person and they provided things that I was not really expecting” which partly speaks to something about innovation but also about the understanding of the broader spectrum of need rather than just saying we rather mechanistically provide one particular service.

Q202 Chairman: I am not sure how the notion of “niceness” fits with this holistic view because, by definition, niche is niche; holistic requires operation across the piece.

Mr Cullum: Niche groups is the point, so it is trying to see what the needs of particular groups of people are. Part of the rhetoric around the third sector is an understanding of users and the ability to get close to them. One of the things that we found was that actually that rhetoric in some instances can be rather overblown, particularly when it is being provided to quite a general population like social housing, but where it does stand up, it would seem from our research, is where there are groups of people who have quite particular circumstances. In that case that kind of focus on who are the users and what do they really need comes out more strongly.

Q203 Chairman: Can I bring Martin Narey in on this same point, partly to ask what your response is to research of this kind which is suggesting a more complicated picture of user experience across the

sectors, bearing in mind that you say in your evidence that, “Evidence from Barnardo’s work shows that services provided by the third sector are popular with both service users and with commissioners.”¹ In a way you are making the claim and the people having done the research say actually this is all rather more complicated.

Mr Narey: The first thing I would say, Dr Wright, is I do not agree with the niche point, there is no reason why the voluntary sector cannot work in very wide-ranging services and in a whole range of activities, but I do not make any claim about the services provided, certainly by Barnardo’s, being naturally better than those provided by the public sector or the private sector. We are popular with users. I spend a lot of time visiting our 400 projects around the UK and I am fairly consistently told by users that they like coming to us because we are Barnardo’s or, more to the point, because we are not social services. That is generally pretty unfair on social services, it is a little bit about packaging. I do not make the claim that our services are necessarily better, but it seems to be undoubtedly the case that users do like them and we might just have an advantage in getting access to hard-to-reach people. For example, one of the services of which I am most proud in Middlesbrough in the North East supports young girls and young men, getting them off the streets where they are subject to abuse and prostitution. A number of the young people there say consistently that they would not come to the service if it was not the name of a voluntary sector provider above the door. Whether or not that reflects fairly on the statutory services, I think it probably does not.

Q204 Chairman: Leave aside the word niche; the proposition that it is some of the more difficult territory, it is some of the harder to reach groups, some of the more challenging areas, would you subscribe to the idea that broadly that is the territory where the third sector can be most useful?

Mr Narey: It can be and at Barnardo’s we pride ourselves on working with some very hard to reach groups. We educate children in schools who have been multiply excluded from many schools and we try to hang on to young people and stay with them, so we can do that but I do not think that is a structural issue. My view is that there is nothing that the voluntary sector can do that the public sector or private sector cannot do just as well. There is nothing special about us, what is important is that organisations are well-managed, and I would say that competition is what drives improvements in services. A lot of people in my sector think there is something important about being in the voluntary sector, as if we have a monopoly of compassion, and it is most unfair, we do not. If we are not well-run, if we do not run our services well—and we have some excellent services and some which need improvement—we will not give good service to the users.

¹ Ev 143

Q205 Chairman: It is well-made services irrespective of who provides them as long as there is a contestable environment; that is your feeling on it.

Mr Narey: Yes.

Q206 Chairman: Could I just ask as a matter of information, because we shall talk to you in a minute about the business of commissioning, from Barnardo's point of view in terms of the contracts that you bid for roughly how many do you get of the ones that you bid for?

Mr Narey: We get work in two sorts of ways. We still get quite a lot of work where commissioners simply ask us if we would like to do the work, so obviously we get all of those. When we are in competition with other voluntary sector organisations we win about one in three.

Q207 Chairman: I have not quite worked out, and I am sure it is because I do not understand enough, as to why in some cases you can be asked directly to do things and why in other cases it has to be contestable. If you are a great believer in contestability why would you want to be in a situation where you are simply given the service as it were?

Mr Narey: Because we respond to requests from local authorities, for example, and there is much less evidence of contestability in Scotland where we operate where we still get a lot of our work on the basis that we have always provided that service or we are providing a service in an adjacent town and we are asked to repeat it. In England and Wales the tendency is much more now for competition, there is very little work that we get and certainly no new work that we get other than through competition with other voluntary sector providers.

Q208 Chairman: In your evidence you mention the North East where there are three authorities for which you would like to do work but you are prevented from doing so. In paragraph 6 in your evidence you say: "In the North East, three local authorities have recently stated to us that their preference would be to commission parenting services from us, but that in some cases commissioning and procurement rules inhibit them in doing so."² I just wondered quite what you meant by that.

Mr Narey: The Government for many years has been speaking in very encouraging terms about more work being put out for competition and more work being made available to the public sector. Our experience is that there are a number of problems with commissioning and its use is very patchy. Indeed one of the challenges which organisations like us face in the next couple of years is coping with the amount of work which is going back in-house, Children's Fund work, for example, is being absorbed back into local authorities. Some local authorities are much better than others at putting out work to competition; others for all sorts of reasons prefer to keep the work in-house. My view, as you would expect, is not that we are owed any

work, we should not expect any work, but we would welcome more consistently to be given the opportunity to demonstrate what we can provide at a given price and to be compared exactly evenly—not to everybody—with local authority in-house provision and that by other organisations including the private sector.

Q209 Chairman: In this particular case do you happen to know what is it about the commissioning and procurement rules which inhibit you?

Mr Narey: I do not know the details of this particular case. My understanding is that those who are responsible for the work have said they would very much have liked us to have a chance of providing it but the local authorities have decided that the work is going to stay in-house and be directly delivered. Some local authorities are much less in favour of putting work out to competition than others.

Chairman: Let me bring some colleagues in and we will explore these issues further.

Q210 Mr Walker: Mr Narey, you came from the Home Office, prisons. This is perhaps slightly off the subject under review today but how do you think, for example, the charitable sector could help with prisons, ie the management of prisons or perhaps the reintegration of prisoners into society? I am sure charities are already working within the prison system, but where is there scope to extend that level of engagement with the charitable sector?

Mr Narey: The voluntary sector already does a great deal, both in prisons and with offenders in the community. I spent virtually all of the considerable investment I got from Jack Straw in 1998 to 2000 for drug treatment on the voluntary sector because I believed then and I believe now that they would do a good job. There are lots of small pockets of work which are being contracted out and where the voluntary sector has made a valuable contribution, but what has happened is that since the creation of NOMS³, which I was partially responsible for, there has not been a much greater step, as I had expected and hoped, to a much wider use of the voluntary and the private sector in delivering services. Contestability, which was very much at the heart of the creation of NOMS, has made very slow progress indeed. I should say straightaway that this is not a bid for Barnardo's, we have no wish to run prisons, but the voluntary sector and the private sector could play a much greater role in very large scale contracts. I believe the contribution of the private sector to improving the public sector in terms of managing prisons has been enormous and I would like to see a much greater use of competition and much greater opportunities for the private and the voluntary sector for much larger scale contracts.

Q211 Mr Walker: I have nothing against prisons themselves; in fact if we need more prisons let us build more prisons. What offends me is the idea that we have revolving door prisons; we get prisoners

² Ev 143

³ The National Offender Management Service

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who go in, they serve a sentence and they keep coming back, recidivistic criminals. Where should the charitable sector be engaging with the prison service to ensure that when people are in prison they actually receive the support they need, the training they need, the services they need to go back into society and be productive members of the community. You said you had some ideas on how this should work but they were not actioned or taken forward; could you be specific in some areas where you think work needs to be done and should be done?

Mr Narey: A great deal more could be done to rehabilitate prisoners while in custody and to prepare them more adequately for their release so they will be reintegrated into society. Simply putting out work with current levels of over-population to the private or voluntary sector will not change the very poor reconviction rates; the fact is that rehabilitative activity has to be spread amongst far too many prisoners at the moment. One of the reasons why it has been difficult to progress NOMS and one of the reasons why I left the Home Office was that I despaired of getting a stable sentencing policy, which is absolutely necessary. If you are going to manage offenders effectively, make sure that they are released in a more considered manner and are supported in the community. You have to have a system which is not working every single day at breaking point.

Q212 Mr Walker: When prisoners are released from prison back into the community you are suggesting—I hope I am not putting words into your mouth—that it is done on a rather ad hoc basis and that there are not enough integrated support networks to help in those critical few months after their release from prison. That would strike me as an area that is ideally suited for the charitable sector to reach out to those people and help them readjust to civilian life.

Mr Narey: My view is that we send too many people to prison. I believe there are some people in prison who probably need to stay there longer and the changes this government made a few years ago in introducing more indeterminate sentences should be praised, but the vast majority of the people we send to prison stay for three or four weeks and they get virtually no rehabilitative activity in that time. We would not send someone to hospital, watch them get no medical treatment whatsoever and expect them to get better, but that is what we expect of prisons. Although there are some improvements at the margins and some individuals do do well in prison—and I retain an old-fashioned view that custody could be made to work, it could be an enriching, rehabilitative educational experience—it cannot possibly be that it is such an experience when prisons are working at breaking point and when their energies are being consumed at coping with the day to day problems of managing too many prisoners.

Q213 Mr Walker: What interventions could Barnardo's be making—or perhaps you are already making them—with young people before they get to

the stage where they face incarceration? You probably have a number of initiatives in place but I am sure there is a great deal more you would like to be doing. In a couple of minutes could you just canter through those areas?

Mr Narey: If we are talking about avoiding people going into custody, despite the issue being complicated it is fairly straightforward. In order to stop people offending you need to do two things: make them employable and get them somewhere to live, so the sorts of things we do in our residential schools where we do make people who have been otherwise on the scrapheap employable are very important. Our 25 different schemes around the country which support children leaving care, help them to get accommodation, give them advice on getting into jobs, all those have a significant effect on stopping sometimes the inevitable drip of very vulnerable people, particularly children who have been in care, into custody. Our record in this country on the outcomes for children in care remains pretty woeful. I am very optimistic about the new White Paper published just before the change of Prime Minister, it will make a real difference, but my goodness we serve children in care very badly at the moment. I met many of them when I was working on that.

Q214 Jenny Willott: I want to ask some questions around the risks associated with commissioning, particularly the risk to the third sector. From the research that was done by the NCC did you look at all at mission creep, either through organisations working with flexibility—flexibility and adaptability enough to be able to serve all the needs, as we were talking about earlier, the holistic needs of an individual—and balancing that with mission creep where work starts developing outside of your initial remit. What have you done to look at how that is balanced and how you make sure you do not do the latter?

Mr Cullum: We did not look at the extent to which organisations try to create a new opportunity for themselves, if that is what you mean.

Q215 Jenny Willott: Is it forced on them by the terms of what is available for them through money? Are they being pushed into creeping outside of their initial aim because that is where the money is?

Mr Cullum: One of the questions that comes out of our research is does the government use the third sector in the right way and does the commissioning process actually narrow what the third sector has to offer. It is about insight into people and what their needs are. If there is at times more creativity from the third sector, is the commissioning done in a very mechanistic technocratic way that just requires very narrow delivery, which could almost be done by anybody, and then it is just a question of is it the quality of the management and the people who happen to be providing a particular service. The way the government does it, it may be missing the opportunity in a sense.

Mr Narey: If I may add to that, I do not think there is any question of the voluntary sector being forced to do anything. One of the great privileges of working in the voluntary sector in my view is that we can choose what to do. We look at lots of tender documents from local authorities and some of them we decide not to apply for because we do not want to do it, so it is not a question of being forced into things. I cannot tell you how many times I would have liked to have told successive Home Secretaries I would like someone else to run Feltham or Brixton but I could not; it is a great privilege of the voluntary sector that we can choose. I do not think there is any question of voluntary sector organisations being forced into doing work which they perhaps will not think is effective or which expands their mission beyond their competence because it is up to us whether or not we express an interest in doing the work.

Mr Cullum: We have certainly come across, in other contexts, third sector organisations who have been taken advantage of by government in the sense that government has relied on the organisations' commitment to their mission to essentially underpay them for the services, so it is basically working on the basis that the government will get away with paying what they can because the organisation is so committed to its mission that it will not withdraw. If third sector delivery is sustainable then clearly there has got to be some kind of going rate for it, else it does not really do anything either for the sustainability of the organisations or in the end for the services that are being provided to consumers.

Q216 Jenny Willott: Picking up on something that you said earlier, Mr Cullum, you were talking about design versus delivery. Should the third sector be involved more in the design of policy and then to some extent does it really matter who then delivers it, or is it in the delivery that they have a lot to offer?

Mr Cullum: I am sure they have lots to offer at all stages. I suppose the thing we would most point out is rather than being about the third sector, it is more about consumers' involvement in shaping policy, so more involvement in the commissioning process so that there is more user-led commissioning where people who the services are intended for play a part in deciding what is tendered for and then at the end in assessing whether or not they have been delivered. Those are both points which are in the third sector action plan and I guess the question is that clearly we are not at that stage, and lots of organisations who commission do not involve consumers either in assessing or in the shaping stage at the beginning, and how is that going to be put into practice.

Q217 Jenny Willott: Do charities have to find new problems to tackle as older ones go away and disappear, for example running orphanages. Do they have to find new problems just to stay in business?

Mr Narey: That is certainly not the case with Barnardo's; although we do not run orphanages any more we work with the same sort of children who would otherwise have been in orphanages, it is just

that we put a lot of work into getting them fostered and adopted. While we have 3.8 million children living in poverty in the fifth richest economy in the world I do not think we need to invent any problems at all; that is the overwhelming challenge of all our work with children, that so many of them live in poverty. One in three children in the UK; 70% of Bangladeshi children live in poverty; it is overwhelming.

Q218 Jenny Willott: What about organisations, for example like Shelter, which have changed a lot of the work that they do and have adapted to much more campaigning around poor housing, whereas it used to be focused almost entirely on homelessness?

Mr Narey: I do not feel competent to speak on that.

Ms Hopkins: I would not interpret that as finding new problems; I would see that more as an organisation that has evolved into working with different groups and perhaps meeting different needs. I suppose this is one of the things that I was alluding to at the beginning, that there is such a diversity and richness within it that it is almost impossible to generalise because at one end you do have the large charities like Barnardo's with a very clear purpose, organisations like Shelter that perhaps have evolved but are still doing a really good job, it is not an invented task that they have got. There are still other organisations working at that sort of coalface area where maybe Shelter started off at, and one of the strengths and the beauties of the sector is that there is often the bubbling up at those points of need with the very small, local organisations that are working very, very closely with the people who need those services and then they can grow and evolve into other things. I do not think there is any suggestion that they are creating needs, but there is a response to need and those needs may change over time.

Q219 Jenny Willott: Can I also ask about the ability of an organisation to be independent when they are receiving a large amount of their money from a government source? I know, Mr Narey, you have written various things that say it does not affect an organisation's ability to be independent and to criticise the funder in any way; is that the case for all organisations or is that when you are a large enough organisation to be able to have enough contracts to cushion the blow if you lose one or two because you have annoyed somebody? Does that same thing apply to much smaller organisations where they might be much more reliant on funding from one source; do they still have that independence to be critical?

Mr Narey: Some organisations may fear that they might be penalised in public sector contracting by speaking out. I have rather more faith in the public sector and in the integrity of the public sector to believe that that will be so. As a public sector commissioner you have fairly limited ability to change a decision, a contract. When on one occasion I did not give a contract for a private prison to the lowest bidder I had quite a hard time in front of the Public Accounts Committee because that had to be

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disclosed, so there is relatively limited scope to give contracts from the public sector to other than the bidder who is meeting all the requirements of the tender and at the lowest possible price. Generally this has become a bit of a myth about speaking out and there are all sorts of examples of organisations which take public money and have consistently spoken out against government policy. Certainly in the last few months we at Barnardo's have spoken out vociferously about the treatment of asylum seeker children with HIV, about children in care. Very recently we turned the Home Office around about their plans to introduce a Megan's Law; I do not believe doing that will significantly affect our ability to gain contracts either from the public sector or the local authorities.

Q220 Jenny Willott: What about small organisations who are more dependent on a sole source of funding?

Ms Hopkins: Smaller organisations who are in that sort of position who argue their case, have some evidence and can have a reasoned argument about what it is that they are trying to advocate or to be critical of are taken seriously and will be taken seriously, because there is a recognition that these are organisations that do have a dual role and indeed that is one of the benefits of having them. A lot of public authorities and public bodies can learn through that experience and actually there is a bit of ears and eyes on the ground. A lot of third sector organisations worry about the potential that there will be some negative knock-on effects, but we do not have any evidence that that is necessarily a problem.

Mr Narey: Although I do not think there is any evidence to suggest that organisations that speak out will not get contracts, there may be a worry for those charities which take their core funding from the government, which we do not. If you get core funding just to exist then there must be a risk that if you are going to insist on speaking out against the secretary of state on particular policies you might believe that would come under threat. There has been some evidence that in the dying days of the last Conservative government people who worked for Nacro would say that they did suffer and did have core funding removed, partly because they had spoken out against the penal policies of the then government.

Q221 Chairman: Some 55% of your funding comes from government.

Mr Narey: That is correct.

Q222 Chairman: Is that both grant and contract?

Mr Narey: That is all for contracts; we do not get grants from any agency at all, the only money we take is in contractual exchange for providing services.

Q223 Chairman: Would it matter if that figure was substantially different from 55%? If it was 85% would it make a difference?

Mr Narey: I would not like it to grow very much because I would want us to be an organisation that was both a doing organisation, providing services, and a campaigning organisation because the link between the two is very important. I want to have the money and the resources to be able to do research and to speak out and try to influence government, but actually I do not think there is a particular level at which I would start to panic, there are other organisations which take a much bigger proportion of their income from statutory funds and I do not think that necessarily should impinge upon their independence.

Q224 David Heyes: I want to pick up with Martin Narey your earlier statement about a very strong belief in competition driving improvements in services, your personal philosophy that you brought from the Prison Service and now into Barnardo's. You talked about having to look at lots of tender documents from local authorities and you make decisions about whether or not to put time and energy into bidding for them, but even the ones that you do bid for you achieve one in three of the contracts that you go for. This whole business of bidding for sometimes sizeable contracts is inevitably costly, time-consuming and some would say it is a wasteful use of your resources. How do you achieve the cost recovery on what you spend on these speculative and failed bids?

Mr Narey: Ultimately, for most of our bids, the cost of tendering is something which we have to factor into the price.

Q225 David Heyes: My monthly donation pays for that, does it?

Mr Narey: In part, although we are very proud of the very high proportion of our income which goes directly on services because our central costs, for example, despite the recent flurry of advertising, are very low. Yes, there is a cost to the contracted process and the tendering process but there are greater and more important consequences; there is also something about instability. I felt very angry last December when I counted up the number of my staff who did not know whether they had a job on April 1. I was being asked by public sector contractors to do things that they would never dream of doing to their own employees. The short termism of contracts, the fact that right now as the year comes to an end there will be a large proportion of our work which we will not know whether or not will be financed again from 1 April. That is very destructive and makes it very hard to hang on to good staff.

Q226 David Heyes: You tempt me to say that is competition for you, you espouse competition and that is competition at work.

Mr Narey: I espouse competition but I do not espouse contracts which can be terminated at very short notice and I certainly do not espouse short term contracts. I got better deals out of private sector prisons when I lengthened the contracts from five to ten years and even better deals when I

lengthened them to 25 years. We are not suggesting 25 year contracts, but contracts have to be for a significant period of time if you are going to bed the work down, do it well and retain and attract very good staff.

Q227 David Heyes: I would like you to expand on this whole area with the failings, the difficulties, the necessary hurdles that are there in the commissioning practice, but before we do that I just want to try and understand what you are saying. You said there were costs involved in abortive bids; is there any way you can quantify that for us? What proportion of Barnardo's income goes on competitive bidding that does not produce a result, does not produce a contract or a service to the public?

Mr Narey: It would be impossible for me to do it in my head here, Mr Heyes, but I am very happy to commission someone to try to work that out and I will let you have a note.⁴

Q228 David Heyes: That is fine; if you can let us know that would be good. Can you not give us a kind of indicative figure?

Mr Narey: In truth it is probably quite small in terms of additional costs because most of our bidding is done at a local level and our service managers do it in the margins of their other job. We do not employ legions of contract negotiators to fill in tenders, we try to share good practice, but most of it is absorbed within somebody's day to day job.

Q229 David Heyes: I guess two of your typical competitors in this bidding process would be, for example, NCH⁵ and the Children's Society, they are in the same field as you.

Mr Narey: That is correct.

Q230 David Heyes: They are also incurring all these abortive costs as part of their running costs. In the private sector that is the sort of situation when you might see a cartel emerge and it possibly might even be easier to do that in the voluntary sector where I know there is a friendly rivalry between yourself and the other two major players in this game. Does that happen, do you have discussions with your senior colleagues in the two organisations about which contracts it would be sensible for Barnardo's to bid for because it is more related to your experience and your priorities than it would be, say, for NCH, but you know that you have all got to bid because that is the game. Does this happen?

Mr Narey: Absolutely not.

Q231 David Heyes: Not even informal chats in work?

Mr Narey: Seriously, we have a very close working relationship. Claire Tickell of NCH, Bob Reitemeier of the Children's Society and myself get on very well and do a lot of work on joint policy things, but we have never had a conversation—and I have been at Barnardo's for two years—about whether a

particular contract should be bid for. One of the reasons for that is I do not make that decision, I do not have any role in dictating what my staff who are working in the North West of England will decide to bid for. We leave those decisions very much to our six English regional directors and our three directors of the non-English regions, but there is no evidence of a cartel whatsoever.

Q232 David Heyes: You could save a lot of money if there was, you know.

Mr Narey: We could. Public services would not do as well because the competition is sometimes inconvenient for us, particularly when there are multiple funders, and that makes it much worse. I was at a splendid project called Health in Action in Manchester recently which supports families affected by HIV; the last time I looked they had 12 different funders and there is an awful lot of time spent there chasing that money, but overall, however inconvenient it is to us, the outcome of that competition is that the public get very good value for money because we have to price very competitively to win the work.

Q233 David Heyes: Can we go back then to this issue of the problems with core commissioning practice. You have highlighted the obvious example of short termism and uncertainty for the future of employees, but there are other factors. Let us try and get some of those out.

Mr Narey: Rigidity of contractual and legal terms. Some of my staff have shown me pages and pages of annexes to tender documents with, literally, sometimes 70 or 80 different pages of contractual terms which are imposed at the tender stage so there is no opportunity to discuss the contractual terms: very short periods to terminate the contract, sometimes clauses in contracts which say that any part of the contract can be varied at any time by the local authority, things which in a normal contractual relationship you would never tolerate—not always, but sometimes those sorts of things cause problems.

Q234 David Heyes: Do NCC have a view on the shortcomings of current commissioning?

Mr Cullum: Our main one is that consumers are not sufficiently involved in the process of deciding what services are commissioned for. We would agree with the idea of a mixed economy of provision to try and meet the various needs of consumers, but part of the benefit of that diversity is about innovation, so if you are asked to bid for things which are so carefully defined that all it becomes is a debate about who can offer it for the cheapest price, then you are missing a trick in terms of the innovation that can come from diversity and, as I say, the spark between the provider and the user.

Ms Hopkins: One of the other things that came through in talking to commissioners in the research was the lack of strategic thinking and planning within local authorities and health authorities. Commissioners often felt slightly isolated and were not sure themselves that they were necessarily using all the current best practice and real cutting edge sort

⁴ Ev 148

⁵ The National Children's Home

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of skills because they are often left to work away in a very technical, dry atmosphere on their own. Hopefully through the provisions of the Local Government Bill in terms of driving best practice and improving commissioning, and through the training programme with the third sector and IDeA⁶, rolling out the training commissioners, there could be some improvements, but it is how to be more strategic and how to get the strategic plans down to ground level whereas, as Mr Narey said, most commissioning is done at a local level and the strategic discussions are too far away.

Q235 David Heyes: It is quite surprising that this continues because the real landmark was about 10 years ago when the Compact idea emerged and there was the national Compact between government and the third sector, and that was mirrored in many areas—I think every area has got a local Compact and it is full of rhetoric and worthy statements about partnership and working to understand each other better and addressing areas exactly like the ones that Mr Narey and yourselves are talking about. It seems to be a minefield for the third sector organisations who are bidding and we do not seem to have seen any positive moves on the part of the public sector on this. All the problems are there that were there 10 years ago and in some ways they seem greater, they seem magnified. Why is that?

Ms Hopkins: I am not sure who knows the answer.

Mr Narey: One of the reasons is the commissioning talent pool is spread very thinly. Commissioning has taken off so much in health service and local authorities, and indeed where I was, and my regional and national managers would say that they sometimes meet commissioners who are not terribly good customers, they are not very expert in what they are buying. They are very good about the contractual terms of a contract but they may not know very much about what quality outcomes for children are and they do very cautious things like prescribe the inputs, prescribe how many staff will be on duty rather than prescribing the outcomes for children. If I was giving advice to any public body on improving public services I would say put your most talented people into commissioning because if they are good commissioners who will talk to potential providers and know the good in creative contracts you could really improve public services. That would really help us.

Q236 Chairman: That does raise the question of why we do not have them because you have the Government saying “We want good commissioning; it is terribly important and we are going to put stuff in to promote better commissioning”; every third sector voice that comes in front of us says the real issue is to get good commissioning, so the question is why do we not get good commissioning?

Mr Narey: I know that when I was recruiting commissioners it was very hard to get very good people to move from the delivery side of an operation to wanting to commission work; I find

that difficult to explain. Eventually, in running private prisons, I did manage to persuade arguably one of the single most talented people working in prisons to come and do that job and he had a transformational impact in a few years on remoulding private sector contracts and improving private sector prisons without putting an additional penny into the contracts.

Q237 David Heyes: It is finding the right people.

Mr Narey: Absolutely.

Mr Cullum: There is something about the culture. In my personal capacity I am also a member of the Better Regulation Commission and thinking of some of the lessons from regulation, which is often about public servants being very risk averse and organisations in general, including in the private sector, are using contracts in a very defensive way. We are doing some work at NCC with the Better Regulation Executive at the moment about regulatory requirements around information and we have looked at consumer credit contracts and extended warranties and lots of the terms are really there to protect the provider rather than to help the consumer understand what it is that they are buying, which is allegedly the purpose of some of it. There is therefore some sort of culture of protection, and if I think back to a previous job that I had when I had to write tender documents for a research company for bids, some of the things we were asked to provide in terms of information were complete nonsense and I had to try and explain to a really big regulator once—they were looking for about five or six focus groups—how our values were aligned with their values. The tender document was probably longer than the bit of work that was produced at the end, so it just feels like there is an endemic problem which may be partly about the contracting culture and how organisations use their contracts.

Mr Narey: It is now routine for us to be asked whether we have an environmental policy as part of a bid for running a children’s nursery.

Chairman: We may come back to this. Paul.

Q238 Paul Flynn: About 12 years ago in this Parliament there was a backbench debate about the plight of young people leaving care. There was not a ripple of interest from outside, from the press, until about five weeks later when the principal speakers in that debate received letters of congratulation from Princess Diana and from wards of court, and then the issue had a greater potential including organisations like Barnardo’s and there was a great push to improve the lot of young people leaving care. Why has it gone wrong; is it the fault of the charities or the Government that it is still, as you said earlier on, a major problem?

Mr Narey: It is very difficult to explain, Mr Flynn. There have been some improvements but the current outcomes for children in care are not good. I had huge admiration for Alan Johnson in saying so obviously how bad things were; I thought the Green Paper he wrote last spring was an extraordinary Green Paper for a Government which had been in power for so many years. Educational outcomes and

⁶ The Improvement and Development Agency

a number of other outcomes—a number of children in care end up in prison—are dire. The reasons for that are first of all that they sometimes are a very difficult group, sometimes we have almost fostered instability. Sometimes we become rather obsessed with fostering and there is lots of evidence of some children we work with who have been in failed foster placements one after the other, where perhaps the decision should have been made at an earlier stage to give them the stability they need and keep them in a children's home but make sure that residential care is exceptional. We do things like move them to schools far too frequently; children in care have lost out in the education market: while parents like me get our kids into the best state schools, children in care almost inevitably go to the worst state schools in terms of value added. There is a whole host of areas where we have failed them but there is a whole host of areas where pragmatically I believe we could make significant progress over the next few years. If we get children in care to the best schools and if we stop moving them in year 11, those two things alone will have a very significant effect upon their educational outcomes.

Q239 Paul Flynn: Do you think there is a memory of what happened then? It was not that long ago when the whole attention of the nation was on this problem. It had the patronage of Princess Diana and there were meetings in this House, led by your organisation; has nothing improved? Is there a memory of a failure of that period? I know you are new in service at Barnardo's but there seems to be very little improvement if you regard this as a major problem.

Mr Narey: There have been improvements.

Q240 Paul Flynn: We did not realise how bad conditions in care were, but we know that now.

Mr Narey: There have been improvements; the educational performance of children in care has improved but it has still lagged so far behind, and in fact the gap has widened because most of our children have continued to do better and better educationally, so the gap between, as measured by five GCSEs, for example, all children and children in care has widened, even though the performance of children in care has increased a touch. But it is still far behind those of our children and not something which we should accept.

Q241 Paul Flynn: You praised the role of voluntary bodies in prisons in drug treatment—and I presume that is the treatment you mentioned—but there is not a prison in the country that is free from illegal drug use, is there?

Mr Narey: That is correct. I do not think there is a single answer to that question.

Q242 Paul Flynn: You could say that the state imposes a regime in prison on drug testing and knowing what the situation is, that drug use in prison is endemic, and yet the state pretends that we

can do something about it with drug testing. What effect do the charities have in prison? Surely it is minor?

Mr Narey: I think it has a significant effect. It is important to be clear that although the drug use is common in prisons the extent of drug use, the numbers of prisoners taking drugs and the depth of drug use is very much reduced. There are still very many prisoners who go to prison and get clean.

Q243 Paul Flynn: Okay, let me give you an example. Two constituents of mine, one a man, one a woman. The man left prison—and this has happened in the last 12 months—he was cleaned up in prison, he left the prison and went out on the day he came out and had a meal with his mother, went down to get his usual dose of drugs and he died because he could no longer tolerate the dosage. Two months later a woman came out of prison and within a week died in identical circumstances. Is that an example of a charity's success?

Mr Narey: I think it would be very unfair to blame whichever charity work and whichever prison it was there. What has happened, though—and it has been a particularly critical phenomena in Scotland—is that prisoners have been taking much lower doses, of heroin usually, and then have over estimated their capacity to cope with heroin when they have gone out and taken it again. It is a tragic ending but actually is a consequence of the availability of drugs. But I am not trying to say that prisons have got it right, and indeed my job is not to speak for prisons any more. I have been to prisons around the world where there are no drugs at all and the cost in terms of treatment of prisoners, their isolation from family and visitors in my view is too big a price to pay.

Q244 Paul Flynn: Is it your opinion that the problem of drugs in prison arises from—from what, would you say? Is it because the prison service is lubricated by a process of corruption by which the drugs come into prison?

Mr Narey: No, I think it is a consequence of the fact that such a vast proportion of young men and women entering prison have been abusing drugs, as they do.

Q245 Paul Flynn: How do the drugs get into prison?

Mr Narey: Drugs get into prison in all sorts of ways; some are brought in, some are thrown over walls and fences, some are smuggled in by staff, some are brought in by visitors.

Q246 Paul Flynn: Visitors turn up with big vanloads of the stuff, presumably?

Mr Narey: No, visitors hand things over in prisons. A large amount of drugs are concealed in bodily orifices, and prison staff—and I am not suggesting they should—have no legal right to search bodily orifices, so with women, for example, it is particularly difficult to stop drugs getting into women's prisons. I am not defending that, what I am trying to suggest is that contrary—and I think you and I might have had this argument before in a different life—to popular belief that prisons do

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nothing to get people off drugs, I think they do. Three weeks ago I was in Sheffield and I met an ex-prostitute who was doing some work in a European working party on looking at how we should handle prostitution in the UK and Europe, and she explained to me, without being asked, that the turning point in her life was going to Styal—not a very pleasant place—serving a long sentence there and taking that opportunity to finally get herself off heroin and her life had turned round from there. I wish there were many more cases than that, but there are still quite a few. Lots of people use the time inside to get off drugs and some of them succeed.

Q247 Paul Flynn: You mention in your report the example of the Hive organisation you have and you say the people using it are unlikely to use social services. Why?

Mr Narey: As I explained, I think in answer to the first question from Dr Wright, it is rather unfair. When I speak to some of our users who say that they will come to our service but would not go to a statutory service I think it is because they think, rather fancifully, that social services or children's services might be too close in line to the police, that information would be shared with other agencies. I think that is unfair. I do not doubt for one moment the integrity and dedication of social workers working in the statutory sector; they almost certainly have a more difficult job than social workers working for me. But whether or not it is right that there is something about us being trusted because of our brand—and I do not just mean us, I mean the Children's Society or NCH—we are trusted because of our brand and we are seen as a little more distant from other statutory authorities.

Q248 Paul Flynn: You do not get any money from commercial organisations at all, do you?

Mr Narey: We certainly do; we are the Lloyds TSB charity of the year and we hope to take a lot of money from them. We do a lot of work with corporate organisations to support our work.

Q249 Paul Flynn: You do not get any money off the people who make lie detectors?

Mr Narey: No, certainly not.

Q250 Paul Flynn: Why do you recommend them then?

Mr Narey: Because I want to make the lives of children safer.

Q251 Paul Flynn: Are you convinced they work?

Mr Narey: I am. Having undergone a polygraph test, Mr Flynn, I would recommend one to you; I think it would remove any doubts you might have about them.

Q252 Paul Flynn: It might cause havoc in this place!

Mr Narey: I am not suggesting that we use it in Parliament! Most sex offenders, contrary to popular belief, know that their behaviour is reprehensible and most of them want to stop doing it and they need constant supervision to help them stop doing it. One

of the things I witnessed in Northumbria where we trialled polygraph testing, in my previous job, was the fact that somebody knew that every week they would face a polygraph test and would have to say whether they had been near a school playground, have to say whether they had been fantasising about a child they had seen on the bus, and instil some discipline into them. It is not a panacea but I think if we want to keep our children safe from dangerous sex offenders when released into the community we should subject them to both satellite tracking and regular polygraph tests.

Q253 Paul Flynn: There is no question of your being influenced in any way, your organisation being influenced in any way by the commercial contributions you get?

Mr Narey: No, absolutely no, Mr Flynn. I have no commercial links with any companies involved in that sort of work. It is not work that Barnardo's would dream of going into, but I do think it is work which will keep children safe. I could introduce you to probation officers who have experienced this in the North East, who believe it has transformed their ability to have confidence in what a sex offender is doing. Probation supervision of a sex offender without technology cover is a myth. Even if somebody is being seen every day for half an hour a day we do not know what they are doing for 23 and a half hours otherwise, and we need to give probation officers all the help they need.

Q254 Paul Flynn: Can we take up the answer that Jenny Willott had about the nature of charities and the public services and the American experience? We went to America and one of the impressions we had from America was that the charities had grown to such an extent that they had become enormous organisations and this reduces their ability to innovate and to compete, and one area that was raised was the question of what happens to charities when the problem they are dealing with shrinks. In New York homelessness has gone down to a tiny amount, 5% possibly, of what it was a few years ago, yet the great varieties of charities are spending enormous amounts, the same as they always did. Is there not a tendency among charities to expand the definition of what they are doing in order to keep their empire intact, rather than a public organisation who would benefit greatly by seeing the problem shrink, the money spent on it shrink and money to be spent on something else. Is this not something that is part of the character of charities? You acknowledge what is happening in the United States where they have gone further down the road that possibly we will be going in this country?

Mr Cullum: I suppose the most interesting example that we came across was in social housing where a lot of the results were really pretty deplorable, so less than half the tenants being satisfied with the service they are getting, so 46% of people saying that staff treat you with dignity and respect, 45% saying they are organisation you can trust, 38% saying they think they make you feel part of the community, 26% extras you would not expect. So really poor and

in some cases a little bit better than the public sector, but only a little bit. I think one question is: has the social housing sector, which is one that is becoming more concentrated, so more housing groups, more housing associations coming together, lost in some way the essence of what they were originally about and becoming almost indistinguishable from the private sector, a house builder, and not building particularly good quality houses? It is work we have done on this both through our Chief Executive, Ed Mayo, chairing the Tenant Involvement Commission and also our submission to the Cave Review of Social Housing, and to us this is a sector which is just not focused enough on the users and the regulator is not focused enough on the users.

Q255 Paul Flynn: What does conclusion does that lead you to, that it is not the nature of the organisation, whether it is in the third sector, public sector or the private sector? Is it the size of the organisation perhaps, the scale on which they organise it? Do they become bureaucratic because they become a very large organisation.

Mr Cullum: I think that is something that you need to be wary of. You get some very good organisations that provide services very well, just as you get some absolutely hopeless small organisations. You have to try extra hard to be closer to your user the bigger you get and I think the sign is that we have picked up a culture in housing—and we have done other work in the housing sector in terms of bringing in tenants and housing officers together—it is a very confrontational sector. Each side feels rather hard done by—the housing officers feel that they are rather the victims of the tenants and the tenants feel that they are beholden to the housing officers. When we brought them together actually there was more of a common agenda and shared solutions coming out, but there is a problem culture there and having big organisations which have gradually become a bit disconnected from users is not helping to tackle that culture.

Q256 Paul Flynn: Your conclusion is that there is not a great deal of difference when houses are provided for rent by the council or a social housing private body. The problem is, presumably, that people want to have control over their own space and have control over their own houses and that is satisfactory, but there is resentment when they rent them and are told what to do. There really is not any worthwhile difference between the two different bodies.

Mr Cullum: I think social housing is marginally better, but really only marginally and in our research we visited 19 key factors which we developed through the policies of research and they did not really come out much better. There was one quote from somebody, which I thought summed it up rather nicely, who said, “My social landlord asked me when it would suit me to come round to put in a new radiator and so I told them, and they came on a different day.” So there is something slightly misfiring there.

Paul Flynn: Thank you very much.

Q257 Kelvin Hopkins: The impression given of the Government raising up the third sector is that it is all part of reversing the 20th century when there was mass expansion of state provision. The Government now and indeed successive governments have wanted to go in the other direction and move things out of the state into these other sectors. Do you feel in a sense that you are being driven by ideology rather than evidential argument?

Ms Hopkins: No, we definitely do not feel like that at all. Our position has always been that what matters is the quality of the service that is being delivered and the quality of service users’ experiences, and in that sense who provides them is less important when we do not have any ideological attachment to any party in particular. There do seem to be some benefits from having a little bit of flexibility within a market of provision if and when it is done properly, so what would be ideal would be to have very skilled, competent and well-informed commissioners within public authorities who knew their local territory well enough to be able to put together very successful mixes of providers, be they from the in-house public sector side, private providers or indeed from the third sector because there are slightly different contributions that come from those areas, both in terms of culture and expertise. Perhaps this is a bit utopian, but the best thing for service users would be to mesh the best of those together and have some across service, across sector learning driving up quality across the piece.

Q258 Kelvin Hopkins: In your opening statement you said it is such a vast area that it is very difficult to generalise about it, you must look at specifics and I agree. You used the word “niche” and I think there are certain niche areas. For example, in my constituency there is an organisation that deals very quietly with youngsters who are self-harming, and there is also an organisation called CALM which helps young men who may have had suicidal tendencies. There are all sorts of areas which perhaps the public sector and private sector would have difficulty with. They are run partly by volunteers, and sometimes by religious organisations, and they are concerned about fringe groups who have difficulties rather than providing mainstream services. When it comes to providing general services, I think Martin was saying that there are areas where the third sector ought to move into where the public sector is generally providing. That is a very different order of things, is it not, and are you convinced that that is a good idea?

Ms Hopkins: I am not sure I am in a position to be convinced or not but our argument would be along the lines of what we have just said really, that actually if it was demonstrated that a third sector organisation, either on its own or in partnership with others, could deliver those services best and deliver the best quality service, good value for money and all the other criteria that were required, then we would not see any reason for that not to happen. But we are not here to advocate that kind of development.

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Q259 Kelvin Hopkins: Is not the motivation of people employed in these different sectors—and perhaps Martin can answer this—different, between working for a public service and being employed to do a job, but also having a very strong sense of public service, and a private organisation driven in the end by profit. There are differences there. But the third sector tends to have another motivation, which is often a personal involvement—a relative, a friend who suffers from HIV or something of that kind. So in a sense there are different kinds of motivations. In some areas, keeping things in the public sector where there is accountability and sense of public service is much more important and therefore the profit motive would be inappropriate.

Mr Narey: My experience as a commissioner was that despite my earlier and traditional antipathy to the role of the private sector in prison there was no conflict whatsoever between prisons and between making profits and commitment. It is important to keep an eye on the size of the profits but I think the organisations which run prisons and in the main still do run prisons make modest profits—not particularly large, there is open book accounting to check they are not excessive—and I think run decent, compassionate, value driven services. I am certainly not here to speak for them but I know, for example, that a number of the operators who work in prisons in this country have refused to work in countries where capital punishment takes place, in some South American countries, because they are value driven. While I would say that yes, of course, we employ a lot of people who are hugely vocational and we have the benefit of a lot of volunteers, I think it is arrogant to suggest that just because it is the voluntary sector that somehow we have better people—I do not think we do. Certainly my experience as a public servant for 30 years was that there are lots of people who are hugely dedicated to the job in the public sector every bit as much as the people who I now employ in the voluntary sector.

Q260 Kelvin Hopkins: We are talking about the third sector rather than the private sector, but I intend to move on to that. Lord Adebawale came to speak to us a couple of meetings ago and he said that in reality the amount of money going to the third sector is quite small and that the real drive of the government is towards the private sector.⁷ He also said something very interesting, which was that most of today's modern public services started as voluntary organisations, in the third sector, sometimes with religious backing, churches or whatever, and they became so essential for general provision that they became part of the state sector. Some of these niche—and I use the word niche—organisations will not do that. But is there not a case that some organisations even now might eventually find themselves in the state sector? Just one example. The Hospice Movement—there is a wonderful hospice on the edge of my constituency which has been built on large voluntary donations, from wealthy people largely, but the revenue costs are very high and they

are increasingly pressing for the public sector to pay the revenue costs of running the place. One can see over a period of 10, 15, 20 years it might find itself in the state sector rather than the voluntary sector—the process that Lord Adebawale was talking about. But the government is trying to drive services in the other direction. What is going to happen?

Mr Narey: There is a compromise in that particular situation. The state could commission that voluntary organisation to continue to provide hospice beds if the health service in this case decides that it needs them and it can provide hospice beds through a committee arrangement rather than through direct management; I think rather than the service being entirely absorbed back into the public services that is likely to happen more in the future. It is the case that much of the work that we do could not be done if there were not a public sector commissioner wishing to pay for it. We would do some of our work but most of our work would disappear. So in that particular example I think what is more likely to happen is that the public sector will have ultimate accountability for that work, as it should for people who are facing death in hospice beds, but they do not necessarily need to deliver that work directly. That is the big change. What I learnt as a commissioner was that I discovered the scope to improve public services more quickly through contract management and commissioning and I found it easier than managing directly.

Q261 Mr Liddell-Grainger: Can I ask you a little about the relationship between the state and the third sector? One of the things we have heard about before is added value. How do you quantify added value to what you do?

Mr Narey: As some of my previous answers, I am cautious about joining this chorus which says that we have some sort of added value. I hear the word distinctiveness used about the service provided by the voluntary sector and I have tried to bury the word distinctive and remove it from the Barnardo's lexicon. What is important is that if we have to be commissioned to run public services that we should provide effective, evidence-based and cost effective public services, that is what matters. I think to concentrate on something with value added is sometimes to mislead.

Q262 Mr Liddell-Grainger: Do you agree with that?

Mr Cullum: Yes, I do and I think NCC as a whole would. It is one of the areas that we looked into before we started doing our research because we felt we needed to understand as far as possible what it meant and was intended to mean. Even talking to the larger organisations within the third sector, like ACEVO⁸ and NCVO⁹, there is not a very clear definition even for them as to what it means in practice. Certain third sector organisations who are interested in delivering these services have difficulty—they are sometimes asked in the tender document to explain what added value they bring

⁸ The Association of Chief Executives of Voluntary Organisations

⁹ The National Council for Voluntary Organisations

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and they do struggle with that when they are trying to describe what it is. That is partly why we are very pleased that the office for the third sector has come out and said that it will certainly drive some more evidence collection and try and build up an evidence base, but I think individual organisations need to do that as well. I think third sector organisations, just as with private organisations, have to be able to demonstrate what it is that they are bringing and I agree with Mr Narey that they should avoid the term altogether and be much more precise.

Q263 Mr Liddell-Grainger: I think one of the problems is that a very small amount of money in the overall pot goes into the third sector—it is tiny, a couple of per cent. If that is to expand, and I expect you would like it to expand, and you want to be more included in what goes on, is not one of the ways of doing it showing what you bring to the table?

Ms Hopkins: Absolutely.

Q264 Mr Liddell-Grainger: If that is the case and you agree with that, how do we prove it?

Mr Narey: We need to draw evidence for the work that we do. I think that the voluntary sector has, in recent years, fallen behind the public sector in demonstrating the evidence of its impact. Although targets have gone very much out of fashion I believe that the target culture forced public services to concentrate very much on demonstrating that they made a difference, and I think that is much less developed in the voluntary sector. I still sometimes go to some of our projects, and I am going to Wales tomorrow to see a number of projects, and I see a project which looks very nice but when I say, “This looks lovely but how do we know it works?” people sometimes look at me as if it is a rather odd question, but actually that is the absolute question because there are lots of things we do in this area which look nice and seem nice but if they do not have a real impact on children’s lives we should not be doing them.

Mr Cullum: From our perspective obviously, how consumers and the users of services perceive them in terms of how they have been treated and the quality of the service and the outcome that they see for themselves are absolutely key determinants. Lots of organisations, particularly in providing social services, can come up with lots of stories where people say, “This service has changed my life” because that is what the services are there for, but it is the comparators in that service and other services and who is offering the best. Just to give one example from our research, in employment services we asked people who had experience of each of the three sectors does the service work, as it should? The third sector, 88% of people said yes; the private sector 69%; the public sector 31%. That is a very striking difference.

Q265 Mr Liddell-Grainger: If we do get further we need to open up the third sector more. If we open it up how do we achieve that? We live in the day of media spin—dare I say spin?—and that is what people want to see. I suspect that most people do not

know the difference between the third sector and the public sector and they just accept whichever way it goes. First could you, the third sector, explain how you are going to do it?

Mr Narey: First of all, I would preface that by saying that we do not deserve work because we are the third sector.

Q266 Mr Liddell-Grainger: That is not what I am saying.

Mr Narey: And I do not seek work on that basis. I think if we brought the same culture of competition to the provision of public services that we bring to every other part of our lives, where we all shop around, whether it is for cars or phones or whatever, if that element were brought into public service and if we got local authorities, for example, to concentrate on commissioning those public services I think that the benefits of that would become pretty evident pretty quickly. As local authorities started to build and develop services in one part of the country which were better than others and cheaper than others, whoever the provider was, then I think that there would be a tendency for the competition to grow and grow.

Q267 Mr Liddell-Grainger: One of you used—and I think it may have been Philip, and I am sorry if it was not—the words “risk averse”. Is that not one of the problems, that you are so terrified at getting it wrong or ending up in the media for whatever reason, that you just do not want to take any risks at all? Without risk we cannot achieve because there are certain risks in all sorts of walks of life. Do we have to redefine slightly what we mean by statutory obligations, third way obligation, et cetera? Do we need to slightly change the values, maybe, of what we are doing, as a nation?

Mr Cullum: Absolutely and this is something, going back to my membership of the Better Regulation Commission, that we have actually pushed on, and calling for a much less risk averse society. I think one of the interesting things from NCC’s research is that it is often not citizens who are risk averse, it is not parents and children who are calling for bans on conkers in school playgrounds, it is often organisations and people who are often not particularly senior people who are involved in contracting, whichever side, who are just playing it safe. Martin talked about management and there is something about management both on the commissioning side and on the service provider, which is about getting that message across right into the heart of the organisation. There is a kind of appropriate risk management, but risk aversion actually damages everybody.

Q268 Mr Liddell-Grainger: Do you agree with that, Martin? You have had a slightly wider experience in other sectors as well.

Mr Narey: It is easier said than done sometimes and I do have some sympathy for commissioners who want to be somewhat cautious in what they are ordering. A commissioner who commissioned—it is not a children’s service—had a contract which was

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very light in terms of child protection issues, for example, and was likely to face severe criticism when something went wrong. I certainly think that there is much ground which could quite easily be made in making the commission process much less restrictive. A good tender proposal should outline exactly what an authority wants in terms of outcomes and should be much less prescriptive on how the tenderer goes about achieving those outcomes.

Q269 Mr Liddell-Grainger: One of the points is surely that because there are variations throughout the country that people do not quite understand who is providing what—and rightly so, why should they, they just want a service. Do you think we should make it very much clearer, through various mediums, who are providing that service? Like we have these wonderful signs that say “Funded by the EU” should we have “funded by” to make it synonymous with an organisation—I am not looking at Barnardo’s, it can be across the board.

Mr Narey: Sometimes the branding might need to go the other way. I suspect that a lot of members of the public and also our service users who come to our service and see Barnardo’s over the door probably do not give local authorities the credit that they deserve. Perhaps the sign should say, “Barnardo’s, commissioned and paid for by the local authority”.

Q270 Mr Liddell-Grainger: Do you agree?

Ms Hopkins: I would think that most service users do not mind and would not mind, although it is useful to have the information. But more concern is understanding what the lines of accountability are, so if a service is provided by Barnardo’s or any other organisation and there is a problem or something goes wrong, what the line of accountability is then—is it the Director of Barnardo’s, is it through the funding authority? I think it is in circumstances like that that the relationship becomes much more important. It is something that has been recognised by the local government ombudsman and my colleagues in the other ombudsman services, and in fact they have just released a special study looking at partnerships and contract agreements for delivering public services because they themselves had come across particular problems where there is a split in responsibility or different services are funded from different sources and the lines of accountability and the governance arrangements inherent within either a contract or a partnership agreement have not been made clear. So I think that would worry me more than knowing who is funding Barnardo’s or another organisation to deliver the services; it is really being able to track back if a problem occurs.

Q271 Paul Rowen: I was interested in your report and the three examples that you have taken. Is it not the case though that you cannot really draw generalisations from that. If you take the employment service it is relatively new for a third sector to be as massively involved as they are now. The rules for social landlords have been prescribed quite heavily now by the Housing Corporation and

have got tighter as time has gone on, and social care has traditionally, since local authorities have been divesting themselves, been the preserve of the private sector. How can you draw conclusions and say that people do not know the difference when you are dealing with, if you like, a spectrum of time and services that are at different ends of the spectrum. One is new and innovative, employment services, and that is where the third sector grant is, and the other are long established and the rules are being set by the commissioners.

Ms Hopkins: In a way we deliberately chose those three services partly so that we could look at services in these different models of delivery and indeed where they have had different experiences and where the third sector was better established—

Q272 Paul Rowen: You have made the point about commissioning and if you take social housing the rules are very rigidly stacked, what the housing corporation will fund, whereas 20 years ago it was a lot more innovative. Therefore, there is less room for manoeuvre for the third sector to be even better.

Ms Hopkins: That may be true but I think what we would say about that is that even though there are quite well defined rules and regulations in social housing, and indeed particularly in social care, the kinds of criteria for the service users that we are talking about as being important to them are so intrinsic to delivering a decent service that they should be there whether the service is strictly defined or not. Actually that is not an excuse, it is not an excuse to say that the housing corporation says we have to do all these things, but actually being polite and friendly and treating service users with dignity and respect should just be part of the service and should not be something special.

Q273 Paul Rowen: I thought your paper about the needs of the third sector was very good, about the level playing field. A large organisation, 110,000 people, what proportion of your contracts are currently short-term? This year, with the Children’s Fund ceasing, how many of them are changing around this year and what level of staff and what level of service provision does that actually affect for an organisation like yours?

Mr Narey: I was in the northwest last week and I asked that specific question and I asked a director of the northwest to do the calculation for me. As things stand in the northwest—and I have no reason to believe that this is very much worse in the rest of the UK—at the moment for about 70% of our work we do not know whether we will be doing it on 1 April, either because contracts are coming to an end, work is being taken back in house or because local authorities have indicated that they want to continue but they are not sure yet whether or not they will have the funding, and they have within the contracts the ability to give notice to quit if they do not find the money. So it is a very unstable environment.

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Q274 Paul Rowen: Do you not believe that that affects the quality of what you are able to deliver? Presumably a lot of your best staff will be looking for jobs elsewhere?

Mr Narey: It can affect the quality of what we are doing. I am sometimes astonished and humbled by the way people hang on and most of this work we will retain, and I think a lot of staff working in the voluntary sector get used to short-termism and have the confidence to move on and do something else. But it is very troubling and it is very worrying for them and we should not be putting employees who sometimes have family responsibilities through that uncertainty.

Q275 Paul Rowen: Taking another point that Ian touched on, and that is if the third sector is going to grow and more services are going to be commissioned, is it not the case that a lot of it is used as a cost cutting exercise by local authorities that have a budget problem and can suddenly see your extra added value is actually saving them money.

Mr Narey: I do not think there is anything wrong with local authorities wanting to save money as long as they are not asking us to do work which is of a very poor standard. If a local authority asked us to do something really cheap and cheerful and we thought the work of, for example, supporting children in care was likely to be ineffective we would not bid. But I think it is entirely legitimate for local authorities that want to drive down costs by getting organisations to compete against one another. I have never managed an organisation in the public or the voluntary sector that did not have a tendency over time to lose a bit of sharpness. The most dedicated people over time, the circumstances of what they are doing will sometimes favour them as opposed to service users. I think that Barnardo's is a tremendous organisation but I do not think we have enough services which open sufficiently at weekends, and a commissioning arrangement, because we are being competitive, would probably drive us to extend opening hours and give a better service to service users than we do at the moment and probably at no increased cost.

Q276 Paul Rowen: Why does it then cost you £19,000 to place a child but £12,000 for a local authority? I know you have VAT but that does not account for all of it.

Mr Narey: Because it is a particular area where we take those who are extraordinarily difficult to place. The local authority will generally deal with an adoption of a child themselves if they can do it; they will usually only call on us when they have failed to find adoptive parents, and this is an area where we do have a niche. We do not deal with the adoption of white babies, we deal with the adoption of very hard to place children from minority ethnic groups, frequently severely disabled or with learning difficulties, and we still find parents for them. But it takes a lot longer and it costs more.

Q277 Paul Rowen: Given that the third sector is so diverse how do you get that level playing field and ensure that there is equality of provision and equality of opportunity across very widely different fields?

Mr Narey: My level playing field concerns are not between ourselves and, say, NCH, I think that is a matter for the organisations. The level playing field I worry about is between the voluntary sector and the local authorities, and I am not sure that when decisions were made to take work back in house, for example, which is happening at the moment, I cannot conceive that that takes proper recognition of, for example, pension costs. We have had to abandon our five star pension scheme last year, so have NCH and I think the Children's Society have already done so. But the cost of continuing with a five star pension scheme in local authorities I suspect is not remotely factored in to the costs of bringing work in house.

Q278 Mr Walker: Very briefly, is your turnover growing year on year? Are you expanding as an organisation year on year?

Mr Narey: Yes, it is, Mr Walker.

Q279 Mr Walker: Given that you are expanding how much of a problem are short contracts because you were saying that you are worried at the end of each contract cycle and this April a number of contracts are up for review and they may not be renewed, but actually in reality what is happening is that you are winning additional contracts every year and the ones you have the vast majority are being renewed anyway.

Mr Narey: Because it is not in the same part of the world. We are losing a lot of work in the southwest at the moment because we do a lot of children's fund work there. We are expending very fast at the moment in East Anglia but you cannot move the staff from one to another.

Q280 Mr Walker: Just following on from my colleague's question, are three-year contracts the norm? Do they form the bulk of your business three-year contracts?

Mr Narey: The bulk, but we have a lot of contracts for 12 months as well. I would say that three years is not long enough—it is better than 12 months but it should be the minimum.

Q281 Mr Walker: Again you touched on it, do you find yourself saying, "Sorry, we are not bidding for that contract because the cost of bidding and the cost of putting the resources in place is outweighed by the risk that it will be terminated in 12 months"?

Mr Narey: That would certainly discourage us from applying for work, yes.

Q282 Mr Walker: So there are contracts where you say, "We are sorry, we are simply not interested in bidding for a 12 month contract"?

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Mr Narey: That is correct.

Q283 Mr Walker: Have you ever had a local authority come back to you and say, “Yes, we have re-looked at that actually and we can understand your concerns, how about if we stretch this out and make it a three year contract”?

Mr Narey: I am not absolutely sure, but I believe so, and I believe that has happened in the southeast quite recently. I could check on that point.

Mr Walker: No, I am just saying that the 12-month contracts do seem ridiculously short.

Q284 Chairman: What if somebody said they wanted you to be involved in the design of contracts rather than the provision of the service because that is where they think that the third sector has some distinctive tools?

Mr Narey: You mean and then not be able to bid for the contract? I think there is a job to be had and certainly I think getting the commissioning right is very valuable, and although we are mostly interested in service delivery because we want to work with children, I would not be averse to an approachable local authority which said, “You could not bid for this work, it would have to go to another organisation but we will pay you to help us design contracts and commissioning arrangements, which would provide good public services,” we would certainly think about that.

Q285 Chairman: Is there any evidence of that happening at all?

Mr Narey: No, there is some evidence of commissioners coming out to talk to us and say what sort of things work and what sort of things should we include in the tender documents, but I have to say that that is very patchy. For very many occasions tenders arrive in our offices with two weeks to fill them in, with a huge amount of work to do and with little or no scope to say we think it can be done in a different way.

Q286 Chairman: To bring us to an end, let us go back to where we started. I am interested in what you have been saying, all of you, and Martin particularly because you have been very honest with us about this. You have said essentially, do not believe all those people who come in here and tell us about the distinctive qualities of the third sector and value added and all that, none of that stacks up, and indeed is supported in a sense by the NCC research. What you are offering, I think, is simply the third sector as another provider and it is useful to have another provider, and as long as all providers are well run and well managed that is the game. Is that the argument?

Mr Narey: It is not quite as stark as that. I think the voluntary sector can provide exceptional services. I think it is much easier to manage an effective voluntary service organisation than it was in the public sector. I think the stability afforded by working for a Board of Trustees who will take difficult decisions, will look five years ahead—I no longer have ministers who change overnight—

Q287 Chairman: We know your views on ministers!

Mr Narey: So I think we can run a better organisation, but I think it is quite wrong to suggest that naturally, by virtue of being part of the third sector, we are better and we should have to prove we are better.

Q288 Chairman: Is the government right to want to develop third sector provision?

Mr Narey: Yes, they are, but my advice to the government would be do not just look at the third sector but to look at the private sector as well because competition will make the difference. What will happen in competition, whether it involves just us or the private sector as well, is that a lot of work will stay in the public sector but public sector direct provision will improve dramatically.

Chairman: Thank you very much indeed for a very interesting session.

Tuesday 20 November 2007

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
David Heyes
Kelvin Hopkins

Mr Gordon Prentice
Paul Rowen
Mr Charles Walker
Jenny Willott

Witnesses: **Rt Hon Ed Miliband MP**, Chancellor of the Duchy of Lancaster & Minister for the Cabinet Office, and **Phil Hope MP**, Minister for the Third Sector, gave evidence.

Q289 Chairman: Let me welcome our witnesses, as we have to call them, this afternoon. We are delighted to have Ed Miliband, who is the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, and Phil Hope, who is Minister for the Third Sector. Thank you very much for coming and seeing us. As you know, we are doing an inquiry into third sector commissioning and that is predominantly, obviously, what we want to talk to you about, although we may want to ask some general Cabinet Office questions as well. Ed, would you like to say something to get us started?

Ed Miliband: Chairman, thank you very much. It is a pleasure to be before the Committee today. I would like to start by thanking you for your inquiry, which I think has produced some very interesting evidence and testimony from people. I thought I would just say, by way of short introduction, four things about our approach to the third sector which might help inform our discussions today. The first is that I take, and I think the Government takes, a broad view of the role of the third sector. It has a role in designing and delivering public services, but it also has an equally important role campaigning and building stronger communities through small local organisations and, indeed, embarking on social enterprise, which is a very exciting area of the third sector. The second thing I would say, and in a way this is reflected in some of your evidence, is that I do not think we see the third sector delivery as a panacea for the issues that we face in public service. We think it can make an important contribution, but what I would be very keen to get away from is the notion that the public sector is bad or the private sector is bad and the third sector is somehow good. The third point I would make, which in a way follows from the second, is that, therefore, our approach is about transforming public services, not about wholesale transfer of public services. It is not about saying: let us just transfer out a branch of public services because it will automatically be better in a different sector. The final point I would make is really the key one, which is that I think this is about partnership. It is about government saying: it is our responsibility to adequately fund public services, but there are new ways of delivering them, and the third sector can make a contribution to doing so and can bring its innovation and its skills to helping improve the lives of citizens in this country, and that is what the added value of the third sector can be. I have with me Phil Hope, the Minister for the Third Sector.

Phil Hope: I would just say, I have inherited this role from an excellent predecessor, who is sitting beside me. We have published in July, as you know, the Third Sector Review, which was based on the largest ever consultation among third sector organisations and directly reflects many of the views that were expressed during that consultation. That spells out, in fact, I think I can describe it as my job description for the next period, on where we want to go with campaigning and for the users to have people that speak for them and speak with them and have a voice themselves on strengthening local communities through new grant programmes, which we spell out in that review, to support the grass roots, frontline organisations to promote improvements to public services, transforming those public services and around social enterprises. Last week was Social Enterprise Day. I do not know if any of you got involved in that, but that was a great opportunity to celebrate many social enterprises of all shapes and sizes up and down the country, but, ultimately, it was about the Government supporting and enabling a thriving third sector at national, regional and local levels. That is my job description and that is what I am here to try and carry on over the next few years.

Q290 Chairman: We shall get stuck into all those issues in a moment. We said that we would have a few minutes talking generally about the Cabinet Office and being the Minister for the Cabinet Office. Over the years this Committee has had quite a succession of Cabinet Office ministers sitting in front of them and it is not clear to me that they have all been doing the same job. What do you see the job as?

Ed Miliband: I have read some of that testimony. I think you or Michael Heseltine described the Cabinet Office as a bran tub, I think I am right in saying. I see my job in five main areas: firstly, social exclusion (where we have a public service agreement that we are driving across government working with other colleagues), secondly, the third sector (which we are here to talk about today), thirdly, public service improvement (and we now have David Varney working with us and Alexis Cleveland who has come from the Pensions Service working on service transformation), fourthly, civil contingencies (which is an important area and has kept us busy over the last few months and obviously we have the Civil Contingencies Secretariat in the Cabinet Office which is responsible for some of the co-ordination)

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and, fifthly, Civil Service issues (where, obviously, there are plain local issues but also we have the Constitutional Renewal Bill, which will be published in draft early next year). Essentially my role in the Cabinet Office is to drive forward, in particular, and my focus is on those five issues, as well as providing more general support for the Prime Minister and the Government.

Q291 Chairman: So if I asked you whether you think you are working for the Prime Minister or for the Cabinet, you would probably say for both, would you not?

Ed Miliband: I would, yes.

Q292 Chairman: Without any order of precedence?

Ed Miliband: The Prime Minister is first among equals, is he not, but I work for the Prime Minister and the Cabinet, and I think that is important.

Q293 Chairman: You mentioned the Constitutional Renewal Bill that we are going to see after Christmas. Which bits of that are you concerned with?

Ed Miliband: The two parts in particular that fall to us: there is the incorporation of elements of the Civil Service Act into the Constitutional Renewal Bill and there are issues which I know this Committee has taken evidence on, I think have even been to the United States to discuss, which is public appointments and the idea of people who are appointed to public appointments going before select committees. They are the two particular parts of the Constitutional Renewal Bill that we are responsible for, as well as some other miscellaneous parts too.

Q294 Chairman: Does that latter part, the public appointments part, require legislation?

Ed Miliband: I believe that it will require legislation. That is my impression. I can come back to the Committee precisely on that, but I believe it does require legislation.

Q295 Chairman: Everyone wants their favourite things to be inside this Constitutional Renewal Bill, which is going to be an omnibus measure with all kinds of things inside it, and I am sure we will have our own proposals to put. Do you think there is a case for fixed-term parliaments?

Ed Miliband: I think, obviously, the debate will continue in earnest from early next year when we publish the Bill in draft. I personally do not particularly see the case for fixed-term parliaments. I think in a parliamentary system it is harder to operate on that basis. It tends to be the case, I think I am right in saying (but you would know better than me), that it is presidential systems that tend to operate more with a fixed term mandate.

Q296 Chairman: You do not think, after recent events, the case for fixed terms has grown immeasurably?

Ed Miliband: I personally do not particularly see that. Obviously, it is a matter for the Prime Minister, not for me, but I am not necessarily convinced that the case for that is proven.

Q297 Chairman: I was elected in 1992, as was Gordon here and I think Phil—

Phil Hope: 1997.

Q298 Chairman: I am sorry about that. ---on a manifesto which said, and it does not sound entirely unfamiliar, “This General Election was called only after months of on again, off again dithering which damaged our economy and weakened our democracy. No government with a majority should be allowed to put the interests of a party above government as the Conservatives have done. Although an early election will sometimes be necessary, we will introduce, as a general rule, a fixed parliamentary term.” What is wrong with that.

Ed Miliband: I think what is interesting---. You are obviously referring to the election speculation that has taken place in the last—

Q299 Chairman: No, I am just quoting our 1992 Manifesto.

Ed Miliband: Sure, but its relevance today might be that in the past couple of months there has been a bout of election speculation. I tend to find that while people in Westminster tend to get very obsessed with these minute by minute issues of whether there is going to be a general election, actually people outside Westminster tend to get on with their lives. If the implication of your question is that somehow this has had a destabilising effect, I would not recognise that. I think most people in the country have carried on with their business in the last couple of months.

Q300 Chairman: These people that you are talking about get fed up, do they not, with endless politicians talking about elections.

Ed Miliband: I have to say, I have not had anyone in my surgeries, I do not know about you, come to me and say, “This election business”.

Chairman: My constituents talk of nothing else! Anyway, David.

Q301 Mr Burrows: You said that you are part of the Prime Minister’s inner sanctum. Given that, has that undermined or enhanced the role of the Cabinet Office?

Ed Miliband: I think I am a relatively junior member of the Cabinet who does what Cabinet Office ministers have always done, which is to focus on the issues that I set out at the beginning and provide more general support to the Prime Minister and the Cabinet. My only direct experience of this is Hilary Armstrong, my predecessor, and she spent time helping the previous Prime Minister, as ministers of the Cabinet Office have always done. What is interesting about the Cabinet Office now is that you have a secretariat around domestic policy run by Jeremy Heywood, foreign policy run by Simon McDonald and European policy run by Jon

Cunliffe, which is a strength capability. We have the Strategy Unit and we also have a role in relation to the Delivery Unit; so that is a wide range of issues that we cover around policy-making in the Cabinet Office.

Q302 Mr Burrowes: Has that changed though from your predecessor, Hilary Armstrong, in terms of that relationship between the Cabinet Office and the Prime Minister?

Ed Miliband: I think what is interesting is that, in response to the Capability Review, we have got that strength and capability partly because, as I say, the Capability Review identified the issue of how we drive policy across government, but I would say the relationship between the Minister for the Cabinet Office and the Prime Minister is pretty similar now to what it was before the transition.

Q303 Mr Burrowes: You said you were a junior Cabinet Minister. I suppose that somehow is a reference to the fact that you have effectively been in Parliament for two years in a sense, but the reference from Hilary Armstrong looked at the position of the training of ministers in the national school, and in some ways you must have come top of the class or you gave a nice apple to the head teacher, I do not know, but either way you have received two major promotions. Do you think you have had sufficient training for that job?

Ed Miliband: I think ministerial training is very important. I read Hilary's testimony to you and in a way I think it is quite easy for people to be contemptuous of the notion of coaches and training and all that because it is fashionable to be so, but I actually think that ministers probably are under trained. When I first became a minister, Minister for the Third Sector, I took part in some of the ministerial training. I think there is a lot more we can do, frankly, in this area. I had a bit of experience before being a minister, working as a special adviser with civil servants, but there is a whole set of issues around how you work with civil servants, how you lead a department, and so I think we all need more training in our daily lives and I think it is a good thing that we are doing more of this.

Q304 Mr Burrowes: Do you give performance appraisals to Phil Hope then?

Ed Miliband: Maybe I should let Phil answer as to what kind of manager I am. I have regular meetings with my ministers and talk about the priorities that I have and that they have and how we take forward the priorities of the department. Phil, do you want to add anything?

Phil Hope: No, we could do a mock supervision session here in the committee, but I do not think that would be very helpful. I think it is about working collaboratively, and I think the three ministers in the Cabinet Office, myself, Gillian Merron and Ed, work very closely together and meet regularly and I feel that I certainly get the support that I need to do the job that I do, particularly given Ed's role in the past

doing this job, but also collectively. We operate very effectively as a team and it is a good department to be part of.

Q305 Mr Burrowes: I do not suppose you get a performance appraisal from your boss?

Ed Miliband: No, we do not have that formal system in government. I have thought, when I have discussed in the past with Hilary Armstrong and others this issue of ministerial training, about whether you could move to a more formalised system of appraisal. Lots of people would say—they might even say it about me—that the process of promotion and all that is quite capricious. I think it is quite hard in the political system that we have, where you have got different politicians, to have that sort of formalised system of appraisal, but I certainly think that government does not do enough in this area. Lots of things which in the private sector we take for granted are not done sufficiently and I think it is an area, and I have talked to the Cabinet Secretary about this as well, where we need to make more progress.

Chairman: Thank you for that.

Q306 Kelvin Hopkins: About the relationship between Number 10 and the Cabinet Office. In the previous regime there was a very strong flavour, certainly to me, that Number 10 was somewhat separate from the Cabinet Office and, indeed, from the Cabinet at times as well; it led its own life. The suggestion from Gus O'Donnell last week was that Number 10 was part of the Cabinet machine, Cabinet Office. Has there been a rapprochement in a sense since the new Prime Minister has taken over? Is it now working more happily together?

Ed Miliband: I am not sure what the opposite of rapprochement is. I do not recognise the description that there was a kind of separateness before. I have only got a year's experience of this in my previous role. I thought there was actually quite close working. This new capability, and the three individuals I mentioned who lead these different teams in the Cabinet Office, is a way in which the Cabinet Office perhaps serves better the Prime Minister, it is a cross-government function, but I think the Cabinet Office and Number 10 work well together now, I actually think they worked pretty well together before.

Q307 Mr Walker: Are all the ministers in the Cabinet Office paid a ministerial salary?

Ed Miliband: Yes.

Q308 Mr Walker: Because there are some ministers, I am right in thinking, that are not paid a ministerial salary at the moment. Does it cause you concern that we could be creating a two-tier ministerial structure: those who are being paid and those who are not being paid? Do you think that is sustainable in the longer term?

Ed Miliband: I think there are always controversies about ministers being unpaid, but I think there is a limit on the number of paid ministers you can have and it is probably sensible to have that sort of limit

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because this Committee might be saying, “Let us not have hundreds and hundreds of ministers.” So, it is probably understandable that there is that limit, and that is why some people are unpaid. You say there are people in the Government who are unpaid. I do not know who they are. Perhaps the implication of that is that it does not make a difference between the different statuses of ministers in the Government.

Mr Walker: I think there are eight. I am a trade unionist, funnily enough as a Tory MP. There are not many of us, but I think if you are going to do a job, you should be paid for doing the job. This is not a go at government, I just feel uncomfortable at the idea that we have people working very hard, because I know you do work very hard as ministers, and I am sure they work just as hard as their paid colleagues, and that they do not receive a salary for that.

Q309 Chairman: There we are. Charles will make representations on their behalf. Any more Cabinet Office questions before we move on to the commissioning area? If not, let us move to the territory that we asked you to come and talk about. Can I ask one question to get us going. As we have been taking evidence in this inquiry, it has been difficult to match the rhetoric in this area, people saying rather high-falutin things about the role of the third sector with the reality is it is developing, and in particular, I think, the question of just what does the Government see is the role of the third sector as it develops has been quite difficult to tease out. We have been reminded that, in fact, its contribution in terms of public spending, I think it is something like 2% of public spending, is really very, very small and so I think one question that presented itself is: what would the Government like it to be? Given its rhetoric, given all the documents that are produced, the speeches that are made, it has targets in every other area, what is its target for the amount of public provision that should come through the third sector?

Ed Miliband: The way I would answer that, Chairman, is to say I think it is right not to set a target. Let me explain why. As you say, currently 2% of public spending or so goes on the third sector. We have identified in the action plan, which I know you have seen, five areas where we think the third sector can make more of a contribution and play more of a role, but I suppose what I have learnt during this process of, first of all, being Minister for the Third Sector and now as Minister for the Cabinet Office is that the key to this is what happens on the ground. It is local commissioners and the decisions that they make. Do they recognise the contribution and the role that the third sector can make, how do they shape services, either locally or regionally and what involvement does that mean for the third sector? So to set a top-down target for this, I do not think would be sufficiently responsive to local circumstances. The other thing I would say (and Phil may want to add something on this) is that it is really important, and I have tried to do this throughout the time I have been associated with this area, to be

realistic and credible about expectations and how quickly this is going to be moved. I have said before, I think, that the amount of third sector delivery will increase, but I think it needs to be appropriate to third sector organisations being ready to do that, wanting to do that, and, as I say, being appropriate to local circumstance and local needs. I think to set a top-down target from government would not be the right way to go.

Phil Hope: I want to make a general point, which is that the third sector exists outside, as it were, of public sector funding as well as receiving public sector funding. I suppose there is a profound point to make about the third sector in this country, which is that it plays an absolutely essential role. It makes an enormous contribution to British society, whether it is small front-line community groups, the volunteers, the local people in their communities that we all know and see and represent us as Members of Parliament, or large national voluntary organisations and everybody in between. I just want to make that broad point first. Secondly, when it come down to specifically the contribution it makes in terms of improving public services or delivering public services, for me it is about outcomes, not about a target in a particular proportion of one sector or another. It is about where the third sector at a local level can play a part in achieving better outcomes for individuals and their families in local communities. There are five areas that we talk about. Correctional services, children’s services, employment and skills, training, health and social care are areas where we know—where there is a need for personal contact, particularly where people need individualised and personalised services—that third sector organisations have got a proven track record. I have been seeing them as I have been in this job in the past five months and, indeed, in my previous career in the third sector meeting voluntary organisations, community groups, charities, social enterprises, who make an important impact on people’s lives, and we should rightly encourage them to play a bigger part in doing so through public funding.

Q310 Chairman: I think the difficulty comes though when the Government says, as it does repeatedly, that it wants the third sector to play a larger role in public service design and delivery. I think people are entitled to say: how much larger a role? The Government is putting in a good deal of money to stimulate the sector and yet, as it were, we do not seem to have a pay-off. I just wonder whether you could help us to be more precise about the scale of what we are talking about.

Ed Miliband: Apart from having a target (and I have tried to explain why I do not think a target would be appropriate) and apart from suggesting some areas where we think the third sector has a particular expertise and contribution to make, I am not quite sure how else we can quantify this. Maybe you would like a percentage, but I think it is quite hard to predict. As I say, I do think it should be appropriate to local circumstances.

Q311 Mr Prentice: Can you not just give us a sense of what you have in mind? I am not inviting you to give percentage figures, but clearly the involvement of the third sector is too small at the moment and helping to deliver public services has got to be increased. Should it be vastly increased, increased a little bit or what? Just give us a sense.

Phil Hope: Let me give you an example. Maybe that will help. One of the first things that I did was to visit Wandsworth Prison, where I met the St Giles Trust, a third sector organisation, which started working in one organisation, in one prison, where it was training long-term inmates to act as counsellors and advisers to new inmates coming into the prison. Thereby those inmates were gaining skills in information, advice and guidance, they were giving it out to people who were coming into prison who were scared and whatever, and, when they left that prison, the St Giles Trust was employing some of those ex-offenders as employees providing information and guidance in the prison. I mention that as one particular example because that is now working in 20 prisons, and it is working in 20 prisons because it has taken a model of working which has proved to be really successful in reducing re-offending and is winning contracts to provide that service and would like to go further; but to go further it needs to win contracts, it needs to demonstrate the outcomes it is achieving and the contribution it can make through this specialised mentoring and training system. That is not to say that we would expect, or somehow fix the system, that a certain proportion of spend would be by that particular organisation; they would work through the commissioning process to win contracts to deliver the outcomes that they are so good at delivering.

Q312 Mr Prentice: I understand that. I do not know how many prisons we have got in the country. It is 143. This initiative features in 20 of them, but I still do not have a sense of whether this is something that is going to occur in the margins or whether it is going to be absolutely central?

Ed Miliband: What I would say is that I think there is significant potential—we have identified it in specific areas—but I do think it has to be shaped by experience on the ground. If I came before you today and said I think half the prisons or a quarter of the prisons should have third sector providers in them, I cannot make that judgment sitting here, and I think you would rightly criticise me if I did, because it has got to be a judgment shaped by commissioners who genuinely say: “Who can better provide these services?” I think it is really important—because there are lots of people who are working in the public sector who are doing an excellent job—that we do not come to this with preconceptions which say, “This will only work if we say wholesale, we are taking it away from you and we are giving it to you.” I think we should be open to using the skills of the third sector, but I do not think we should come to this with prejudgments about who is better and who is worse at a general level, and that is why I cannot give you the sort of answer you are looking for.

Q313 Mr Prentice: To what extent is it open to you to actually grow the third sector? We have got a briefing in front of us here from the Office of Government Commerce on the impact of EU procurement rules, and it says here, “Can the invitation to tender only be issued to third sector organisations?”¹ Answer, “No.” “Can commissioners specify that they only want to use a third sector organisation?” Answer, “No.” “Can commissioners choose only to approach one particular provider under most circumstances?” “No.” I just wonder what instruments you have to grow the third sector where there are these constraints?

Phil Hope: There are two halves to that question, two halves to the answer. One is supporting third sector organisations to gain the capacity to bid for contracts, so we have both Capacitybuilders as a funding stream and Futurebuilders as a stream of loans and grants specifically targeted at helping third sector organisations develop the capacity to bid for and succeed in a level playing field of commissioning. On the other side, we are instituting a national programme of training for commissioners in various parts of the public sector—local government, the Health Service and others—where we will be training those commissioners to understand the added value and the contribution that third sector organisations can make and to enable those third sector organisations to take part in, and to enter bids for, public sector contracts. So, both on the commissioning side those people making those decisions, training them to recognise the added value that the third sector can contribute when and if it can, and on the supply side building the capacity of the third sector at regional, national and local levels to make those bids and tender for those contracts.

Ed Miliband: You raise a really interesting point. I think that when you are commissioning services (and I know this concept of competitive neutrality has been discussed by your Committee in previous evidence sessions), there does need to be a level playing field, but I think what is interesting and what the third sector and some third sector representatives would say is: “Look, our contribution to public services is not adequately taken into account by a narrow value for money efficiency frame”, and that is where the concept of social clauses comes in. Social clauses are about saying, “We make the value for money and efficiency tests but we can also look at wider benefits that there might be to the community.” To take an example, if you are an organisation engaged in furniture recycling but you are also employing local people, or employing people with learning disabilities, a narrow contract would not take that into account, but a contract (and this is allowed under EU procurement rules) that took into account the wider social benefits would take that into account. That is why, as part of our action plan, we have been pioneering the use of social clauses. My view is that a level playing field is needed, but, as I say, some third

¹ Ev 262 ff

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sector organisations would say they do not have one at the moment, partly because of capacity issues but also these wider benefit issues.

Q314 Mr Prentice: Finally, where does religion figure in all this: because in New Labour we are all religious now. I got a letter, we would all have got a letter, a few days ago from a colleague, Stephen Timms, who is the Labour Party Vice Chair, appointed by Gordon Brown, "Faith". Ten or 20 years ago I just would not have believed it was possible. In New Labour we believe in faith, and I suppose my question is to what extent are you prepared to contract with faith organisations? I am not talking about mainstream Catholic, Church of England, Rastas, Scientologists. Do you want to encourage more faith organisations to deliver public services? I know Jim Murphy spoke about this a few months ago, so it is in your thinking, I know that.

Ed Miliband: The way I would come at this issue is to say it is not our job to question the reason, the motivation that brings people to getting involved in the third sector, but if a contract or a grant is to be used for proselytising purposes, then in my view that is not right. Actually most mainstream and sensible faith organisations like Faithworks take this view. So, different people—you, Gordon, me, Phil and others—come to the work we do for social justice for different reasons, but those reasons should not impinge on the way a service is delivered. If an organisation said, "You are only going to get our homeless services as a way of us promoting our religion", I do not personally think that would be the right way to go.

Q315 Mr Prentice: Presumably there are guidelines then. The Salvation Army, or some other organisation, would be told that, when you are delivering soup to homeless people, then there is no proselytising; you just hand over the soup and go?

Ed Miliband: The truth is it is hard to be prescriptive about these things, but, as I say, most people in the faith community accept that this is a fair way of operating.

Q316 Mr Walker: Should the third sector be favoured over business when it comes to delivering public services?

Ed Miliband: No, in the sense that, if you are commissioning services, I think it is fair to have competitive neutrality, a level playing field, but, as I say, I think these social clauses can play a role, and the capacity building that Phil talked about can play a role, in adequately capturing (which I think is a problem in relation to a lot of commissioning) the contribution the third sector can make.

Phil Hope: I think the third sector, during the consultation, which is reflected in why we have the programmes we now have, said quite the reverse. In effect, they feel at a competitive disadvantage to the private sector, who can draw on sources of finance and loans and so on that they find it difficult to draw upon, and so they feel they have not got a level playing field, which is one of the reasons why we introduced measures like Futurebuilders and other

funding mechanisms, to ensure that the third sector can have a building capacity to be able to compete on that level playing field.

Q317 Mr Walker: How will you reconcile the two? I am as guilty as the next person in thinking that there is an inherent goodness about the third sector—nice people who are there because they want to be there. The third sector is not restrained by profit and all those sorts of ugly things which are very important, but how, in empowering the third sector to deliver major projects, can we ensure we retain the essence of the third sector and not turn them into quasi hard-nosed businesses always focusing on the bottom line, filling in the forms, making sure they are ticking the boxes, getting the outcomes, meeting the targets? How can we ensure that they remain people focused, that they are not looking upwards towards you in Whitehall who are providing the money? I think Turning Point gets 95 % of its money from government, or local government, but they are still looking towards the end user.

Phil Hope: Turning Point is a very good example. You had Victor here before you giving evidence and I went to visit two of their projects, one, Hartley House, dealing with people who abuse drugs and alcohol and their sensitivity, their passion, their belief in what they are doing, matched with, I have to say, a very effective, highly competitive funding model that wins them contracts and achieves real outcomes. I think outcomes are the critical touchstone that we have to focus on here. If that organisation is delivering outcomes and is doing so using and marshalling the passion of its supporters, staff and volunteers to help people to achieve changes in their lives, that is what really matters. I also believe that in social enterprises (which are not so much charities, they are profit-making but the profit gets reinvested back into the community, back into environmental projects they are working with, or back into their own organisation), I see there (and this is what I saw on Social Enterprise Day) the enthusiasm of people who do want to have that kind of business ethic, if that is the right way to put it, but want to do so for the public and community good. There were some excellent examples of them delivering. I am thinking here of a project I visited in Leeds called Helping Hands, where some people are delivering support to older people with disabilities in their own homes that would not be there otherwise and are doing so through a very robust funding model where the resources go back into the organisation. I think social enterprises are, in particular, a business model for the twenty-first century that are paving the way quite excitingly and I think many private sector organisations are beginning to look at them and see the benefits that that brings.

Q318 Mr Walker: Do you think these social enterprises could become a vehicle, in a very positive sense, for businesses to project their corporate/social responsibility? I know in my constituency of Broxbourne, instead of Barclays Bank going on a jolly down the Thames, they get together with a local

organisation and do some good on an estate—they plant trees, they clean the area up—and actually they find that their employees get far more out of that, there is a far more tangible result at the end, than just having some corporate jolly or some boring conference. Do you see these social enterprises having the wherewithal, with your guidance and tutorage, to actually get in touch with business to bring more resource into that space?

Phil Hope: I think it is quite interesting. I am a Labour Co-op MP, I have to say, and I do not know if any members of the Committee are, but when the Co-op Bank 15 years ago declared its ethical banking policy most people thought that was a crazy idea. Now the Co-op Bank is absolutely in the forefront and it is seen as being the way to do business to demonstrate ethical consumerism in terms of where people bank, that is why people choose to bank with the Co-op. I think more people nowadays are making choices to bank, or to buy services or goods or products, based on the knowledge of that organisation having some sense of corporate, social responsibility. I do want to distinguish, though, between those that are profit-making businesses with an importance that they attach to corporate, social responsibility, including employee volunteering, which I think has got huge benefits both for the community and, I have to say, back into the company as well, and social enterprises which many want to see the benefits of but specifically, although they are profit-making, the profit does go back into the social good, or the community, or the environment or back into the organisation itself. They are qualitatively different, but I think the sort of the mood, the guise—would that be the right thing to say, Chairman—of social enterprise, of wanting to do something positive to the community, to the environment, I think, is now growing and I think this is a very exciting moment and a wave we should try to capture.

Mr Walker: The organisation I was citing as a demonstration of social action is Groundworks. Of course Groundworks needs funding to do all their wonderful projects, and actually it was very clever of them to go to large corporations and say, “Listen, we will give your staff a really good day out, or really good week-end out. They are going to do a lot of good work and you are also going to pay us to allow them to do that good work”, so in a sense it is a win-win. Groundworks get additional funds to fund its other work in communities other than mine, so I am very proud of it.

Q319 Jenny Willott: There is a real push in the Government to get the third sector delivering more public services, at least we have been told that is the case. I want to unpick one particular example that was quite recent and look at the elements in that. I am a glutton for punishment, so as well as this select committee I am on the Work and Pensions Select Committee, and on that committee we have done quite a lot of work around Welfare to Work and getting people back into work, particularly those on incapacity benefit. There has been a lot of evidence that for quite a large number of people on incapacity

benefit, particularly those with mental health problems, the voluntary sector does significantly better than the private sector at getting them back into work and offering them the support they need to stay in work. Very recently the Department for Work and Pensions put out to tender the Pathways to Work schemes across the UK, including the area that I represent in South Wales. Why did only two out of the 16 contracts get awarded to the third sector?

Phil Hope: Yes, in this commissioning process by the DWP, there were, as you say, two that were specifically third sector organisations, and they were the Shaw Trust. I think it was two out of 15 rather than out of 16. I think it was 17 in total that were contracted in that phase one. Interestingly, subcontracts for those other 15 amounted to some 44 % of the providers that will be delivering those contracts. So, although we were concerned, I think you are right, that only two, as it were, third sector organisations won the whole contract, in fact some 44 %, some 164, third sector organisations were involved in delivering as subcontractors to the main contractor who won the other 15. ACEVO² raised the concern about this, and Mavis McDonald, a former Home Secretary in the Civil Service, was asked by ACEVO, and we have been supporting her on the DWP, to look at that process to see what actually happened that resulted in that outcome that I have just described to see whether there might be lessons learned, about how that process went forward, whether or not the third sector were in any way disadvantaged through the design of the market through the weighting given to various elements of the bidding, and so on. That report is coming out, I think, in a few days and will be very helpful to us, not just in DWP but in other parts of government, when we are looking at the lessons to be learnt from effective commissioning at that level. Phase two will be published in December, and I am feeling optimistic that they may have some better news for the third sector.

Ed Miliband: I think Phil is right about this, but I think also we should say that there is a tension, if you like, which we need to acknowledge here between the demands of efficiency, which I am sure that this Committee, along with other select committees, is keen to impress upon the Government, and, therefore, the need for a smaller number of contracts with the need for lots of the sort of small organisations that Charles and perhaps you, Jenny, also have experience of to get involved. The Mavis McDonald process is important to understand why phase one went as it did, but I think there is a wider issue here about the balance you have to strike between efficiency, the number of contracts, and so on, and third sector organisations between size and capability. The question is how many third sector organisations have the scale to deliver in that way. For me the second part to this, and Phil mentioned it, is the subcontracting part which becomes incredibly important because if you have a number of large organisations, some third sector, some

² Association of Chief Executives of Voluntary Organisations

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private sector, delivering these contracts, the question then is: what happens at the subcontracting level? How much is the third sector involved? Again, it is part of the learning process, and this partly explains why it is hard to put a target on these things. We are learning all the time as we embark upon this commissioning process, and this is an area where, I think DWP would acknowledge, we need to learn lessons as we go forward.

Q320 Jenny Willott: Presumably, if we are looking at a system where private sector organisations are getting the main contracts and subcontracting to the voluntary sector, they are going to be taking a slice of the profits off the top of that, so less money overall is going to be going into the voluntary sector even if they are going to be doing the lion's share of the work, or whatever proportion of the work it is. Is that not a concern?

Ed Miliband: I think also less that it is inherent in the larger scale that the third sector will not win the contracts. I think it is more about smaller third sector organisations and the role that they play. The point you raised about subcontracting is right, and that is why we are looking across government at the way subcontracting is going to work, because it will apply not just here but in regional offender management I think I am right in saying.

Phil Hope: I just wanted to add one other complaint. One of the concerns that we have heard is that, if you have got a client group that you are working, that you have won the contract for, some might be easier to move into employment in the example we have given, it might be to keep them from re-offending in others, and there will be other parts who will take more time, more resource and so on. What we would not want to see, of course, is that the subcontractor gets the same level of funding but has to do the harder work with the harder client group. It is those kinds of details within the contractor, subcontractor relationship that we think we can learn lessons about and take it forward to ensure that those kinds of potential problems can be avoided.

Q321 Jenny Willott: Are you looking at umbrella organisations or strategic partnerships between smaller organisations, or are you focusing your effort on looking at the subcontracting level to try and help smaller organisations?

Phil Hope: I think I mentioned earlier to Gordon, the idea of smaller organisations coming together to form consortia can be a very powerful way that third sector organisations can play a part in these larger contracts. I am aware that Futurebuilders, for example, has recently invested in the Cross-Herts Community Counselling (called CHCC) which is in Hertfordshire, where six youth and children organisations that provide counselling and advice to young people. Independent, small charities, got together in that county to form a consortium to bid to deliver services to children and young people, services like sexual health and that kind of thing, and it has been a very effective mechanism. That is at the local authority level, I think that can happen at regional level, it might even happen at a national

level, and that organisation benefited from the added injection of a Futurebuilders loan or a grant to build that capacity to be able to make that bid to then win that contract to deliver a much better service more coherently throughout that county for the benefit of children and young people.

Q322 Jenny Willott: You mentioned that there is a review being done of the process in DWP and what lessons can be learnt. For the Office of the Third Sector, do you think that your main role in looking at commissioning across departments is identifying what needs to be done differently for the voluntary sector, or do you think you have also got a role in re-educating government departments?

Ed Miliband: I am not sure I would describe it as re-education. I might not be thanked by my colleagues. I think you make an important point, which is that across government there needs to be greater understanding of what it means to work with the third sector, the particular challenges that third sector organisations face, sometimes the weaker financial base that some third sector organisations have relative to the private sector; I think across central government and local government there needs to be a culture change, and this is hard to achieve. Again, I am not going to make rash promises about how quickly this can happen, but a part of our job is to change the culture so that we have longer term funding, which is what third sector organisations need, so there is an understanding of what they can contribute to the process. One question is: why is the Office of the Third Sector in the Cabinet Office? Precisely because we have that cross-governmental role, and every department, in a way, is a third sector department and needs, not re-education, but informing how best they can work with the third sector.

Phil Hope: I would agree. I mentioned the training of the commissioners before. I think there are many levers we can use for this: one is training, the other is guidance, for example, that local authorities might receive. Only today DCLG³ has published guidance on local strategic partnerships and local area agreements which includes, within its specific reference, third sector organisations. When they go about the whole process of commissioning, I just want to emphasise, contracting is only one part of the commissioning process because the third sector can play a role, not necessarily in delivering public services in partnership with the public sector, although we would like them to do that where it is right and where we get the right outcomes, but even just being a voice for the user, being able to affect the design of the service that is delivered, like the RNID⁴ and the RNIB⁵ have done on services for improving people's vision. So, right throughout the commissioning process, including perhaps tendering and winning contracts to deliver public services, we want to see the third sector throughout, and that is a process both for training and, as Minister for the Third Sector, I see myself as a champion for that

³ the Department of Communities and Local Government

⁴ The Royal National Institute for Deaf People

⁵ Royal National Institute for the Blind

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third sector within government talking to ministerial colleagues on a case by case basis about ways that they can improve their practice. Indeed, when I have those meetings with ministers, very often they are keen to tell me about the successes they are having and the changes they are attempting to make, because they can see the benefits, where it is appropriate to engage the third sector, in achieving better outcomes for people.

Q323 Jenny Willott: The final area I wanted to ask about was the issue of complaints, particularly when it comes to the public sector. The Charity Commission did a survey last year that found out that nearly 70 % of charities did not have a complaints procedure and of those charities that were delivering public services, 40 % did not have a complaints procedure. Is this an area of concern and an area that you are actually actively working on? That is the first question. The second question is whether you think that will go against charities that are taking part in commissioning and whether that is something that is going to prevent them getting contracts and being successful?

Phil Hope: I think you are right to raise it as an area that people have raised as a concern. To go back to those surveys, a greater percentage of some of those charities, if we look at the actual statistics, do have complaints systems than is perhaps thought. I know ACEVO were less convinced by the basis of the survey. In principle you are right to raise the concern of whether there is a mechanism for complaints from service users and so on. We would expect charities, third sector organisations, to have complaint mechanisms as part of the way they go about doing their everyday business but, in particular, if they have a contract from local government or central Government, that part of that contracting process, what is commissioned, would include the third sector bidder showing and demonstrating how they might handle complaints were they to happen. The complaint can be taken in this case to the local authority if it is a local authority contract being provided, in the same way that you would go to the local authority to complain about a service you had received being delivered under that local authority, and ultimately to a local councillor and, I am sure, if you come to my surgeries you would see it, and in your surgeries, to the MP to raise about a service that has been provided with the local council. Ultimately, it is the contract in which you might see the evidence of the complaint mechanism being in place.

Ed Miliband: Just to add to that, I think this is a really important point because I know this question of accountability has consumed some of your evidence sessions. I am not trying to anticipate future questions. You need the internal procedures in third sector organisations, but ultimate accountability for services lies with the commissioning public authority. I have a number of SureStarts in my constituency, SureStart children's centres run by NCH,⁶ and NCH need their own

internal procedures but if there is deep community dissatisfaction with the SureStart or something is going wrong, and thankfully there is not, indeed it is the case that it is the local authority that has responsibility for commissioning of that service and is ultimately answerable. This issue of accountability of third sector organisations is rightly raised by people because it is an issue that needs to be addressed, but I think it comes from the fact that it is the public authority that has ultimate accountability. It is really important that is not lost because, after all, that is why we elect people to have that accountability.

Q324 Jenny Willott: What is being done with those organisations that do not have those processes in place? What are you doing to rectify that?

Phil Hope: Part of the training programme for commissioners, part of our encouragement of people to understand the commissioning process and to contract successfully, will include ways of influencing how that public commissioners go about commissioning pieces of work to understand and see the importance of that. For charities generally not in receipt of public funding, as it were, it is a matter for the charity trustees, of course, who have oversight for the proper management and administration of their organisation. You would expect to see organisations taking responsibility for ensuring that services they provide, outwith necessarily being funded through contracts in the way that I was just describing, and developing best practice. Many organisations, like the National Council of Voluntary Organisations, ACEVO and others, issue good practice guides and so on that third sector organisations might draw upon in developing their own complaints procedures or other forms of procedures to run themselves effectively.

Q325 David Heyes: Can I just focus on the role of the Charity Commission in this question. We had the Chair and Chief Executive of the Charity Commission in front of us a couple of months ago and they have been given the challenging task of deciding what is public benefit. This is particularly an issue around faith-based charities and fee-paying schools. I asked the Charity Commission people who were here whether any of them would need to declare an interest in this, were they sending their children to fee-paying schools. Momentarily I felt like Joe McCarthy, it was almost like the Charitable Commission's committee that were asking awkward questions. It has emerged since that certainly the Chair sends her child to a fee-paying school and I suspect from the response we got that several other members of the Charity Commission have got those kinds of interests. It seems to me that the core decision about whether the activities of a fee-paying school are charitable or not is fundamentally political. Why was that difficult political decision given to the Charity Commission to struggle with?

Ed Miliband: Let me perhaps explain some of the background to this, David. I had the pleasure of taking the Charities Bill and the Charities Act through Parliament, including the detailed

⁶ National Children's Homes

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committee stage on this, last year. What we did in relation to fee-paying schools was we removed the presumption that organisations for the benefit of education were charities. There was a presumption that had existed that this was the case. We thought it was right that all organisations, whether they were the NSPCC⁷ or Eton College, just to take two examples at random, had to prove they were for the public benefit. The structure of charity law is that there are 13 charitable purposes, in fact 12 and one other category, covers a wide range of things and you have to be for one of these charitable purposes and you also have to prove that you are for the public benefit, which the Charity Commission judges. The particular case law in relation to the issue of private schools, which I think is what you are particularly concerned with, says, and I paraphrase, public benefit should not be restricted simply to a narrow class of persons and it has to have a wider public benefit. We set the law and Parliament agreed this law which went through both Houses of Parliament and we set a framework for the Charity Commission to work within. They are now embarked on the general consultation on public benefit and how it should be interpreted and then they will go into the specific areas. I think it is right that we set a general framework for the Charity Commission and then it is for them to interpret the law specifically. I agree with you, there is a political element to this, which is the overall law, and then within that it is for the Charity Commission to determine on a case-by-case. I think it is hard for Government ministers, and it would not even be right, to determine on a case-by-case basis whether the public benefit test is met.

Q326 David Heyes: The Charity Commission are very clearly struggling with this decision. They have had the round of public consultation that you have referred to and did not like the results, or were not able to make decisions based on the results of that consultation, and they have now launched another round which will run into next year some time. It is difficult to see how that is going to get any closer to the kind of clarity that they are looking for. This decision cannot be left unmade because the Charity Commission is unable to make it because they cannot get the right consultation response or consensus or because they are effectively disqualified from making the decision because of their personal interest. When is it going to reach the point when this key decision, particularly about fee-paying schools, has to be taken away from them and you do it for them?

Phil Hope: This is obviously a matter for the Charity Commission.

Q327 David Heyes: Who manages the Charity Commission in carrying out their task? Who are they responsible to?

Phil Hope: The Charity Commission are responsible to themselves as themselves, a Non-Ministerial Department, with their board to complete this task.

Ultimately they are accountable to Parliament, directly or via myself as Minister for the Third Sector. I meet with them on a regular basis. They anticipate their decisions coming out in the New Year. They have had a very large number of responses to the consultation about public benefit from a variety of places, so the size and nature of the response has meant they need to take a little more time before they make their decisions and issue the outcome of their deliberations, and my understanding is that that is going to be early in the New Year. I think it is more important that rather than rush it they get it right, they find an outcome which achieves the law but they have the difficult judgment to make and because they are independent of government can make that difficult judgment on a case-by-case basis.

Q328 David Heyes: I am tempted to ask how long will you give them to make that decision?

Phil Hope: We are encouraging them to get it right. I think it is more important that they get it right than they rush a decision or make a decision in haste that could potentially be wrong. David, I understand your frustration because you want to see an outcome on this, and so do I, but I would like to see them come forward with well thought through proposals as a result of the consultation they have been undertaking. We should ensure that if there has been, as there has been, a large number of responses there should be proper time to evaluate and make judgments about those responses rather than rush into a decision that might not be a best judgment.

Q329 David Heyes: The other very difficult and controversial area that the Charity Commission are grappling with is this question of campaigning activity. I think the Government have given a very much clearer steer to them on the way that they should deal with that, which I think is quite helpful, but there is still one key area where there is uncertainty and debate, which is about political party campaigning. I have said here before that my involvement in politics, and I suspect this is true of you and all of us, is really driven by a core motivation which is about things like alleviating poverty, promoting education, the general wellbeing of the population. Those are really sound charitable objectives but they are also solid political objectives, it is what motivates us. Why is it that when Amnesty or Barnado's do it, it is charitable and when political parties do it, it is not, and political parties do not get the benefits which flow from charitable status?

Ed Miliband: I fear I am going to be disappointing you on this, David. The reason why we are not going to go down the road of making political parties charitable is because, if you think about it, while you and I both agree that the Labour Party is for all the noble purposes that you set out, the truth is it was not set up for those purposes, it was established to promote the interests of organised labour originally but Labour in Parliament and so on. To decide whether that was for the public benefit would require the Charity Commission to be making an entirely capricious and political judgment about that. The

⁷ National Society for the Prevention of Cruelty to Children

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importance of the charitable purposes and the heads of charity that were in the Charities Act is precisely that they do not require that sort of judgment to be made, they establish some pretty clear charitable purposes under which organisations can attempt to register as charities with the second lock that they must be for the public benefit in some of the ways I talked about. I am afraid we are not going to go down that road.

Q330 David Heyes: I thought that might be your answer. Is there available here a kind of halfway house option which would be to recognise the merits of political campaigning activity and to give some sort of taxation benefit by allowing tax relief on donations to political parties, for instance?

Ed Miliband: That really is not a matter for me as to what happens in terms of party funding and all those issues. It is certainly the case that support for political parties and campaigning for political parties is not a charitable activity and we have got no intention of changing the law to make that happen.

Chairman: Do not all political parties stand for competing versions of public benefit?

Mr Walker: I dispute that fact.

Chairman: I exempt the Conservative Party from this!

Q331 Mr Walker: The British National Party in my constituency.

Ed Miliband: I think Charles referred to this in an earlier session that you had. As well as raising the issue that I talked about on public benefit, it takes you down a whole road you would not want to go down about making judgments between different political parties and the extent to which they are legitimate or illegitimate. That is why I do not think it is sensible to go down that road. Phil, do you want to add anything?

Phil Hope: No, I just want to pick up David's earlier point about campaigning. You are right, David, we are keen that charities are not fearfully looking over their shoulders if they wish to campaign. The Charity Commission are going to be issuing some revised guidance on that in the New Year as well. We made clear that it is absolutely right within law and, indeed, the Charity Commission's own guidance issued in April clarifies this as well, that charities can, and if they feel it is right should, campaign in the interests of their beneficiaries. We have seen many very good campaigns of late that have put the Government under pressure, and quite rightly so, because they are standing up for what they believe in in the interests of their beneficiaries.

Q332 Chairman: Was it necessary or right for the Chair of the Charity Commission to say that she was going to take no part in the deliberation on the public benefit test in relation to private schools because she happened to have a child at a private school?

Phil Hope: The Commission took independent legal advice and on the basis of that legal advice to the board of the Charity Commission they made their judgment about how they should operate. I think

that is a matter for the Charity Commission and their decisions on the legal advice that they have been given.

Q333 Chairman: It is an interesting precedent though, is it not?

Phil Hope: Whether it is or not, that is what they did and that is a matter for them on the basis of the legal advice they received.

Q334 Paul Rowen: You mentioned earlier on in answers to Jenny about the incident with the DWP and the contract Pathways to Work. Are you monitoring across Government commissioning and involvement of the third sector in commissioning and do you feel they are getting a level playing field?

Phil Hope: Yes. I described earlier my role as Minister for the Third Sector which is to work with the most relevant government departments in terms of those that might be heavily involved in commissioning and, therefore, making sure that either at the level of the department and what it is doing and the way it goes about its business a level playing field is created to enable the third sector to compete or as a government department, perhaps, investing some of its resource in capacity building among those organisations that work in its own field of endeavour. The Department of Health, for example, has recently established a £73 million fund to promote the development of social enterprises within the Health Service and that is an investment that will help those social enterprises then compete for contracts to deliver healthcare, mainly social care.

Q335 Paul Rowen: Do you have some idea of the range of contracts that the third sector has recently won across different departments of Government?

Phil Hope: I cannot provide you with that information here and now, forgive me, but we do seek to ensure that every Government department, where it is going about its business, does have a commissioning process that does create this level playing field and recognises the added value that third sector organisations can bring.

Ed Miliband: There is a cross-departmental board which oversees the implementation of the action plan and meets to discuss commissioning and other issues and obviously will be discussing those sorts of issues that you have raised.

Q336 Paul Rowen: Could you give us some sort of indication, perhaps in writing, of those sorts of contracts?

Ed Miliband: Definitely.

Q337 Paul Rowen: To put that DWP incident in context.

Phil Hope: Sure.⁸

Q338 Paul Rowen: Moving to local government, local authorities are huge commissioners of public services and obviously at a local level we have all got

⁸ Ev 149

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experience of local charities that are involved. Are you providing any advice to local authorities in terms of how they should go about commissioning and involving the third sector in a greater way?

Phil Hope: Yes, both in terms of grants but also in terms of commissioning. The Department for Communities and Local Government today issued statutory guidance to local authorities, both on their Local Strategic Partnerships and Local Area Agreements, both of which include specific references to the third sector in terms of the way they go about running a Local Strategic Partnership and drawing up a Local Area Agreement, which includes references to stability of funding, for example, proper consultation and engagement and the ability to influence services as well as receive grants or win contracts to deliver public services. That guidance has now been issued, local authorities will be taking note of that. That is the sort of guidance and good practice for making it happen. Recently I went with the Audit Commission, because the Audit Commission will be conducting Comprehensive Area Assessments in future, which are an evolution from Comprehensive Performance Assessments, and in those Comprehensive Area Assessments the Audit Commission will be looking at the extent to which the local authority is striving to support a thriving third sector, not least because within the local government performance indicators framework we have included a thriving third sector as one of the measures that we would expect local government to be achieving. As well as at the front end, as it were, getting it right to start with, they will be assessed at the back end through the Audit Commission and its processes to ensure that the third sector is alive and kicking in every local authority area.

Ed Miliband: Can I just add to that briefly. What is interesting about this is we have got this programme to train the 2,000 most important commissioners of public services so that they understand the role the third sector can provide. You might ask what is the motivation for that and it is partly what I have learned. Just to give an example: in one part of Manchester they had homecare services, social care services, provided by a private sector organisation that they were very unhappy with and they happened upon an organisation called Sunderland Home Care which does it as a part of social enterprise in Sunderland and they have now contracted with Sunderland Home Care to provide the service, but that is an incredibly ad hoc way of that happening. I am not entirely sure how it happened but it happened in a rather ad hoc way. Part of the point of training commissioners is a recognition that what really matters is the people who are making the decisions on the ground and do they think these third sector people are nice and fluffy but cannot really properly provide a service or do they realise the reality that lots of them can provide services, sometimes in preference to the public sector providers at the moment, in a way that will better meet the needs of citizens. Part of the point of the commissioning programme is to try and get to the people who make the important decisions

on the ground. In another initiative which you will know about, the Innovation Exchange, which is a web-based initiative, that brings together people who are commissioning services and people who provide services to further that process of learning and culture change.

Q339 Paul Rowen: One of the concerns with the Local Strategic Partnership from the voluntary sector has been that now it is going back into the control of local authorities they are going to lose out. Are you going to monitor within this framework that has been announced today how much of the money is actually going to the various sectors?

Phil Hope: A third piece of guidance is being issued today called Principles of Representation, which is guidance for third sector organisations about how to organise themselves in order to be better represented in Local Strategic Partnerships, not just at getting grants, although that is what most voluntary organisations want at a local level, but being able to influence the policy of the local council in its place-shaping role and because in particular many of those local charities that we all know in our own constituencies are very close to the needs of the user, they understand and are working on a daily basis in those communities, possibly some of the most disadvantaged, with people who have the most needs and in an holistic way can represent them. We will be trying to ensure that local authorities, through the guidance I have mentioned, do have the opportunity to play their part in Local Strategic Partnerships. That will be one of the measures that the Audit Commission in its narrative as it writes about each council will be describing in terms of the extent to which the third sector plays its part and is strengthened and where you have a weak local presence of the third sector what the council is doing about trying to strengthen that third sector in that area.

Ed Miliband: What is really interesting about the whole process of Local Area Agreements and taking away lots of the ring-fences that central Government used to put around funding boxes is it throws up another one of these dilemmas, which is that lots of third sector organisations say to me, "Why did you take away those ring-fences? That guaranteed a certain stream of money, okay it might have been a very small stream of money, for our organisation in a local area". Why did we take away the ring-fences? It was because local government was saying to us, "Look, you are trying to dictate too much to us, with the whole complexity of hundreds of funding streams, how we spend the money". That is why I think what Phil says is very important because it is about saying the deal is that local government does have more autonomy about how it spends the resources but it also needs to have a proper appreciation of what the third sector can do. Let us be honest about this, and we all probably know this from our own local experiences, we have got a long way to go in breaking down the barriers and some of the suspicions that exist between local authorities and third sector organisations and each accepting the legitimacy of the other.

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Phil Hope: I would recommend Croydon, by the way. Recently it won a Beacon award for having a strong partnership relationship between the third sector and the local authority, and maybe that is partly what we would ask local authorities to do, to look at some of the performance of the best so they can adopt some of their practices because they work so effectively.

Q340 Paul Rowen: It was said to me before I came here by a large private sector educational organisation that one of the consequences of these greater freedoms that you are giving local authorities is that they are taking more services in-house. What safeguards are you putting in place to make the point you emphasised about small voluntary organisations that have been around for a while that have to rely on ad hoc funding and suddenly there is a change; we have seen that with DWP with the Pathways to Work where a lot of local organisations that were doing employment and training did not get a contract? What safeguards are you putting in place to actually assist those voluntary and third sector organisations to win those contracts?

Phil Hope: There are two or three things I have mentioned already. One is that the Local Government Performance Indicators include a thriving third sector as one of those indicators, that they will be inspected against by the Audit Commission in their Comprehensive Area Assessment; it will judge not only is the third sector thriving but is the relationship between the third sector and the council a strong one or, if it is not, what is the direction of travel of the council to try and increase the strength of that partnership and the role the third sector plays. The commissioning process the local authority undertakes should start not just in terms of "can we get the cheapest" but from "what are the needs of the user". The third sector has a role to play right through to looking at different kinds of providers at a local level to the actual contracting and tendering process that results in an organisation getting that contract. I might add that local authorities will still be giving grants to local organisations. I have not mentioned the Capacitybuilders resource that has been there for a couple of years now at a local level through the ChangeUp Programme asking within each region what is the right local third sector infrastructure to provide support to frontline organisations. It is about organisations that need advice on funding, filling in applications, how to run their organisations or how to employ staff, where do they go to for that. The local infrastructure organisations of the third sector establish CBs⁹ and those kinds of organisations at a local level, supported by the local authority, but through the ChangeUp Programme we are looking at how we can make those more effective and responsive at a local level. Finally, we have also introduced a new grant stream particularly for very small volunteer-led community groups right at the frontline of communities. This is the

Community Grants Programme. That is £80 million over three years and the £50 million endowment funds we have created, endowment funds that will be matched so that at a local level the endowment does not get spent but creates a sustainable funding stream of relatively small grants for these frontline organisations, because that is often what they need, it is not huge amounts of money but relatively small grants to maintain their work in local communities. That flow-through funding from the Community Grants and the Endowment Foundation money together provides a new source of income in the region of £130 million over three years for very frontline community groups.

Q341 Paul Rowen: I appreciate what you said about Capacitybuilders, and I think that is important. Representing, as I do, the home of the Co-op, what are you actually doing to strengthen and support co-operative enterprises? I will give you an example. The local credit union in my town went bust a few weeks ago. It was previously held up as an example of a successful credit union but there was not the infrastructure there to provide, as it were, watching support and that is a great shame for the people in Rochdale. What are you doing not just to foster development but actually support and ensure organisations like credit unions continue to grow?

Phil Hope: Co-operatives UK is one of the Office of the Third Sector's strategic partners that we fund specifically to carry out these functions to promote and support co-operatives in the work that they do. I am sad to hear about your credit union because I think credit unions in many communities do provide an important financial lifeline for many who cannot access normal loans and means of borrowing. I hope you manage to get through that. At a local level, as well as what I have described that we do nationally, very often we have Co-operative Development Agencies that the local authorities might support and as part of our Regional Economic Development Strategy we have been funding Regional Development Agencies to provide advice and support to social enterprises. Over and above the ordinary business advice that ordinary enterprises get, co-ops, as one among many social enterprises, can receive advice that is more tailored to their character, their style of working. That is across each region of the country having resource from the Office of the Third Sector to build a more tailor-made service within that to make sure that the needs of social enterprises, including co-ops, in terms of start-up and growth and so on are met via the Regional Development Agencies.

Q342 Kelvin Hopkins: In my own mind it is fairly clear what ought to be, and are indeed, statutory services which the state is obligated to provide and a whole panoply of other services which are not so vital which are provided very largely by the third sector. Indeed, as MPs we all know the value of the third sector. In my case there is the local law centre, the CAB,¹⁰ a whole range of services that do a

⁹ Capacitybuilders

¹⁰ Citizens Advice Bureau

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wonderful job and we could not live without them. Houses do not burn down because the CAB is not there but they would do if the Fire Service was not there. Would it not be more sensible for Government, instead of encouraging the third sector to nibble at the edges of this statutory sector, to extend its reach and provide more of the kinds of services it currently provides which are so valuable?

Ed Miliband: You will be pleased to hear that we are not proposing that the third sector gets involved in running the Fire Service.

Q343 Kelvin Hopkins: I am pleased about that.

Ed Miliband: That will be a point of relief.

Q344 Mr Gordon Prentice: Why not?

Ed Miliband: The thing I would say to you is—

Q345 Chairman: Gordon asks a good point: why not?

Ed Miliband: Because there is a whole set of issues around a national Fire Service where it makes sense to have one uniform pattern of activity and centralised structure to do with the Fire Service, and you could say the same about national defence and other issues.

Phil Hope: Whilst that is the case, of course, the Fire Service does do many good things with young people, training young volunteers who want to learn about, take part in and become young firefighters. They are not actually fighting fire but it is all part of a voluntary youth organisation.

Q346 Chairman: They do many things. It was unthinkable when prisons started being run by the private sector. If the prisons can be run by the private sector why can we not have a private Fire Service if they are efficient and cost-effective?

Ed Miliband: You can get into quite theoretical debates about this. I have not seen any third sector organisations coming forward saying, “We want to run the Fire Service”.

Q347 Mr Prentice: Yet.

Ed Miliband: Gordon says “yet”. I think it is highly unlikely that in the sort of time with which I am going to be concerned with these issues—I mean in a long-term sense—that we will have the Fire Service being run by the third sector.

Chairman: Kelvin is trying to find out what the lines in the sand are.

Q348 Kelvin Hopkins: I am very pleased with what you have just said, if I may say, but that is just a personal political view. I do draw a distinction between the third sector and the private sector. They are different. Certainly the people who run, shall we say, Victim Support are very different from the people who run McDonalds and I do think there is a serious distinction there. In a sense, Phil started to touch on the idea that the Fire Service, instead of just putting out fires, should extend its role as an advisory body advising people on how to live more safely and not have fires. That is the kind of safety advisory role which traditionally has been done by

the voluntary sector, the third sector. Are you suggesting that rather than having the voluntary sector and third sector moving into taking over areas which were previously statutory that we should have the statutory sector extending outwards and taking over things which were previously done by volunteers?

Phil Hope: I was minister responsible for fire safety four years ago and I instituted a programme there to try and encourage more connections and relationships between the voluntary youth services and the Fire Service. The reason for that was that a lot of young men at the time were getting into trouble. They were causing fires, getting the Fire Service to turn up and then throwing bricks and things at the firefighters. It was a serious, serious problem. We discovered that a lot of these young blokes who were doing this, if you got hold of them in the right sort of a way and put them into doing voluntary activities with a firefighter being the person who was leading the voluntary youth group that they would turn up and do things. The uniform and fact it was a male role model who was strong and so on meant they stopped behaving badly and started behaving quite well. In fact, some of those villains, if I can call them that, then started to become quite positive and started to play a part and turned their lives around. I do not want to over-exaggerate it but it did make a huge difference. In terms of fire safety, I can see how the Fire Service in this small example, working with voluntary youth organisations and others, could help to reduce crime and antisocial behaviour in some of those areas. I would also say the issue for me about this barrier and whether there is a limit is that it has got to be about outcomes. In some of the communities that we represent, and I am looking at the Labour Members here in particular but for all of us, where we have got—

Q349 Paul Rowen: Just the Labour Members!

Phil Hope: Where we have got people who are living in the hardest, most challenging circumstances with lives that can sometimes be chaotic and we are trying to help them through that, the third sector organisations have proven time and time again that they can make a difference to people’s lives. It is right that where a grant making process or a contracting process can identify where the public sector can engage third sector organisations to intervene successfully with people, to be on their side, to be the advocate for those families or individuals, then we should encourage them to do so. That is not to say that we determine, “Here you can and here you cannot”, it is where we say to the third sector, “Where you are good step forward and play your part in partnership with the public sector”.

Ed Miliband: I do not want to consume the time of the Committee but I just want to add something to this because I think you raised a fundamentally important point, Kelvin. There is a lifecycle of third sector involvement in public services and it is quite interesting how this lifecycle is changing. Take childcare, for example. In the 1960s and 1970s the third sector started campaigning for childcare, there

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was very little childcare in Britain, and it started providing it on a voluntary basis but they also campaigned for it to be more universal. In the 1990s and beyond, it maybe started slightly earlier, there has been significant government investment in childcare. The old way of thinking about that would be the third sector has done its bit, if you like, it has done the campaigning, it has done a bit of voluntary stuff and now it can all be run by the state. That is not the route we have chosen to go down because we think there are various expertise and skills that third sector organisations can bring to this. A lot of childcare is run by the public sector but a lot of it is run outside of it. You make quite an important point about the third sector's end-to-end role in this, which is they are not just about being deliverers. This cannot be done without the state because in the case of childcare it is the state that is providing the resources to make the childcare provision happen by and large. The state has an important role and the third sector has an important role in different ways in the process of building up services.

Q350 Kelvin Hopkins: I think we are often on the same wavelength. Lord Victor Adebawale, when he came before us a few weeks ago, said many thoughtful things and I was very impressed by what he said. First of all, he said that the amount of money being spent on the third sector by Government is tiny by comparison with that being spent on the private sector, on PFIs¹¹ or whatever. It is very minor compared with the private sector. However, he did draw attention to the history of the third sector and pointed out that in the 19th century many of what we now have as statutory services started as voluntary services, and the drift has been from voluntary into statutory. I have a concern that there seemed to be at some time, maybe not now but in recent years, a tendency to want the drift to be the other way, to move away from statutory provision or to trim some statutory provision and push it into the third sector, which I think personally would be regressive.

Ed Miliband: I draw a distinction between the funding of the services and who provides the services. I know in an earlier session you talked about the work by a local organisation done with self-harming youngsters. That is an incredibly important service and, in a way, I suppose 30 or 40 years ago we would have thought that is not really a core service, but actually it is an incredibly core service now as we know from all our communities. Yes, to make those services adequate needs proper government resourcing but why should third sector organisations in your constituency or others who have particular skills and talents to provide those services not be able to do so.

Phil Hope: Just for the record, the amount that the third sector is receiving from public sector sources has shifted from £5 billion-ish in 1997 to some £10 billion in 2005, so it is not strictly true to say that the third sector has not benefited hugely from an injection of public sector resources.

Q351 Kelvin Hopkins: The broad thrust of my question is that there is a tremendous amount of extra work that could be done by the third sector out there, for our constituents and people in general. Is there not a case for encouraging that extension? For example, not every area has a law centre. Law centres do a fantastic job and without my local law centre I would be in some difficulty. Pushing further in that direction, getting more third sector provision in what they do best rather than encouraging them to take on statutory provision or what might be considered more in the statutory sector, would that not be a much more positive way forward?

Phil Hope: I do not see it as either/or. If we take innovation of the kind you are talking about, for example, the third sector is still doing it. If we take recycling, for example, in Tower Hamlets the recycling levels were hopelessly low and the third sector came up with a different way of doing it because of tower blocks and getting in and how to sort the newspapers from the bottles and so on, and have massively improved the recycling levels in an area like Tower Hamlets, or in Liverpool with the Bulky Bob scheme, which has been a hugely successful social enterprise. For me it is not necessarily either/or, Kelvin.

Q352 Kelvin Hopkins: If we just take that example, that is a very good example but if you go to Switzerland where there are very strict laws about what you do and do not recycle, they have a fantastic level of recycling but it is driven by very hard law. It is legally backed and people are almost fearful of throwing things in the wrong bag. I am not suggesting we should go that far but it is at least moving in that direction. If you are serious about recycling, in the end it will have to become more statutory and less voluntary. Can I move to one final point on funding? One of the problems with the third sector is that it derives a lot of its funding from discretionary grants from local authorities. Local authorities get into financial difficulty, under pressure from government often, and then they start to cut or squeeze their grant funding for voluntary organisations and they come to me and say, "Can you not lobby the local authority to get more money?" I say, "They are under the cosh from central government". If we are serious about the third sector, should we not actually be looking to make sure they get the funding that they need?

Phil Hope: I just want to answer on this point about sticks and carrots in response to the issue about recycling because I do think there might be sticks you can introduce into the system to encourage people to behave in certain ways, but I also think you need to enable and support people to be able to change their behaviour. A lot of what the third sector is about is often to do with changing the way that people behave towards one another in terms of antisocial behaviour, whether they recycle or not, their diet, their health, whether they re-offend. Those sorts of things are very much where the third sector often plays an important role which is, as it were, at the carrot end rather than forcing people to do things through the legal means. In terms of local

¹¹ Private Finance Initiative

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authority grants, what is very important here is the Compact. Some 99 % of local authorities have signed the Compact, they are committed to apply it. The Compact spells out the relationship between local authorities and third sector organisations, including things like longer term funding. We want to see longer term, three year funding become the norm rather than the exception. It is the case that where a local authority has signed up to the Compact, if a third sector organisation feels there has been a breach of how that compact has been operated, and you mentioned funding but it might have been about consultation or any number of the other strands of the compacts at work, then there is redress, and as a Member of Parliament if you are receiving these complaints you might want to refer them to what is called Compact Advocacy, an independent organisation based at NCVO¹² that takes individual cases through and there are a variety of ones that have been taken through in the past. We would expect and hope that stick end of the way of ensuring local authorities abide by their commitments would be unnecessary because they would have a strong and positive relationship with their third sector through Local Strategic Partnerships where they are involved in consultation on their services and on spelling out timetables and dates about funding changes and grant changes that may occur from time to time. As I say, the new guidance that has gone out for those LSPs¹³ and LAAs¹⁴ today will help to massively strengthen that case for third sector organisations in local authorities.

Q353 Paul Flynn: You said you do not want to have targets, which is wise I think with often the experience of targets being measures of failure, but if you are going to have an outcome that is going to be realistic and credible, should you not be talking about a minor reform of the service, a modest improvement instead of talking about a transformation? Is this a credible objective?

Phil Hope: The transformation is about the nature of services that individual users or families might receive.

Q354 Paul Flynn: Do you think that in 10 years' time the history books will talk about a transformation in these services? Do you think you will achieve that or do you think it will be a hostage to fortune?

Phil Hope: It may be a hostage to fortune, Paul, but I guess my feeling is that if we really do want to aspire to serve our communities to the very best then we should aspire to service transformation.

Q355 Paul Flynn: I read your speech to the ModernGov Conference and reading through it I thought the ghost of Nicholas Ridley was stalking through the hall. You talk about local authorities increasingly becoming commissioners rather than just providers and that was precisely what Nicholas Ridley said, that he wanted to see local authorities

meeting once a year to dish out the contracts and then disappearing and not meeting for another year. Is this part of your ambition?

Phil Hope: No. I thought it was ludicrous then when I was a councillor and I think it is ludicrous now to imagine that once a year the local authority councillors will sit around and hand out contracts. You have got to understand this word "commissioning". This word "commissioning" is far more profound than I think people are fully grasping, which is why this training programme and guidance is so important. Commissioning takes a local authority, or a commissioner in central Government, through a process where it starts off with the needs of the user. It asks what are the users' needs, what are the needs of the families in our area, what are the problems we need to address and it then asks what are the kinds of services that might address those needs and do we have people who are good enough and qualified, ourselves and others, to provide those needs. If not, should we invest in building the provider base, whoever that might be. It then moves to a process of contracting where people are invited to bid and then there is a process of choosing and selecting.

Q356 Paul Flynn: You are talking about 2,000 commissioners, and I promise you I am not an applicant for this job but you appear to be giving me the training now.

Phil Hope: That does not mean that you can sit down once a year, as Nicholas Ridley had in his head, to say, "We will just hand out the contracts every year". The relationship between the local authority and the third sector must be a profoundly close and important one, not least through that process I have just described which is light years away from the concept that Nicholas Ridley might or might not have been suggesting as the way to go forward.

Q357 Paul Flynn: Martin Narey of Barnado's told us there is nothing in the voluntary sector that the voluntary sector can do that the public sector or the private cannot do just as well. Do you agree with that?

Phil Hope: His view is that the third sector can deliver good services and I have been visiting organisations around the country where that is the case. I would not say, however, that every organisation in the third sector is excellent and is better than every local authority or every public sector provider.

Q358 Paul Flynn: Do you see any inherent weaknesses in the third sector as opposed to the public sector?

Phil Hope: Access to finance is one area where we have been keen to see if we can improve services and support for third sector organisations. I think that is one of the weaknesses.

Q359 Paul Flynn: When we were in America we found one particular area, and it applies here as well, where they made a huge provision and the third

¹² the National Council for Voluntary Organisations

¹³ Local Strategic Partnership

¹⁴ Local Area Agreement

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sector was everything: the area of the homeless. They had a huge number of homeless and that problem virtually disappeared to vanishing point, yet the bureaucracy remains the same. Is that not a weakness? Is it not the same in this country where over the last 10 years the number of homeless people and people sleeping rough on the streets has gone down to about a third of what they were but the charities involved in them have not decreased, in fact they are bigger than they ever were, they are spending more money, they are campaigning? Is it not true that one of the weaknesses of the third sector compared to a local authority that has a whole range of activities is that when they have a crisis in one area they deal with that and plan to diminish the problem and see the problem disappear, but in the third sector where you have a one issue charity they have a vested interest in expanding the problem? If the homeless disappear you invent hidden homeless and expand it into other areas. There is a vested interest in the third sector provider to increase the perception of the problem to campaign to the public. Do you not see that as an inherent weakness? It did not come out in this evangelistic praise of the third sector in your speech to the ModernGov Conference.

Phil Hope: I am not sure I do see it as an inherent weakness in the way you describe. I would hope that good third sector organisations, if they are successful at resolving a particular problem, would then make the choice, "That is good, that is done, we do not need to visit any more", or perhaps say, "Are there other ways, being flexible, being responsive, being nimble, being able to tailor our services in a way that perhaps public sector organisations may not be so nimble and tailored in the way they go about things to apply ourselves to new problems". In this case you have described homelessness; it might well be that they have been successful working in partnership with Government, and I am glad you see the value and the benefit of the work we are doing to reduce homelessness on the street, but there are other problems, and I know this as a constituency MP and it must be true for you too, with people who struggle to find places to live, get on to the housing ladder and so on where third sector organisations might well play a very useful function in supporting people in a new part of their housing problem they want to solve. I would not see that as a problem.

Q360 Paul Flynn: We all accept what you say, that there are third sector organisations that are nimble, innovative, supply new ideas and create great services that the local authorities have not supplied. My local authority in 1979 was providing universal nurseries, state nurseries for all the children and also selling council houses in 1968. There are authorities that do things you do not expect them to do under Labour controlled authorities. There are other third sector organisations that are bureaucratic, empire building and have all kinds of weaknesses. What happens is there is an evolution that takes place and generally the effective third sector organisations come to the top anyway. What you seem to be doing with this transformation is trying to get a revolution

in the system which is introducing the bureaucracy of 2,000 extra commissioners and everything else trying to achieve a whole metamorphosis of the system when, in fact, it would probably evolve in very much the same way if you left it alone. Is this not a question of Government interfering in something that is doing pretty well anyway and what you are doing will have only a marginal effect at most?

Phil Hope: They are not 2,000 extra commissioners. The aim is to target 2,000 existing commissioners in local government, in Health, in DWP and elsewhere. These are not extra people, these are people who are doing the job of commissioning services anyway and to train those so they understand the added value that third sector organisations bring to potential service delivery. That is a point of detail there. In general terms, if we look around there are still problems to be solved where we have not reached the Nirvana that we in the Labour movement would like to see.

Q361 Paul Flynn: We never will though.

Phil Hope: I do think that because that Nirvana is not quite there yet, there are jobs to be done and public services to meet the needs of people in our communities. The continuous challenge for us in Government, and I would argue on the left but I guess my Conservative and Liberal colleagues might argue it is their ambition too, is to ensure that the needs of all people in the community are met and we start with those needs and put the user at the centre of service design and delivery and those people who have a particular ability, third sector organisations, to reach out, particularly to those individuals who perhaps have reasons to mistrust or fear the state in all its forms, to find ways of working with them in particular, innovative ways to deliver new ways of working that change and develop their lives and give them the kind of aspirations and future that we would all like them to experience and enjoy. I call that transformation because I am an aspirational politician and I hope we all would be aspirational in seeking to provide the very best and to change lives for the better.

Paul Flynn: Bon chance!

Chairman: We are almost done; at least that is my aspiration.

Q362 Mr Prentice: I go through life trying to unpack the hype from the reality and the whole third sector was really cranked up a few years ago, the Office of the Third Sector, transformational change, and Ed told us earlier on it is about transforming the public services, not about transferring out, but there was a time not so very long ago when you picked up a newspaper and it was all about transferring out public services into a new third sector. I do not think the reality is like that having listened to you for the past two hours. Two final questions. What guidance do you give local authorities to transfer assets that they control to the third sector? You touched on this when you were speaking in the chamber on the third sector debate. What inducements are they given to transfer assets? Are the assets ever transferred at

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below value? What is the case with central Government? Have central Government assets been transferred out to the third sector and, again, have they been done below value?

Ed Miliband: I am glad you have asked about this. The motivation for this is all of us, at least in my experience in my community, know of assets that are at the heart of the community that local authorities no longer need and have not got a use for or are not being properly used and there are often community organisations that want to be able to run them. Why does that make a difference? It gives the community a real direct stake in an area, it can provide facilities for community organisations and it can empower local people to try and shape an area in the way that they want. In terms of what inducements there are, we have set up a £30 million Community Assets Fund which is being run by the Big Lottery Fund precisely to test out new experiments in this area. If you talk to someone like the Development Trust Association you will see what their members are doing up and down the country. If you are looking for a visit I would urge you to go to the Goodwin Centre in Hull which has transformed a particular area of Hull in the last five or six years, starting off with a community asset and eight of the 11 people on the local board there are elected by the local community, there is a real sense of devolution of power and it works very well with the local authority.

Q363 Mr Prentice: What if they do not want to transfer the asset, that is the key point?

Ed Miliband: It is their choice. What we are looking for in this area is culture change.

Q364 Mr Prentice: Fair enough.

Ed Miliband: It is a tough sell to some local authorities, we should be honest about that. On the point about central Government, I think central Government could do more in this area, particularly if we are encouraging local authorities to do it, and that is something we are talking to Hazel Blears and others about.

Q365 Chairman: I have just got one question that takes us back to where we started. I have still got a problem with this proposition that if the third sector can have a transforming effect on public services, and that is what is being said, then presumably you want it to do an awful lot more. If it does an awful lot more, somebody has to do an awful lot less by definition, either the state does less or the private sector does less, and yet that does not seem to be the follow-through. We have got the proposition, transforming effect, but we have not yet got the transforming intervention or even the argument that says we have to make sure that

it does more and others do less. The Opposition at the moment seem to be suggesting that they want to turn most of the state over to social enterprise or the third sector, they think it is the remedy for every social ill. It is quite hard to pin this down. The question we have not asked is one I ask right at the end, and we have been asking it along the way: what is the evidence base for saying that there is this transforming effect in using the third sector to deliver public services? We have had Martin Narey who says there is not such an effect, all we want the third sector to be is part of the competitive market, it is the competition we want, it is not the third sector particularly, anybody can do it as well as anybody else. The question is, what is the evidence base for the transforming effect of third sector delivery of public services?

Ed Miliband: There are a number of questions in that question. The evidence base is weak in general terms for the third sector. When I came into this job I thought across the piece we needed a far better evidence base for what the third sector does, not just in public services but elsewhere. That is why we are investing money with the ESRC¹⁵ and others precisely in improving the evidence base, which was one of the conclusions from the Third Sector Review. If what you are looking for with the evidence base is that in all circumstances the third sector will always be better than the private sector or the public sector, that is not our claim and I do not think we are going to find that evidence and I agree with Martin Narey and the other people who have come before you. I think the evidence we are looking for, and it is there, is in various areas of public services which sometimes are not open to the third sector for a range of reasons or the third sector does not get a fair look-in, they can make a contribution. What is the evidence for it? Because in your communities and mine they are showing that they can do it. All around the country and people who come before your Committee, whether it is Victor Adebawale or Joyce Moseley from Rainer, are showing that they can do it. Public services need to be open to those skills and expertise and over time I think we will see them playing a broader role. I come back to a theme of some of the things both of us have been saying, which is Government needs to be open to that, and that is what the action plan is about doing, but it is also crucially about convincing the people on the ground that the third sector can do more. I see them doing more over time and making a difference to public services.

Chairman: I think we have had a good run for our money. Thank you very much indeed to both of you for a very interesting session which pretty much concludes this inquiry that we have been doing. We shall draw upon what you have told us in trying to produce a report about it. Thank you very much indeed.

¹⁵ The Economic and Social Research Council

Thursday 17 January 2008

Members present:

Dr Tony Wright, in the Chair

Paul Flynn
Kelvin Hopkins
Mr Ian Liddell-Grainger
Julie Morgan

Mr Gordon Prentice
Mr Charles Walker
Jenny Willott

Witnesses: **Mr Selwyn Image CBE**, Emmaus UK Foundation, **Mr Alex Whinnom**, Greater Manchester Centre for Voluntary Organisations, and **Dr Sylvia Sham**, Wai Yin Chinese Women Society, gave evidence.

Q366 Chairman: Let me welcome our witnesses this morning. Thank you for coming. We are delighted to have Sylvia Sham from the Wai Yin Chinese Women Society; Alex Whinnom from the Greater Manchester Centre for Voluntary Organisations; and Selwyn Image from the Emmaus UK Foundation, who I think was awarded a CBE in the recent honour's list. We congratulate you on that.

Mr Image: Thank you.

Q367 Chairman: The Committee has interests in the honours system as well, so the bits come together. As you may know, we have been doing an inquiry for some time looking at the role of the voluntary sector in the delivery of public services. This is the very final session and we wanted to hear, right at the end, from organisations which are at the front line, delivering services, or not doing so if that is what they choose to do. We have mainly a Manchester focus for that—and we are very pleased to have it. We are going to follow that with some of the peak representative organisations of the sector, who are going to tell us what they think overall. It is your chance to tell us from the front line. It is really for you to tell us what you think we need to know rather than for us tell you what we think is important. Knowing what we are about, do any of you want to say anything by way of introduction?

Mr Image: I am happy to take my turn, because if you want to know what we do then it is quite important in the context of the issues which we would welcome you addressing.

Q368 Chairman: It might be useful to start with you, Selwyn. As I understand it, looking at information about your organisation, you have taken the view that contracting with the state to deliver public services is not for you.

Mr Image: Sometimes it is, sometimes it is not. It depends very much on the skill and expertise, both of the negotiators within the state and the local understanding of what it is that we are trying to deliver. We have, for example, in terms of supporting people, both positive and negative experience with local government officials and the issue, in a way, comes down to one of their recognising what it is we are trying to deliver and allowing us to get on with it rather than imposing what we, probably incorrectly, describe sometimes as a "tick-box mentality" to the issues involved. Do people understand what the communities do?

Q369 Chairman: I think we probably do, because we have some background information about that.

Mr Image: We major very considerably on the recovery of self-respect, because that enables people who have been recipients, if you will, of public monies to become givers as opposed to receivers. We wholly subscribe to the objectives, in that we consider it is trying to operate along the same lines, turning, if you will, receivers into givers. But where we have problems very often is that the "companions", as we call them—the people who work in our communities—and the idea that they should be "rehabilitated" within a set period of time might be wholly inappropriate to their ability to contribute. Sometimes we have come across and have had to refuse supporting people/money because people believe that the accountability, in their terms, of the public funds that they distribute means that nobody should stay in a community, working in a community, for more than a given amount of time, sometimes which is wholly inappropriate to the individual concerned, because there are people who have been so mentally damaged or damaged by life and experience who, though they are able to perform the role of useful citizens within a community, would be hopeless if they were set back into the community without the protection and the carapace that Emmaus can give them.

Q370 Chairman: Reading what your director Tim Page says about all this, he says, "We do not need to tie ourselves to public service delivery contracts because we do not need revenue funding."¹ Then he goes on to say: "It threatens our independence and puts us in a position that could distort our priorities." The reason I explore this with you is that, if this is what Emmaus is saying—and I can understand why they say it: they do not want all the baggage that comes with contracting because it may cut across how you want to operate—I wonder how other voluntary organisations respond to that proposition and why they would be interested in getting involved in the contracting process. Does Emmaus not have a good point here? Could I perhaps turn to either of our other witnesses.

Mr Whinnom: I think the view Emmaus has taken is shared by quite substantial numbers of voluntary organisations. It is partly the twisting of what your

¹ *Third Sector Magazine*, 22 August 2007

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real work is to try to fit a set of criteria. One of the big issues, I think, is around what gets commissioned from the voluntary sector in the first place, because if it is just a case of a different group of organisations delivering the same services there is very little value in commissioning it out. If you can get in at the commissioning stage and influence what gets commissioned and do things which are not being done at the moment, and which perhaps an organisation like Emmaus has identified a clear need for and can do, then you are on to something. I think where you have imaginative commissioners, we have seen examples of projects that work well—and I am sure Sylvia will talk more about that. There are an awful lot of organisations which might like to take on public sector contracts but would not want to take on the contracts that are on offer.

Q371 Chairman: Would that point not be met if the voluntary sector was simply involved in the design process, in the commissioning process, without being involved in the delivery process?

Mr Whinnom: It would be partially met but there are quite a lot of problems with that attitude as well. One is that getting involved in that is quite time consuming and takes up organisations' efforts and they are not resourced to do that, so in many cases the good information that exists at the grassroots, front-line level is not getting through to the people who need to hear it because no-one there has the resource to deliver it and the commissioners are not going out and actively asking either. That is one issue. A second problem there is that, whilst you might think that advice is all very well, the trend towards contracts, as opposed to grant funding, and the increasing squeeze on public sector funding generally means that where local authorities or PCTs² review their funding to the voluntary sector they are often reducing the kind of flexible support that they used to give in favour of contracts and commissioning, and the organisations which can bid for the contracts are not the same organisations which would have perhaps received a small grant and done front-line work. We are getting very quickly into the deeper philosophical issues but one of the primary issues I wanted to raise with you is that there is not a single third sector. The voluntary sector, as we would call it, in Greater Manchester, is overwhelmingly made up of relatively very small organisations, mostly unstaffed organisations, I estimate at least two-thirds³ of the 11,000-odd groups in Greater Manchester are not big enough to register with the Charity Commission. Those organisations are the ones which are doing the fantastic work at grassroots level that the Government is so keen to see delivered more effectively, and yet those are the organisations which really could never consider a contract. The ones which are getting the contract are perhaps the larger/

medium to larger sized organisations, some of which are very local and can do a really, really good job, but we are also seeing good quality local organisations bounced out of contracts by organisations coming from outside the field, either new social enterprises or so-called social enterprises that are really private-sector driven or by branches of large national charities that are sort of moving in on our patch and are out-competing because they can make the efficiencies and that kind of thing.

Q372 Chairman: Is that a bad thing?

Mr Whinnom: I think it is a bad thing if it kills your local voluntary activity or stifles it.

Q373 Mr Prentice: How big do you have to be to register with the Charity Commission?

Mr Whinnom: I am afraid I cannot answer that.

Mr Prentice: It is just that you say two-thirds are not big enough to register.

Q374 Chairman: We will do the homework on that. Perhaps I could turn to Sylvia. You are described as a medium-sized organisation and you are a heavy deliverer of services. Why do you not come and tell us what Emmaus tells us about the loss of priorities, the threat to independence and all the rest of it?

Dr Sham: I think it all depends on the individual organisation's mission and what they aim for. Because we are a medium organisation we are not born to be success. We struggled at the beginning, 20 years ago, but as an organisation we look ahead at what is going on at the national level and local level to learn along what is going on. It is not about "grab the money and deliver things". The reason we had 60% from commissioning and 40% from grant and trust is because we can see the balance of it as an organisation. I cannot generalise for everybody. I cannot represent everybody. I can share with you what our organisation has gone through, from nothing, from only having £10,000 in our bank, and then today it is £1.2 million. It is a learning curve and, also, I think leadership is very important. Also, it depends—the Government has changed the policy—on what they leave to the voluntary organisation to deliver. We try to understand why there are different—like in the Greater Manchester Council—regimes of support, infrastructure of support. I cannot feel one formula to fit to everybody. That is what my opinion is. We believe, "Okay, the Learning Skills Council and Jobcentre Plus, now they are starting working with the voluntary organisations like us." Just as an example, last year we delivered about five projects which crossed over Greater Manchester with another BME (Black and Minority Ethnic) group. This is the first time as an organisation we take the calculated risk of working across the Greater Manchester. One reason, we believe, is that to working by the Chinese organisation ourselves is not very good for the Chinese community themselves, because we are helping them and working with them to progressing to see the real world. By working with another ethnic minority group from another partnership, we got a lot of experience from another ethnic minority group and

² Primary Care Trusts

³ *Note from witness: "Re registration with the Charities Commission, it looks as if the threshold is £5,000, and it looks as if a fairer estimate of the proportion of the Greater Manchester sector obliged to register is about half rather than two thirds."*

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their organisation, and we learn from that, and then we put our tender—I call it “tendering” or “commissioning”—more strongly, not only from one ethnic group. We put the tender together for the Learning and Skills Council to get the funding to deliver for about 2,000, as you call them, “hard to reach groups”, to get them from no English to the level of English which is very simple: to go the bank to say, “I want to open an account” or to go to the post office to have a stamp—the simple things they want to learn—and then to progress them into work. A lot of the terminology and all the jargon is very hard for people from the BME group to understand. What does it mean “IB—Incapacity Benefit”? For the Chinese community they have no idea what the entitlement is to get that. Also, by working with another organisation and getting contract, we have got, also, to the learning curve. It is a difficult task. We got all the quality, all the health and safety, and all the management information. We did go through the difficult times but, after that, we had a competent next time with the level of commissioning work we can deliver. And I tell you the good news in here: I got the audit from the Learning Skills Council yesterday to tell me, “Sylvia, I was supposed to come here for two days. Now, only for four hours. All your paperwork, all your achievement target achieved.” Of course, we got the funding, but we got through it, we passed it, with no recommendation at all. That has given us as an organisation—not only us, the people working with us—the confidence. So it is a chicken and egg. It is right and wrong.

Q375 Chairman: Selwyn, did you want to respond?

Mr Image: Yes, I did. I just wanted to join with Sylvia and Alex on the point that you might have misunderstood from the article. We are not obsessed by independence; we are much more interested in teamwork with local authorities than what we would consider is sometimes inappropriate management. I wanted to be quite clear about that. We do a number of things—and I have given a list of them, should you wish to have them—but we are involved in a number of cooperative ventures. We can do a lot, for example, with newly released prisoners. We have a residential detox unit in one of our communities. It will not accept any money, largely because, and in terms of the way that drug detoxing is managed, there are time periods associated, there are rehab times associated. When we have people working in the community, we believe we are better able to judge, for example. We still work in co-operation for the medication with the local people, and we accept their referrals, but in terms of time we prefer not to be paid than not to be able to deliver the service. In terms of saving to the state, I made a couple of inquiries yesterday and I calculate that the detox unit that we have in our Cambridge community saves the state £600,000 a year in addition to the £600,000 that the Cambridge University Team found that we save the state annually on return on investment. That gets back to the ultimate point I want to make, that if there was a new attitude, if you will, in capital grant funding, where you regarded yourself as venture capitalists and looked at the

return on investment that you could sometimes get from co-operational ventures like ours, you might find that the risk could be factored in and is worth a lighter touch in terms of management, where people are not always as skilled.

Q376 Chairman: But if the state is getting the service without a contract, then it is even better for it, is it not?

Mr Image: We also have a contract, for example, in our Bristol community, where we have entered into a contract with the PCT on homeless healthcare delivery. So it is possible.

Chairman: I am going to hand over to colleagues now.

Q377 Jenny Willott: I would like to come back to something Alex said. You said the process of commissioning and so on is damaging the smaller organisations or it makes it much harder, potentially, for smaller organisations to survive. If there were more consortia building, if there were more subcontracting, would that get around that problem?

Mr Whinnom: It can partially get around it. One of the things we have been trying to do as an organisation is to try to develop good models for that that could work. I have a couple of examples of that. We have a learning consortium in Greater Manchester with around 28 voluntary learning providers in it, including some very small ones which are reaching very hard to reach groups, with the view that that learning consortium has passed all the Learning and Skills Councils’ requirements to be of the same status as the further education college. In theory, the idea was that it would be able then to bid for contracts on a par with them. Unfortunately, the last lot of contracts that just came out before Christmas were all on such a large scale that we could not bid for any of them. There is one about delivering grants to third sector organisations which obviously we are bidding for, but all the normal mainstream learning contracts, despite the fact that this is a relatively large group of providers and we could easily handle a contract worth £1 million between us, we could not touch any of the contracts that were on offer. That is one example. Again, we will get into it at sub-contracting level but, of course, by then a slice has been taken off, and what we are required to do may be dictated by the primary contractor so you cannot deliver the service that perhaps the members of the consortium would have liked to deliver.

Q378 Jenny Willott: Are they all private providers that have the contract?

Mr Whinnom: We do not know yet. The tenders are going in now. We had a similar situation with the Jobcentre Plus contract—of which you are probably aware. Again, there was no chance. For something like our learning consortium—which is sub-regional level, it is not tiny—it was still too big for us to go for. Another model we worked on with the Greater Manchester Probation Service, who were interested in finding ways of supporting funders from ethnic

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minority groups to get back into the community or for people who were on probation to be supported. We did two relatively short pieces of work that they paid for to identify voluntary groups within the right communities that would be prepared to take this work on, and we actually found a large number of them. I think we ended up with something about 40 or so which were not only willing to do it but had the capacity to do it and would have been happy to accept spot contracts to support individuals. But the Probation Service was then hamstrung by the national rules on offender management and so on, and the requirement that they would have to let out large-scale contracts, and we are waiting to see what happens and whether that will be better or more flexible. We are trying to do that. The other model that can work and does sometimes work is the one that Sylvia was briefly describing, where perhaps two or three relatively large (in our terms) voluntary organisations club together and bid for a tender. But, again, the tenders still have to be relatively small for even that to work, so, yes, it does help but it is not the whole answer. The vast majority of local front-line groups could never be in a position to bid independently for tenders and contracts. They would need either a consortium or a host organisation or a new partner which had the administrative capacity and the ability to write the bid in the right way and all that kind of thing.

Q379 Jenny Willott: As well as making the contracts smaller, is there something that the Government should be doing to support the development of consortia or to support the subcontracting process in trying to improve the number of organisations which get involved?

Mr Whinnom: I think there is probably quite a lot that could be done in terms of making contracts smaller; reducing the administrative burden; trying to create a bit more consistency over what is required, for example, with pre-qualification questionnaires. There are 10 coming out for the 10 districts of Greater Manchester to deliver city strategy work on learning and skills, and the questions on all of them, so far, have been different. Incidentally, the requirements also are very difficult to meet. We filled in one for one of our local authorities a couple of weeks ago where they required £10 million worth of public liability insurance to qualify. I was given another example, second-hand, from one of our local organisations which was tendering for work with a different local authority, where they were required to supply, up front, at PQQ⁴ stage, all the CRB⁵ checks of all their trustees, staff and volunteers, which obviously they refused to do on ideological grounds but which, in any case, was impractical and too expensive. The complication of the administration, bureaucracy and the lack of consistency is an issue. The size of the contracts is an issue. The short notice—the timescales you have in which to fill these things in—is, frankly, ridiculous. We had notice of the Learning and Skills Councils' contracts before Christmas and

they all had to be in by the end of January. For organisations like ours or Sylvia's, which are relatively large, that is a struggle—very, very difficult. But for smaller organisations, you might as well completely forget it—it is hopeless.

Q380 Jenny Willott: One of the things Sylvia said earlier on was that the rules keep changing and the process keeps changing when you are bidding for money. What are the main changes that have taken place? Are they all for the worse or are some of them improvements?

Dr Sham: I think it all depends. Somehow they change it all the time. The contract may be for 12 months and some will be for two years. They are changing. When you finish 12 months, you do not know what is going on after that. All your investment—you train your staff, you build up the capacity of your organisation—after the 12 months, that is finished. If you go through another contract and go through another PQQ questionnaire and then go through the tender, they are changing. Also, sometimes, like Alex said, there is the insurance. To the medium or small organisation, for £10 million insurance it costs us about £5,000. £5,000 to us is quite a lot of money to get the insurance.

Q381 Jenny Willott: You have been talking about some of the examples of work that has been going on, so the stuff that you have been doing with other BME organisations and some of the work on drug rehabilitation that you have been doing. Is there any evidence that the good lessons that are learned from those sorts of projects are being fed back into the commissioning process? Is there any mechanism so that the commissioners can learn from what works, so that in the future that is taken into account when they are looking at commissioning services?

Mr Whinnom: There is the potential for that to happen, particularly through organisations like ours, the local infrastructure agencies that are working with the front-line groups, so that we have an idea of what they may doing, and also have the strategic connection with the commissioners. Because our job is to be there and talk to them, obviously. We are funded to do that. There is the ChangeUp initiative which has allowed the development of consortium infrastructure organisations. You know about that, presumably, so I do not need to explain that one.

Q382 Chairman: No.

Mr Whinnom: In Greater Manchester—and I know it is not the same everywhere in the country—that has been hugely beneficial because the communications systems within the infrastructure itself have been greatly developed and we are now in a position to work very well with public sector bodies and provide them with very good information should they choose to ask us. The sad thing is that it often depends on individuals. Again, there are very good people working within a particular authority, you make a good relationship

⁴ Pre-qualification questionnaire

⁵ Criminal Records Bureau

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with them, and then of course they move on or they get moved on and you have to start again. That is difficult for us and I think difficult for them as well.

Q383 Jenny Willott: Is it dependent upon the voluntary sector being proactive rather than there being a proper mechanism?

Mr Whinnom: Absolutely.

Q384 Jenny Willott: It seems to me that if they are commissioning public services and there are ways that seem to be working better and that the evidence shows are very effective, there should be a mechanism for that to be fed into the design and the commissioning of the services. What could be done differently to make sure that that did happen without the need for the voluntary sector to be proactive and the statutory side to be responsive? Could it be built in better?

Mr Whinnom: There is the obligation side, I suppose, and there is an enabling side. The Government has so far fought shy, for example, of making the Compact a mandatory requirement, but some of the principles that are enshrined in the Compact would, if they were universally applied, solve some of the problems—but they are not universally applied by any means. On a practical level, it may be about putting resource into the relationship, as opposed to into direct delivery of service, because the building of relationships can be more important than investing in a particular contract. There are lots of good practice examples you could quote. Sylvia has quoted some.

Mr Image: Could I support that point. I have written down “horses for courses” because we have had a fairly recent instance in Kent with one of our communities where we had built a relationship with the local government team on supporting money funding. They came in, it was team work, they gave us advice, we amended. A new team comes in and says, “Your job is to conform to standards”—which we considered inappropriate. “Nobody is going to stay in this community,” they said, “for more than three years and ideally two, and then they have to be out. Otherwise: no money.” In a sense, it was because we had built up an understanding. Our previous chair who had negotiated this was a senior local government official himself, so, presumably, he had a way into the culture, but he was able to bring people on board and people wanted to come on board and to co-operate in the success rather than the arbitrary application of measures by which they perhaps felt they either needed to protect themselves or would be judged or which public money needed to have applied.

Q385 Jenny Willott: Relationships were purely on a personal basis rather than an institutional basis.

Mr Image: Yes and no, because officials came in and did their official work and evaluated, but, I suppose, yes, if there was an element of goodwill or understanding of what the ultimate objective was then it worked better. For instance, the Emmaus movement would not exist in this country were it not for a senior local government official in South

Cambridgeshire who, when he first saw our application, delegated the question of planning permission for the site and for the purpose that we were presenting to one of his officers. The officer told him that he was going to recommend against planning permission being given to construct an Emmaus community, on the grounds that it would be a blot on the landscape, there would be piles of rotting metal and tinkers, and the whole thing was very suspicious. The director said to him, “If you don’t mind, I’m going to take this portfolio off you because I wish to present to the planning committee myself because I believe there is a positive way of interpreting regulations as well as a negative or controlling way.” As it happened, we got planning permission to start the first community—which has led to 14 others—by eight votes to seven. His interaction was critical and, quite frankly, the movement would not be here if it was not for this official. It is not just a question of hacking at the officials here. Like everything where human interaction is involved, I do not believe that one could prescribe good practice but if there is the right attitude then things fly.

Jenny Willott: Thank you.

Q386 Julie Morgan: I want to ask for information really, Alex. You said two-thirds of voluntary groups have no staff.

Mr Whinnom: They are not large enough to register with the Charities Commission.

Q387 Julie Morgan: Yes, and you said that most of them did not have any staff.

Mr Whinnom: We are not sure exactly of the figures but I would estimate that probably about half are unstaffed, and a lot of the rest have perhaps just one member of staff or two members of staff, so they are relatively very small groups.

Q388 Julie Morgan: Are those what you would call the front-line services?

Mr Whinnom: Yes, as opposed to us who are there to support them doing what they do.

Q389 Julie Morgan: Do many of those two-thirds get involved in any of the work in which you are involved?

Mr Whinnom: Yes, they do. A lot of those sorts of groups are prepared to get involved in policy networks and initiatives. They are prepared, for example, if we organise it, to talk directly to the Health Service or Probation Service or whatever, or to their local authority for JSP and stuff like that. It is not that people are not interested. We have been doing work for quite a long time, for instance, with the Passenger Transport Authority over how they need to do things differently to ensure that everyone is able to use public transport and it is suitable for their needs. A lot of very small groups have been involved in feeding information in.

Q390 Julie Morgan: Could you tell us what sort of groups those are?

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Mr Whinnom: For example, a local group that perhaps deals with young people with mental health problems. There is a project quite near to us where they have, I think, three members of staff. They support young people who have mental health problems through a drop-in centre, to enable them to get the confidence to go out and to register with the Jobcentre and things like that, and they have particular transport needs. There is another voluntary group up in Rochdale which supports Asian women who do not seem to want to use the bus at all and they were able to tell the PTA⁶ why they do not use the bus and the barriers to that. There is an awful lot of community-based action where you have perhaps a small group of people who are doing something very specific with a particular group and often they are not necessarily engaging or interacting with the public sector at all. There is no reason why they would unless they have a relationship through a grant or a contract. I think that is quite important, because if you have a reason to have a relationship, then you have a dialogue and you have engagement. The relationship with the local infrastructure organisations like Councils for Voluntary Service (CVS) is also very important. Obviously they reach more of those groups than we do directly because we are operating over the 10 authorities and we work with them and through them. A local CVS, for instance—Wigan is a very good example. Wigan is a very rural part of Greater Manchester. Most of the sector in Wigan would fall within that category of having fewer than five people employed, and many of them, perhaps half of them, have no staff at all. Many of them have absolutely no relationship with the local authority and no reason to have one. The local authority in Wigan at the moment is very interested in trying to develop that relationship, because they want not just to be able to commission work from them but to be able to get information from them so that they can improve what they do generally.

Q391 Julie Morgan: To me it seems vital that there is contact made with those groups and they are drawn into this process in some way that informs the whole process of giving contracts. Do you have any examples, Sylvia?

Dr Sham: From my personal experience of working with my organisation, at the beginning I knew nothing about community work. I come from university as a sole Wai Yin. I am passionate about it and, because I passionately believe it, so a lot of the kind of infrastructure—they have got fancy words “infrastructure” and “capacity building”—at the beginning, even though I have a PhD, I did not understand what they mean: “infrastructure” and “capacity building”. But I went along to learn what it is about, and people like Alex’s organisation, our local support organisation, for the local authority they had some kind of special commissioning work or some kind of policy which wanted to engage the local organisations. People like us, it developed to involve engagement. If you just sit in your office, you

have the passion and you have the vision but you do not know what is going on and it is difficult. I have been everywhere—everybody knows me in Manchester, I think—to listen, to know what is going on, and I learned that. When someone says, “Oh, what does ‘capacity building’ mean?” I understand that now, at least. It is knowing how to say it in English. The coin is two-faced: you need to know what is going on in your side, as a community, and, also, you need to know about what is going on outside your community. Then, as a very basic to deliver a service, if you know both you have a very good channel to use and that will be why some organisation can do better than another organisation.

Q392 Julie Morgan: It must be difficult to do both.

Dr Sham: Yes, very hard work. I work nearly 40 hours a day! Some people do not want it, because they have family commitment, they have all that. It is very difficult if somebody from . . . I am sorry to say, but I want to say people from BME group. They have real passion about their own community, they know their community, what they want, but, sometimes, because the level of their understanding and the level of their education . . . I am quite fortunate, I have got the qualification, so I have an understanding, a little bit, about what is going on. Some local BME groups cannot understand it. Even though Alex organised some kind of consultation about the Compact, to that it is: “What does the Compact mean, for God’s sake.” They have no idea. It took a long time to understand it. It is a long way to go, but one day we can achieve it. If you are not doing it, you never know whether you can do it or can not do it.

Mr Image: Could I offer a reflection on much of what Alex and Sylvia have been saying? With another hat on, I had quite a lot to do with the Cambridgeshire Community Foundation. It seemed to me that the county community foundations are a very appropriate link—and I imagine you know more about them than I need to say—in terms of links with the really small organisations, and directing funding and enabling the small, community-based, unpaid volunteer workers to do something. Certainly in Cambridgeshire and, I suspect, in most counties—there are about 52 of these organisations—that is the way, very often, that public money is very effectively channelled through to small organisations. I just wanted to share that thought with you.

Q393 Julie Morgan: I would like to ask one further question about length of contracts. Sylvia, you have referred to this already. What is the average length of time that a contract lasts? What do you think it should be?

Dr Sham: Are you talking about the contract from the Learning and Skills Council, the DWP? This all depends.

⁶ Public Transport Authority

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Q394 Julie Morgan: What is the variety?

Dr Sham: One year or three years.

Q395 Julie Morgan: What do you think it should be ideally?

Dr Sham: Ideally it is three years. From the point of my experience, if everything is transparent, if your organisation can deliver, why let you go through another tender and commission? If you have a good, proper monitoring system already in place in the top level from the Learning and Skills Council and Jobcentre Plus, why they let you another tender? That organisation suffers to do everything again, to go through the tender/commission again. If an organisation can prove that it can deliver, why not continue to support that? But it will not exist. Now there are too many contract tenders coming. One year or three year and you are starting again. If you cannot get it because you have not had a team of the management that are very good to write the bid. It is not like the private sector, where they can employ a group of four people, just sat there all week to write the tender. I cannot do it. I have no money to employ that special consultant to do it, so I lose the tender. All my investment for the staff, training them, all this capacity, what that means is that I put it in the middle of the ocean and I start again. That is from my local level experience.

Q396 Julie Morgan: You think a lot of money and effort could be saved if you did not have to re-tender.

Dr Sham: Yes, with the proper monitoring system that makes sure that organisation did deliver, if they deliver, why do they not continue? Why do they need to go through it again?

Chairman: We will have to move on because we have a second half of the session. I have to keep it moving, if I can, but you were saying some very interesting things.

Q397 Mr Walker: Are you concerned about the nationalisation of charities as they derive more and more of their money from the state, be it central government or local government? We have seen a procession of monstrous great charities. They have come here to talk to us. They have vast, multimillion pound turnovers, of which 90% plus comes from the state. In my view, it is very hard to describe them as voluntary organisations or charities. My concern is that they are squeezing people like you out.

Mr Image: Certainly, I would come very strongly from the point of view that we are a social enterprise. We expect accountability and we expect, ideally, to come to self-sufficiency in our particular area. What you say has a particular resonance with me. I had some experience in an earlier incarnation with a major children's charity. It was very interesting, to me anyway, that children's charities in this country, or church-based ones, were particularly set up to provide a better standard of workhouse or care and adoption and the state took both of those functions and the charities kept on functioning. Essentially, they are now lobby groups, with huge funds in huge

areas and, yes, I think there are some very large questions that should be asked about the function of charity and the efficiency of charity.

Q398 Mr Walker: It used to be that charitable law said the primary function of charities could not be to act as lobby organisations, but I think the law has been changed so that charities can have a primary function of lobbying as long as they are doing something else in the charitable arena. Are you concerned by that?

Mr Image: I have tried to focus, myself, on Emmaus because I believe that we have a particular form of social enterprise that can revitalise charity, in a sense. I would like to step back to something I said about efficiency. I think one has to be careful with words like "efficiency" in relation to charity, because if somebody is not paid for work and does it with passion and does it effectively and delivers in parts that the state cannot and maybe should not reach then we have to be very guarded in the efficiency measures that we apply to them. Yes, I think that charities can very often attract employees who may be motivated more by heart than head, and sometimes, coming from a business background myself, that would be of concern at the professional level in terms of delivery, but it is a complex question that I do not think has easy answers. I know where you are coming from but, in a sense, where I am coming from is trying to get social enterprise into what we have previously called charity because I think that if you can turn receivers into givers then everybody benefits.

Q399 Mr Walker: I feel local charity is a part of the local social fabric and we should encourage that. We should encourage people to invest in their communities locally and identify with their communities, the welfare of their communities and the welfare of the people within those communities. I do think that these large corporate-style charities pose a threat. They are not all bad; they do some very good work, but they do pose a threat. I would be interested to hear what Sylvia and Alex think about that.

Dr Sham: I can use one recent example. I am not quite sure that the Committee know about the community development worker for the mental health. They are called CDWs. For all the United Kingdom they have 500 CDW, that kind of contract, from the PCT. At the beginning, in Manchester, they put a tender in and the senior management thought, "Oh, my God, there is no chance we can get it." I am not disputing the professionalism, but if the large organisations, like Mind and all these from the mental health, the big organisations, go in for tender, we will lose it. But we think about, "We've got a track record. We can deliver our work, we try it, we go for it, we put our case on." So we are using our experience to deliver Learning Skills Council and Jobcentre in a kind of partnership, to prove to them that we can deliver that kind of contract, and then we did it. We got it. But the small organisations like ours, we have some kind of worry that the large national organisations

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come up to Manchester to deliver the local service. Then we proved it, as a local. What you say is really right: local people, local communities delivering local things, is more valid than people who come from London, from everywhere. They are national organisations. Maybe they do not know what the local situation is. It is not about the skill, the professionalism. I respect them as a national organisation but we think we do the best to deliver the BME community mental health development worker. So we organised it. We had put our tender in, we had to have faith, and then we go for it. That is the example.

Mr Whinnom: I agree with what Selwyn and Sylvia are saying. I think the mistake, again, is to think that the big national charities, with million pound/multimillion pound turnovers, are the same thing in any way as the small, local charities like Sylvia's or like Emmaus. The philosophy around commissioning public sector services from the third sector, all the rhetoric, is about the added value you get from what seems to me to be a description of the small, local charities, and yet the systems, as they stand, really favour the larger organisations. Again, I would not knock the big national charities. They are mixed. Some of them, we would see as a tremendous threat to our local sector; others are potential collaborators and do a good job in their own way. They are not all the same but, collectively, they are potentially a threat. If they take all these local contracts and we are then left with very little money on the table either for grants or contracts for locally-rooted organisations, that is something that worries me.

Q400 Mr Walker: Just picking up what Selwyn said, I think some of the large national charities need to be careful that they do not throw their weight around too much, that they are not seen as perhaps overreaching themselves. You mentioned there lobbying in public affairs activity. Sometimes that can border on bullying, lecturing and hectoring, not just politicians but people going about their everyday business trying to do the very best for their families, for example. I think there is danger and I think people might turn away if too much of that happens.

Mr Image: We have a federation, so we have a central office, if you will, but we try to go for local ownership of projects. But sometimes there is a model that it is best derived centrally with local implementation, because the local ones are not necessarily sufficient but they are vital to the ethos of the movement. It is not just about delivery but sometimes the way you deliver as well. That is why it is a very complex area that you have touched upon, though I agree, frankly, with what you say.

Mr Whinnom: I know one of the things that has been said by national charities—I have heard it said—is that the quality of the local sector is very varied, and I take issue with that. I have visited lots and lots of local organisations and I have yet to see one that was not doing quality work. It is a very, very ruthless and competitive environment to attract volunteers to want to do the job you want to do. If

people are going to come and do stuff for nothing, you have to be good at what you do. The parts of the local sector that survive and thrive are, I think, pretty much universally doing a very high quality job, so I resent the idea that that is not the case.

Q401 Paul Flynn: Mr Image, at a time when there is an decreasing number of homeless, why is there an increasing number of homeless charities?

Mr Image: Where did your statistic on decreasing number of homeless come from?

Q402 Paul Flynn: The homeless in London have decreased by 75% in the last 10 years, is one figure—which is obvious to anyone who has lived in the city.

Mr Image: I think it depends on how you define homelessness.

Q403 Paul Flynn: Perhaps I can put it another way. We do not think of South Cambridgeshire as a hell hole of deprivation. Why did you centre your activities in South Cambridgeshire?

Mr Image: We did not set centre activities. I happen to live in Cambridgeshire and the first community happened to be where I lived. We have 14 others.

Q404 Paul Flynn: The first Emmaus community?

Mr Image: The first Emmaus community. Because I live in Cambridge.

Q405 Paul Flynn: Are you a solution in search of a problem? We have a huge number of homeless charities and Emmaus is a relative newcomer to this country, is it not?

Mr Image: A homeless charity? We are a social enterprise which believes it has an answer to a particular form of homelessness. If people want to get their self-respect back, you do not get it by hand-outs. We are a charity that insists on work as a positive ingredient to “rehabilitation”.

Q406 Paul Flynn: If what you are doing is unique—and you insist, I presume, that it is a homeless problem rather than a problem of drugs, alcoholism or mental health, so it is a homeless problem and you have a unique solution—should it not be applied throughout the country by government rather than just in an area like South Cambridgeshire?

Mr Image: I think government is probably less efficient at running what is essentially a family business which is a local community, than the people who are currently doing it. We are not always brilliant but we are running small enterprises. Nationally we have a turnover now of the order of £8 million through recycling and re-circulating things and then the profits are given away to charity. Does government have particular efficiency in running social enterprises? I do not know.

Q407 Paul Flynn: You have mentioned money. You have mentioned the money that you have saved in the area. Do you have convincing proof that the work you are doing, particularly with ex-prisoners in

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detoxing them, is uniquely valuable? If so, why are you not explaining this to everyone else, the rest of the country?

Mr Image: We have been. We have been accused of being the best kept secret in the United Kingdom ever since we started. We do not have marketing budgets. We are a very poor organisation. It costs £2 million to set up each little business that we do. I am not trying to say that we have necessarily unique answers. I am just saying there are areas where we have evolved and where communities have been taken on—because I believe they are only small local organisations which act as enabling community builders, if you will. I have prepared a little note, should you wish to see it, but the community in Cambridge, the first one, which is the oldest one, has started a food bank, where it provides food to other social security organisations, dealing with single parent families and people living below the poverty line to do that. The residential detox unit came because the administrator's wife was a Macmillan nurse. We had an increasing problem with drugs—a huge problem always, since the beginning. Remember the Emmaus movement is international. There are over 320 of them in 32 countries, so it is a proven model. Alcohol has always been a huge, huge problem. One of the reasons why I would wish to be careful about the definition of homelessness is that, of the sort of people who come, I would say 75% of them are alcoholics. Dealing with that and getting people back from that, they lose their homes.

Q408 Paul Flynn: Why on earth do you not call yourself an organisation that is dealing with addiction, for which there is a shortfall, rather than a homeless charity, for which there is a vast oversupply.

Mr Image: It is a fair point. I do not know whether we are dealing with addiction or whether we are dealing with people in need. It was founded for people who had lost their home and who had lost their self-respect and who had lost everything.

Paul Flynn: Thank you very much.

Q409 Chairman: I cannot see any other questioners. Right at the end, is there anything we have not asked you that you would like to insert into the deliberations. You have said, in a very short space of time, some extremely interesting things, but if there is anything else that you think we have not covered that you would like to say to us at the end, by all means do so.

Mr Image: I suppose the one thing I would want to bring to the attention of the Committee is that, certainly from our perspective, if there were new attitudes in capital grant funding and you were able to develop measures—and I use the words “venture capital” because if you can establish, as we set out to establish for ourselves, a social audit which gave a return on the investment of public monies—then the implications for the management by the public sector are quite considerable there. Whereas, if you behaved as venture capitalists, taking a risk on the money that you handed out or controlled, and

knowing that within that grant was a calculation which showed that the potential returns were large enough for you not to worry about the occasional one that went astray, it is a difference in attitude. It is avoiding micromanagement in that sort of area that is perhaps a thought that might be worth pursuing.

Q410 Chairman: We take it. Thank you very much.

Dr Sham: This is my first time sitting here. I am not quite sure what kind of influence you can make. I think you are very influential people. If you make a recommendation, I think it is very important that you have the faith of the local voluntary organisation and, also, that you have some kind of investment for the local organisation. Because leadership/management is very vital for the local organisation if it wants to continue to go for the chance of tendering/commissioning, the central government should have some kind of investment fund for the aid organisation or voluntary organisation to have some kind of management paid for. A lot of the grant, charity, trust or commissioning work has no investment in management. How could you manage your organisation without the person who really has a lot of skill in there? It is not with only passion. You have to have somebody with the skill in there. But you cannot pay your staff. If somebody pays £45,000 but you only pay £20,000, nobody wants to work with you. They have got a lot of skill, they want to work with you, but you cannot pay the money to pay their mortgage, to pay their kids' fees. I hope some kind of influence from the community fund or empowerment fund, you name it, has some kind of investment in that kind of level. Thank you very much.

Q411 Chairman: I also think we need a lot of Sylvias all over the country too, but I am not quite sure how we produce that.

Mr Whinnom: That is almost exactly the point I was going to make, in the sense that I think voluntary action is not about organisations, in the end, or systems or models at all; it is about passionate people getting up and doing something about something, and it is often very dependent on individuals having the skills and the connections and the relationships to do that. As soon as you start to try to bottle it and package it, you have a risk of losing it. There is a part of that voluntary action “movement”, as I would rather call it than “sector”, which is capable and ready and willing to deliver public sector contracts, and you need to pick out which bits of that they are and invest in those. It is often about investing in an individual or a small group of individuals. They might be very local. You cannot franchise it and replicate it around the country necessarily. Emmaus has been able to do that because that model does work, but you are not going to get a Wai Yin in every big city across England because it is unique. That is its value: that it is unique.

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Chairman: We could go on but we have to end. We are really grateful to you for making all the effort to come down and talk to us. I know it has been rather

abbreviated but it has been extremely useful. Thank you very much indeed. I hope what we say eventually will reflect what you have told us this morning. Thank you very much.

Witnesses: **Mr Stuart Etherington**, National Council for Voluntary Organisations (NCVO), **Dr Peter Kyle**, Association of Chief Executives of Voluntary Organisations (ACEVO), and **Ms Debra Allcock-Tyler**, Directory of Social Change, gave evidence.

Q412 Chairman: Let us move into our second half and extend a welcome to Stuart Etherington from the National Council for Voluntary Organisations, Peter Kyle from the Association of Chief Executives of Voluntary Organisations, and Debra Allcock-Tyler from the Directory of Social Change. As you know, this is the culminating session of this inquiry that we have been doing. We want to have one last go at some of the issues with you. The fact that you do not all speak with one voice makes it even more important that we do so. Do any of you want to say something shortly by way of introduction or shall we just fire off?

Mr Etherington: I would just kick off, if I were you, Chair.

Q413 Chairman: Can I kick off, then, with what Alex from Manchester said in that previous session to which you were all listening. I was struck by that which he said towards the end. I cannot remember exactly how he put it but he said, basically, that the ideology that underpins the argument about increased third sector involvement in public services, the added value argument, is one that derives from the characteristics of essentially small, local groups, but is then picked up by these mega organisations which do the big delivery stuff. He did not say it was a fraud but he said there was a kind of mismatch between these things. Is he right about that, do you think?

Mr Etherington: I think it is easy to oversimplify the argument, in a sense, between large and small. I view this as, sort of, “horses for courses”. The purpose of public services is to provide good services for citizens in a way that is responsive to their needs. Different types of organisations can do that better or worse. There is no one-size-fits-all, it seems to me. That is true of small/large but it is also true of private sector/voluntary sector. The whole debate is a slightly wider one. Some organisations are better at providing different sorts of services. Let me give you an example: if you want local tailored solutions to particular complex problems, then the probability is that you are going to try to work with smaller, locally based organisations which reflect the needs of local citizens. If you are trying to provide a similar type of service from one place or another, then you may go for a large organisation which has the capability of delivering that type of service. To say “small good, large bad” or “large good, small bad”—depending on who you are talking to—“private good, voluntary sector bad” or “voluntary sector good, private sector bad” slightly simplifies quite a complex argument, and the argument is

driven in the context of public services by being able to commission services which reflect the needs of local citizens. I think it is easy to fall into a trap about saying, “This is good” and “This is bad” when actually you need a more sophisticated evidence base about what works and what types of organisations work effectively in different circumstances.

Dr Kyle: I would follow on from that and agree with everything Stuart has very wisely said but I think the thing to bear in mind is that we are looking at outcomes here. It is very, very difficult to stereotype any particular type, size, shape of charity. There are examples of very small organisations doing some fantastically innovative work; there are examples of large charities doing some fantastically innovative works which are very locally focused, which are very, very locally networked, which to all intents and purposes are small, locally-provided services in the eyes of the service user. I can also think of charities which have begun as very small, locally-led organisations, community organisations, which have expanded very rapidly on the basis of an innovative service which has not changed in style or in delivery as the charity has expanded very rapidly based on this innovative approach to solving problems. It is very easy to stereotype and to pigeon-hole different charities based on size or ethos or background but I just do not think that it is particularly helpful to the service users to do so.

Ms Allcock-Tyler: I think there is an issue here about what we mean by the definition of public services and that is where a hell of a lot of the confusion happens. There is a question, is there not: has the Government defined support for the homeless as a public service that it has a duty to do something about and which it therefore wants to engage, as an example, in contracting out? If that is the case, then, inevitably, what is going to happen if it is seen as a national issue is that bigger charities are going to win those contracts. We would say that part of the problem is that the whole approach that the Government is taking to this contracting out of public services is muddying the waters. Nobody is quite clear, either charities or local or central government themselves, what they mean by public services. There are a lot of charities who, previously, were in receipt of, for example, grants for the work they do, where, all of a sudden, that grant has now become a contract which is tendered out to other charities and to other private-sector type organisations. It is not so much about whether it is big or not big, it is a factor—and there is evidence to show this, which NCVO do have—that, because of

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the way in which the Government is engaging with the voluntary sector, it is pushing towards much larger organisations, it is effectively forcing often very uneasy partnerships and using terms like “get together and be a consortia” for an organisation that, frankly, might be better, as Sylvia was saying, being able to operate in the way they are in their own area.

Q414 Chairman: Just to continue this: looking at the stuff that your organisation produces, Debra, you are ill-disposed towards this whole direction of travel, are you not?

Ms Allcock-Tyler: We are.

Q415 Chairman: You are pretty robust about that.

Ms Allcock-Tyler: We are.

Q416 Chairman: Yet you sat there listening to Sylvia. How on earth could anybody think it was not a good idea to give Sylvia public money to go and deliver services in the way that she is delivering them?

Ms Allcock-Tyler: Nobody could. But I would argue that this is about the concept of public services and contracted delivery. If you were to say to Sylvia, “I will give you £300,000 of unrestricted grant money to go and do your work or I will give you a contract” I can guarantee you . . . Well, I cannot—I cannot speak for you, Sylvia, to be honest—but I suspect she would probably say, “Yes, please, and give me freedom and let me do it in the way that works for me and my community.” This is not about public money, in that sense; it is about the way the Government is engaging with the sector and it is the point about publicisation—is that the right word?—of voluntary activity that Alex made.

Q417 Chairman: We must not all speak for Sylvia, because Sylvia is here—

Ms Allcock-Tyler: And spoke very well for herself.

Q418 Chairman: -- and can well speak for herself. She was not moaning. In fact she was saying, “We want proper monitoring, we want to be properly evaluated.” She was not complaining about all that. She wanted longer contracting periods but, on the whole, she was not moaning about it.

Ms Allcock-Tyler: No, because she is an absolutely classic example of what works about the voluntary sector: she is a passionate, bright woman who will do what she needs to do in order to make her organisations work. Of course she will. Of course she will, but if you gave her different options and said . . . I am sorry, not necessarily Sylvia but people like Sylvia—in fact there are lots of people like Sylvia. That is the point. If you gave them a different way of accessing funds to do the work they do, we would not get into this argument about commissioning and contracting and all that kind of thing, all this dreadful blurring of what is going on, the situation we have where—I have to say, through no fault of their own—these large charities to which you referred effectively end up being forced into

competing with the small local ones because of the way in which the Government is engaging with the voluntary sector.

Q419 Chairman: Let us try to clear our head of some of these questions. We have had evidence along the way that the role of the third sector is to further the contestability argument. We had this put to us very powerfully by Martin Narey from Barnado’s, that there was nothing intrinsically better about providing services from the third sector but they were useful in advancing the contestability agenda. When I look at what NCVO and ACEVO are saying, they are saying different things about this. NCVO say, “Contestability in itself has limited capacity to bring genuine improvements for the users of public services”⁷ but ACEVO says, “By opening public service markets to increased competition, contestability should drive up quality, efficiency and innovation.”⁸ If we are not clear about basic propositions like that even within the sectors, we are not going to get very far, are we?

Mr Etherington: I do not agree with what Martin said. The idea that there is broadly no difference at all between these various groups or organisations that are competing to provide public services is stuff and nonsense actually. If you take the contestability argument, we have always argued that the interest in engaging voluntary organisations in the provision of public services should be something to do with changing the nature of those services and transforming the experience of the users of those services. There is a really interesting argument about contestability and about the relative balance between the private sector and the voluntary sector in relation to somebody’s contractual arrangements. It is the case that the vast majority of public sector contracts for service provision are being won by private-sector organisations over and above voluntary organisations. That is simply a fact. The reason that they do that comes back to a point that Debra made. Much of the basis for procurement and, indeed, specifying the nature of services, is driving to scale. Most people in public procurement and commissioning are given, if you like, quite contradictory messages in terms of public policy. On the one hand, it is being argued that we need more efficiency and that efficiency can be created by contestability and therefore we need to do more for less. On the other hand, they are saying, “We quite like the third sector and we think this is quite an interesting way of providing services, so we want you to think about that.” Most contracts—and certainly in the employment field, which is a significant area of public sector provision being contracted out—are going to scale. The recent report written by Mavis McDonald shows that.⁹ Where voluntary organisations are increasingly becoming involved is subcontracting: offering to private-sector intermediaries, who are running the contracts. That has been a very significant development over the last

⁷ Ev 155

⁸ Ev 151

⁹ ACEVO, Independent Inquiry into DWP Pathways to Work Contracting, November 2007

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couple of years. My own view is that that will continue. When you talk about “contestability”, if you like, I do not think it is straight competition between different organisations. There is, I think, an attempt by some voluntary organisations to say, “What difference do we make? How do we enter into this? Do we do things in a different way?” Historically, the voluntary sector has done things in a different way. It tends to involve users more in describing and developing the type of service that it runs. It tends to be slightly more risk-taking in terms of the sorts of services that it provides. It is often more trusted in terms of provision by excluded groups than the state or, indeed, the market. There are some characteristics, therefore, which I think generally apply to voluntary organisations that are engaged on this. Where Martin is saying “There is no real difference between us; it is all about the construction of contestability,” I think that is very questionable.

Q420 Chairman: Could I stay with you for a second because I would like you to say a little bit more about what you say at the beginning of your memorandum to us. You take us back to the heart of the question. You say, “There is a real danger that the current debates about public services are not addressing the real issue: namely why it is that government wants the sector to take on public service delivery and, equally important, why it is that many third sector organisations do want to take on public service contracts. Simply transferring existing services out of the public sector to another provider will not achieve transformation in itself.”¹⁰ I want to be clear that I know what you think the real issue is.

Mr Etherington: If you are just saying, “This is a service we no longer think should be in the public sector, it should be somewhere else, and we want to create contestability” I do not think that, in and of itself, transforms the nature of the service. I will give you an example of why I think voluntary organisations are slightly different in this. This is an example from a community programme at work in Bristol. It is an old settlement really, which goes back a long way but which still has modernised. Here you have a situation where a person came to place their children in a nursery, which was part of the service. That person ended up volunteering within the nursery—so they became part of the production process, if you like—they ended up running the nursery and they now run the settlement. I think that is a different type of experience for people in terms of services. They are engaged or should be engaged in a way where they are, if you like, part of the service. They are developing the service; they are more actively engaged than they would be as a passive recipient. It is a view of citizenship, if you like. That applies both to the role of voluntary organisations in the delivery of services and to the role of citizen engagement in commissioning. The issue is not just about who delivers and on what terms do they deliver, but also a question of who influences the commissioning

process. Who is helping design the service? There I think voluntary organisations have a role, as representatives of citizens, in helping public authorities to design the service in a particular way. By “transformation”, Chairman, I mean that it changes the nature of the citizen’s experience of the service. One of the ways in which we will maintain support for public services in the United Kingdom—which I think part of the reform agenda is about: maintaining public support for public services—is to change the nature of the citizen’s engagement. One of the arguments is that that is about choice: that it is a more market-oriented model, that you can choose between this service and that service. I do not think there is a great deal of choice in public services, so I think that is a bit of a piece of mythology. The other argument is that you have voice: that you can engage and change the nature of the services of which you are part and, indeed, for which you are often paying. By “transformation” we mean the latter. How do citizens become involved in changing the nature of the service that is being provided and in engaging with the service in a completely different way?

Q421 Chairman: The state cannot do this by itself.

Mr Etherington: I think the state finds it much more difficult to do that because it has not historically sought to engage citizens in quite that way. I do not think, inherently, there is any reason that they could not attempt to do that, and many of the models that are now used in the public sector actually started life in the voluntary sector. It is quite a common method—certainly in the post-war settlement—that voluntary organisations were often acting to create innovative services that were then being translated. Often they provide services first. If you take the hospice movement, the voluntary sector was the first in the game. If you take the initial responses to AIDS and HIV, it was the voluntary sector that responded very quickly to that—often, now, taken up by the public sector. I think the public sector can do it, therefore, but the voluntary sector is pretty good at transforming the experience of individuals and taking a more holistic view.

Chairman: Let me bring colleagues in and we can explore this with others of you.

Q422 Kelvin Hopkins: I come to this from a very sceptical position. Reading some of the literature, I must say I was astonished by some of what had been said. The voluntary sector provides for niche areas and new areas. You have mentioned HIV, and there is a whole range of things: looking after homeless alcoholics as a first point of call, often religiously motivated, often self-interested groups, whatever. That is wonderful, but the idea that the voluntary sector could take over major public services—which seems to be the driving thought in the ACEVO paper—I find astonishing. There is a question here. In the ACEVO paper we were given a list of areas where it believed the third sector could have an immediate impact on improving public services. The list includes children services, health and social care, education. Do you think citizens would be happier having a voluntary or third sector organisation

¹⁰ Ev 155

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provide services than having an accountable public authority, where they know they have rights because they pay their taxes and get a direct public service? Do you seriously think that people would be happier having these serious services contracted out to voluntary organisations?

Dr Kyle: You said “these serious services”. Are you suggesting that some charitable and voluntary third sector organisations are not serious? What Stuart said is very relevant. One of our members, in particular, has been delivering public services since 1273. We have been doing this since before the state has been doing it. The question is not which sector is best to deliver it but which sector is better for the service. We are not saying that one small charity should be responsible for delivering the entire services throughout the entire NHS to the entire country. Commissioning is done on different levels. You have a Pathways commission, which is an enormous commission—ACEVO commissioned the report from Mavis McDonald which came up with some big recommendations—but many services are commissioned at the local level and they are to do with very small services which deliver to the homeless, to different areas of social care, different areas of education and so forth.¹¹ Why can’t a charity that has been doing that for years and years, sometimes tens of decades, sometimes hundreds of years, enter that process? They have nothing to fear from entering their services, which they are convinced through to their fingertips are the best—and the third sector is very good at saying that what they do is the best—into open competition for getting public money to continue what they are doing.

Q423 Kelvin Hopkins: Lord Adebawale made the very strong point when he came to see us that most public services started as voluntary organisations, often motivated by churches, run by churches or whatever, but they became so essential to a civilised society that they had to be taken over by the state. What you are suggesting is moving backwards in time.

Dr Kyle: No.

Q424 Kelvin Hopkins: Moving away from essential state provision, where you will not have the same kind of accountability—because one is in a market, one could also see a private-sector organisation could go under. He also made the point, that really what the Government is concerned to promote is the private sector rather than the third sector; that most of the effort is really driving to get public services in to the private sector rather than the third sector. This is something of a blind to cover that drive in government. In our discussions we have talked about the voluntary sector making niche provision for the kinds of areas we have talked about, where public services do not have coverage, but there is still a need—there is witness protection for example, a whole range of areas which are very valuable. I am a strong supporter of all these organisations myself—

but, rather than filling in these niche gaps, taking over from major public services in these kinds of areas—do we really want our children cared for without some kind of genuine democratic accountability through government?

Dr Kyle: I have had a lot of conversations with Victor over the years on these issues and I recognise some of what you have said in what you started off by saying. But, where you have ended up, I would be very surprised if Victor would go there. It comes down to commissioning. We are not talking about the state. You might be, but we are certainly not saying that the state is disenfranchising, that it is giving away its need to deliver these services and take care of them. We are talking about good commissioning here. Good commissioning does not just let go of services; good commissioning accounts for all different areas of outcomes, all different types of outcomes, and it is repeated. Good commissioning is for a period of time. Commissioners engage with the service. Commissions are owned by the state; they are state organisations. Commissioners are state people; they are there to make sure that public money is spent in the best interests of the service users. The commissioners therefore have to decide who is in the best position. Sometimes it will be a statutory service—and often it will be. Sometimes it will be a private organisation. Sometimes it will be a third sector organisation. Why not judge each organisation on the outcomes it can deliver for the service user? That is what the service user wants. That is what they need. Why you escalate that argument into handing entire swathes of public life over to a different sector, I do not know, because in one area you could end up with the same services being commissioned by different organisations from different sectors.

Q425 Kelvin Hopkins: I used a phrase the other day in the Commons about a Maoist revolution and letting a thousand flowers bloom driving out services into a more chaotic arrangement, rather than direct, rational, accountable, transparent public services.

Dr Kyle: Good commissioning is very accountable. In terms of commissioning, which I know is the broad area of your investigation, we want not just a drive to the bottom in terms of the economics of commissioning. We do not want commissioning just to be done on economic grounds. We think the third sector’s value-add is in social aspects of commissioning or social aspects of its relationship with service users and the fact that they can offer much more holistic services across the board. Mavis McDonald’s inquiry did say that social clauses should become much more a part of the way the commissioning process works, so that it is not just an economic process but it is a social process as well.¹² There is a lot of work to be done on getting commissioning right to make good value and good use of the third sector.

¹¹ ACEVO, Independent Inquiry into DWP Pathways to Work Contracting, November 2007

¹² ACEVO, Independent Inquiry into DWP Pathways to Work Contracting, November 2007

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Q426 Kelvin Hopkins: The state sector supports people's rights. It has duties to care for people and these are decided by government and by law. Any move away from that and there is an element of choice, if you like. An organisation which is perhaps under financial pressure might choose not to take on particularly difficult cases because it does not have a duty to do that—it has a budget and it is worried about that. The state has to deal with everybody, because that is the way we have decided to run our society. It was said today that even Emmaus and one or two of these wonderful organisations do sometimes decide not to take people. They are voluntary organisations, so they have choice about who they care for and look after. The state does not have that choice. The state has to look after everybody because that is what its role is. I may say I find this wholly unconvincing and the paper here looks to me like an ideologically driven paper coming from Downing Street in the *ancien régime* of Tony Blair and not something that is going to be very useful in future.

Dr Kyle: In response to that very constructive comment—I take it you looked at my CV, then?—I think your thinking is very mixed. I have listened to you and your colleague this morning. You cannot, on the one hand, say that this process is nationalisation by default and, on the other hand, say that there is no accountability and that the state is abrogating its responsibilities to service users. How do you tailor that? I think you are guilty of some mixed thinking in this regard. In regard to my thinking in this regard, I think you should look much further back in my CV than my previous job, and you should see my previous experience within the third sector as part of delivery organisations.

Q427 Kelvin Hopkins: Are you asking me a question?

Dr Kyle: I made the point.

Kelvin Hopkins: The final point I would make is that I did make a very clear distinction between voluntary organisations filling in niche areas which are not covered by the state, and the duties of the state to provide for the vital rights of the citizen. I think there is a serious distinction there.

Chairman: And we are entitled to have mixed thinking, anyway!

Q428 Mr Prentice: That was very controversial. We heard earlier that there has been a shift in the balance between the contracts and grants: contracts going up and grants going down. Is that a good thing or a bad thing? Should we feel concerned about that?

Ms Allcock-Tyler: It is a very bad thing because the nature of contracting changes the nature of your relationship as an organisation with your client. It distorts who the client is and who it is you are existing to serve. There is a lot of evidence that says that organisations which start to engage in contracting relationships begin to satisfy the terms of the contract rather than satisfy the needs of the user. In fact, it has been really quite horribly evident, when we have been looking at all the oral evidence and some of the submissions that this Committee has had, how very rarely the need of the end user is

mentioned at all, of the individual. To give one example, which is a true story, there is a small counselling service up in the North-East—which I cannot name, and you will discover why in a moment—which has been delivering counselling services, under contract from the local authority, to young adults who for one reason or another have suffered severe traumas. The local authority decided, in the interests of fair and open tendering and all the rest of it, that they would take this particular idea of counselling of traumatised young adults and re-tender to deliver it. One of the people served by this is a woman called Manju. Manju, when she was 13, was raped by her uncle and younger brother, and as a result of that got pregnant. Her family booted her out and she ended up in various psychiatric wards and foster homes and several times tried to commit suicide. She ended up at this particular counselling charity, and had not attempted suicide for about five years as a result of that. As a result of this contract tendering process that was introduced by the local authority, the particular charity serving Manju did not win it—because the argument became about it not being fair for other charities not to be able to compete for this service. The net effect of that is that Eve had to go to Manju and say, “I am really sorry, Manju, I can no longer help you” even though the nature of hugely vulnerable people is that they engage in those very special relationships with people. The problem with contracting is that that is exactly what happens: it becomes about us competing with each other. It becomes about: “Should Turning Point get the contract or should it be the local organisation?” rather than the whole blooming point being that there is a person at the end of that whose needs are much, much more than the needs of government to tick boxes or organisations to compete for funds.

Mr Etherington: It would be worth reflecting on the numbers of the shift between grants and contracts, so that we know the evidence base. I have the numbers here from the data we produce every year. The latest data is 2005-06, although we are producing new data next month, and we will send the Committee a copy of the Almanac which is pretty much the definitive study of economics of the sector. Grants have not fallen in cash terms over the last 10 years. That is just not true. The proportion has changed. Public sector funding has expanded quite rapidly in the sector, from around £4 billion to around £10 billion in a 10-year period. It now constitutes about 38% of general charities' income. Of that just over £10.5 billion, in 1995 contracts were just over £2 billion and grants were about £2 billion; by 2005 grants had increased and in fact had doubled to £4 billion—therefore, there is twice as much money around in terms of grant—but contracts had grown at a much faster rate, from just over £2 billion to £6.5 billion. The rate of growth of contracts is greater and their proportion has changed, although the total amount of cash available in grants has also increased. To come back to your question “Is it a good thing that that shift has taken place?” I come back to a more pragmatic view. People competed for grants as they compete for

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contracts. Grants were not given by some sort of magical wave of the wand: everybody can have a grant. Voluntary organisations competed for grants—as a different sort of competition, I will grant people that, and it was probably less specific. That is the key point. It is horses for courses. I come back to the original point that I made. In some cases, where you can specify exactly the type of service that you are purchasing, exactly the type of outcomes that you want to achieve and the technology is well-known, it seems to me to be perfectly legitimate if you place on the table that specification and you allow organisations to bid against that. In a lot of cases, it is not easy to specify the outcomes that you want. Voluntary organisations, historically, work with the wicked issues—the very difficult areas of public policy with which the public sector finds it difficult to engage and which the private sector does not want to touch, it seems to me. Because we deal with those issues: difficult areas of drug abuse, alcohol abuse, homelessness—some very difficult, thorny social and public policy problems—there it is more difficult to specify. There it seems to me to be a good use of public money to say, “We cannot be specific about what we want to achieve. We think you probably know better than us about the sorts of interventions that work and, therefore, we are going to make a grant available to you. We might want to measure the outcomes that you achieve later, but we are not going to specify in detailed terms contractually what we want you to achieve because we cannot.” I suppose my argument about grants and contracts is that it needs a higher level of sophistication: firstly, to recognise that whilst the balance has changed the totality of both have increased, and, secondly, to recognise that in some cases grants are appropriate where you cannot specify the outcomes that you want and in other circumstances contracts are more appropriate. I think, again, it is a question of balance. What are you trying to achieve and what is the best way of achieving it?

Q429 Mr Prentice: Before Peter comes in, you said the private sector would not want to touch them but, earlier, you said the trend is subcontracting through voluntary organisations by private-sector intermediaries. I jotted that down. How significant is the private sector when you just told us they do not want to touch these?

Mr Etherington: They do not necessarily engage with the most excluded groups. I will give you, again, an example. Every so often they let me leave my office and go to visit the members who do the work on the ground. I normally do it in the summer. I went to an organisation this summer that is providing employment rehabilitation for very vulnerable groups in an area north of Newcastle—an old mining village, not a lot of work. The DWP had let a regional contract to provide employment rehabilitation services, Jobcentre Plus, et cetera, et cetera, and they had let it to the private sector. I think there were seven bidders for the regional contract and six of them were private-sector bidders. The voluntary sector is not very good at bidding at

scale, but the private sector subcontracted a voluntary organisation in that large village or small town to provide a service for the most disadvantaged. Interestingly, when I asked the voluntary organisation what was their experience of sub-contracting from a private-sector contractor to the DWP, I expected a sort of torrent of abuse but I was quite surprised: they said, “Oh, no, it’s much better than contracting with the DWP.” I asked them why and they said, “There are two principal reasons: they do understand that if you are working with the most disadvantaged groups the price should be slightly higher; and they have grasped, unlike the public sector, the notion of cash-flow.”

Q430 Mr Prentice: The private-sector intermediary is getting a better deal. That is what they are telling you.

Mr Etherington: No, in this case the voluntary sector organisation’s experience of subcontracting to a private-sector provider was better than its experience of contracting directly with the DWP.

Q431 Mr Prentice: Yes, but the private sector is getting a better deal from the DWP.

Mr Etherington: Yes. I do not know what their contractual arrangements were but certainly the voluntary organisation was getting a better price to deal with vulnerable people and it was getting cash on time. You will often find complaints with public sector purchasers, that, because the cash comes in the public sector, they do not understand that organisations can go out of business if they do not get the cash on time. That is an often-heard complaint from voluntary organisations.

Q432 Mr Prentice: Sorry, Peter, my question about grants and contracts.

Dr Kyle: I think Stuart made this point very, very well. The figures that NCVO produce on this are really, really useful and very much valued by the sector. As Stuart said, grant money has not decreased in the last decade. The change has been where the increase has been. I think Stuart covered it very well really. All I would like to say is that, whereas Debra makes the case very well for the empowering effects of having a grant and what it can do with that money, there are equally organisations who have been tremendously empowered by engaging with the procurement process and being able to expand and stand on their own two feet. The example I would use is not as emotive but it is quite useful. Jeremy Swain is chief executive of Thames Reach. He gives the story very eloquently about how, when he took over control of Thames Reach, they were dealing with 100 homeless people from a grant. They started engaging in the procurement process, they won, and he talks about the incredible effect it had on his staff. He said it really put a rocket through his staff. The front-line workers suddenly started saying, “We’re giving you the best service,” because they knew they had competed with four or five other organisations and won.

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Q433 Mr Prentice: Great stuff.

Dr Kyle: Then they went to other places, won other grants, and they are now delivering services to 4,000 people.

Q434 Mr Prentice: Great stuff. Are they getting paid more for this fantastic increase in productivity?

Dr Kyle: I honestly could not tell you.

Q435 Mr Prentice: It is an issue, is it not, that bears? I hate to mention Sylvia again, but it is a thread that has run through our inquiry that, perhaps, the Government is making this leap, ideological or otherwise, because it sees public services being delivered on the cheap and that people are being employed in the third sector at a fraction of what they could expect either employed directly by the state or in private-sector organisations. Is that an issue, Debra?

Ms Allcock-Tyler: Yes. I am not sure it is necessarily a bunch of evil politicians getting together deciding to do it deliberately but I think it is a net effect of what happens. There are examples. I think it is in the report from Strathclyde University that was commissioned by Unison and submitted to this inquiry, where a voluntary organisation lost a contract, competing with a local public authority, because the public authority had not put in, in its own bid for its own contract, the true costs of overheads.¹³ Of course, from the voluntary organisation point of view, they are not putting in the cost, effectively, of volunteers, who are essentially free pairs of hands.

Q436 Mr Prentice: Is this about getting public services on the cheap then?

Dr Kyle: Let me be quite clear on this. There are two issues here and there is an issue for government and there is an issue for the sector. This should absolutely not be seen as getting public service on the cheap. Absolutely not. There was an issue which ACEVO addressed to do with full-cost recovery—which you might be aware of—where third sector organisations were not as experienced in dealing with the procurement process and were putting in bids for services which were less than other sectors and once the bid was given they realised that they had not included things like telephone costs, travel costs, and some other areas which were involved in running a lot of the organisation which is delivering services. ACEVO has a programme, which has been running for two years now, training organisations in full-cost recovery in order that, when they put a bid in, it takes account of all the staffing costs, all the costs included in that bid, so it is not just done on the cheap. ACEVO has been very unashamedly saying that part of the professionalisation of the sector is making sure that staff are well paid, that staff have good pensions. As Debra has said time and time again, these organisations are dealing often with society's most excluded people. These are people with multiple problems, not just drug addiction and homeless issues and mental health problems and

other issues to do with exclusion. They are dealing with a whole raft of these issues. These people are the most vulnerable in society. They deserve to be cared for by people who are well-paid, well-trained, have good pensions and good prospects.

Q437 Mr Prentice: That may well change the nature of the animal. There is professionalisation that you were talking about. The very act of professionalising, in the way you have just described, turns it from what we, as lay people, would understand as a voluntary organisation to something different.

Dr Kyle: Think of it in terms of being a service user. You can still have volunteers. BTCV,¹⁴ big volunteer organisations, put a lot of effort now into training their volunteers. People who have incredibly entrenched, difficult, multiple challenges and problems and difficulties to overcome deserve to be cared for and given support from people who are well trained. In order to have the best people doing that, they have to have good training, good management, good systems and good pensions, everything that everyone else in every other sector deserves. We should not be ashamed of the professionalisation of the sector. This is a way of empowering the third sector and it is a way of getting organisations of all sizes. This is not just about big corporate, big charity. This is about all charities which are delivering services delivering the best services for people who need it the most.

Mr Etherington: The sector employs 650,000 full-time equivalent staff and deploys, depending on how you define it, about 15 million volunteers in various ways. The characteristic of the sector, the market structure of the sector, is that there is a small number of very large organisations and a large number of very small organisations. That is what the sector looks like. In some ways, it is similar to the business sector—although when people talk about the big charities, they are nowhere near the biggest in the private sector, they are dwarves. Even they cannot compete effectively for large-scale contracts. The characteristics of the workforce are more similar to the small business sector and less like the public sector. There are large numbers of very small employers. Levels of training investment are lower. Levels of unionisation are much lower. Levels of benefit are much lower. There is no doubt, whatever the aspiration, that the reality is that the workforce of the sector—the paid workforce, as distinct from the volunteers—has characteristics more like those of the small business sector. It is less organised and it therefore is probably more vulnerable in terms of the benefits to employees.

Q438 Mr Prentice: We know there has been a big expansion in the training of commissioners. I think it is 2,000, and the Government wanted it completed by the end of the year. I am still not clear in my own mind, after all these sessions that we have had, whether we are going to see a step-change over the next few years in the number and variety of public

¹³ Unison, *False Economy? The costs of contracting and workforce insecurity in the voluntary sector*, May 2007

¹⁴ British Trust for Conservation Volunteers

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services delivered by the third sector or whether it is going to be incremental and nothing that is really going to frighten the horses too much. Because the rhetoric at the very beginning was about step-change, and I am not entirely sure if that is the case.

Dr Kyle: This is one area where you cannot talk about the sector as a whole. I think there will be areas of social care where there will be a step-change. I do not know the full facts but I know Demos has been doing a lot of work and research into the case of budget holders and service users as budget holders. I think that is being released tomorrow, unfortunately.¹⁵ I would love to see the full statistics, but I have heard some snippets about it and I think the indications are that it has been trialled in 13 different local authority areas. That is relatively small numbers at the moment, but the effect that this has on the users and the users' behaviour is quite profound, in that something like 88% of people who were using residential care choose not to and they choose to use other types of provision, and they will spend it in more community-based local provision which is very imaginative—sometimes which we have not even thought of as providers. In areas like that, there are going to be very profound changes in the way services are commissioned and used and delivered. I think in other areas the rhetoric will not match up to what it feels like for the service users in broad senses.

Ms Allcock-Tyler: I think it will happen for a number of different reasons. First, we will find what we are already seeing, that it will be a small number of very large organisations at the top and the rest of the sector will largely just carry on about its business. But I also think it depends a bit on whether the taxpayer realises the con: that they are effectively paying for services twice, through their freely given donations and through their taxes. There is this kind of strange situation, that we do not really ask the public—really, properly the public—about what is their perception of a public service, what is their perception of what charities do or do not do, what do they think is right and not right and so forth. It is all about “Is contracting with the third sector”—a dreadful term—“with voluntary and community organisations, good for government or the state and vice versa?” There has not been a great deal of research into what is the public perception of what charities should and should not do and what public services are and are not.

Mr Etherington: On the question of step-change: I think it will vary from area to area. The classic example that is trotted out is social housing, where there has been a step-change in the provision by non-profit organisations. That had a particular set of characteristics. You had a combined regulated funder in the housing corporation, you had local authorities constrained in terms of their spending of capital receipts, and you had considerable advantages being given to non-profit providers. Interestingly enough, David Orr, who runs the National Federation of Housing Associations, was writing in the *Guardian* yesterday expressing some

concern now that the new Housing Bill will place almost draconian powers in the hands of the secretary of state in order to instruct Housing Associations what to do and, therefore, they will be drawn even more into the net.¹⁶ Social housing, I think, is an interesting case study of what can happen if there is a significant shift. My view is that social housing has been effectively colonised by the state and they do not have a lot of capacity to operate independently, but what will happen is that the private sector will win 80% of public-sector contracts. That would be my prediction. They did in the eighties, in social care, and I suspect that they will win the bulk of large-scale contracting.

Q439 Mr Prentice: It is a Trojan horse for the private sector.

Mr Etherington: There will be subcontracting. There will be quite a lot of subcontracting of niche markets between the private sector and the voluntary sector. That is something that is beginning to happen and I think it is something we will see more of. It depends, I think, on two sets of things. One is political will. Do politicians want a significant shift to occur between these areas? Secondly, it is a question of whether or not the capacity really exists to do this well, and I think the jury is out.

Dr Kyle: If you asked anyone in the sector who is working for an organisation if they felt themselves, as a private organisation, it was a Trojan Horse, they would be horrified at the thought of it. People are very proud who work in the voluntary sector and in the charitable sector of the status and of the organisations they work for. They are motivated by working in the sector often.

Q440 Mr Prentice: I did not mean that but they may take it that way.

Dr Kyle: I know you did not, but I know the broader point you are trying to make and I think it would not be recognised by anyone in the sector. At the moment, one-third of our members in ACEVO have previously worked in the private sector and have chosen to come over to the voluntary sector. When you ask them why, it is because of the social reasons. There is a distinction there which is quite profound.

Q441 Mr Walker: Dr Kyle, what is your view on charitable campaigning?

Dr Kyle: Do you mean political campaigning?

Q442 Mr Walker: Yes, political campaigning, big advertising campaigns, that sort of campaigning.

Dr Kyle: My view is quite clear in this: charities, I believe, should be able to engage much more in political campaigning. They should not be able to get involved in party political campaigning, but if you are an organisation which is, for example, working to see a change in some area of public policy to do with social care of some kind, you have the potential to work, sometimes, with 100 people but through political campaigning locally you could have public policy changed which could have a

¹⁵ Demos, *Making it Personal*, January 2008

¹⁶ Society section, *The Guardian*, 16 January 2008, p 4

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profound effect on many, many thousands of lives. So I do not think we should just say this is just about party politics. Political campaigning can change public policy for the better, and if you are a chair or a trustee of a board on an old charity you should be able to make the decision about which is the best use of charitable money.

Q443 Mr Walker: But who pays for the campaigning?

Dr Kyle: Through charitable income.

Q444 Mr Walker: One of the concerns is that 80% plus of many charities' income comes from the taxpayer, so actually it is my money that is funding this campaigning.

Dr Kyle: No.

Q445 Mr Walker: It is, is it not?

Dr Kyle: No. Are you talking about the independence of the sector? Can you give me an example? I mean, I cannot ask you a question but I would perhaps be interested in an example of a large charity which is funded by the taxpayers just using the majority of its money for political campaigning.

Q446 Mr Walker: It is a genuine concern. If you are going to increase the amount of money that the third sector, the charitable sector, gets from the taxpayer, as Debra has pointed out, then there has to be accountability in how they spend that money. I pay a lot of tax, I think we all pay a lot of tax, and I would be concerned if a charity getting 80% or 90% or any amount of money from the taxpayer was spending significant amounts on campaigning of any form without any accountability back to me as the taxpayer. That is a legitimate concern. You may not like the concerns that are being expressed around this table, you may think we are demonstrating muddled thinking, but actually we are demonstrating the concerns expressed to us by our constituents. Because many of them have spent a lifetime in the charitable sector, working with people like Debra who show admirable passion for what they do, and they just do not know where you are taking it. They have no idea where you are taking it. And, I tell you what, it is probably incumbent on you to do a little bit more explaining to these people as to where you see this going.

Dr Kyle: First of all, any organisation which is receiving government money, it does not just go into a black hole. For the money that they receive there are very, very strict accountability measures involved. There are report-back measures, there is oversight. Commissioners get involved in the process themselves. That is my first point. When you bid for government money, if you put in a bid saying "I am going to spend 60% of it campaigning against government policy or publication policy" I doubt you would win the contract. That is the first point. That aspect of your argument, I am afraid I do not recognise. Secondly, I think you are underestimating the amount of campaigning organisations do already. I suspect that you get spoken to a lot by charities of all kinds, as an MP you get lobbied, as

MPs you will get an enormous amount of literature, briefing notes and all the rest of it. That is campaigning. That is political activity. I doubt the general public realises the extent to which it happens already. Then there are other organisations, Greenpeace, Amnesty and the like, who are not charities. I think most people in the country would probably, if asked, assume that they were charities or believe that what their ends are and what their means are fall within the auspices of charitable purposes.

Q447 Mr Walker: I take your point. One of the concerns I have as a Member of Parliament is that we get wonderful people in to see us who are at the sharp end, who have a passion and a belief and a drive for what they are doing, who are delivering it at a local level, and then we get major charities—now largely funded by the taxpayer: 80 or 90% of their total turnover funded by the taxpayer—and they send public affairs managers to see us and marketing managers and communication managers, and there is this vast paraphernalia of people which I am funding, who are not delivering services, who spend their entire time going around justifying their existence and the existence of their charity. People are concerned about that because I am not sure that is where taxpayers' money should be spent, to be perfectly honest, on high-paid public affairs professionals.

Dr Kyle: I would suggest that your diary secretary is putting in a disproportionate amount of the people who contact you asking to see you, allowing more people from lobbying organisations to come to see you, than grassroots people, because my experience of political processes—

Q448 Mr Walker: No, they are all charities.

Dr Kyle: My experience of political processes is that the most vociferous campaigners are the people from small organisations who care passionately about certain causes and they want to tell their MP about it and so forth. My experience is that organisations of all sizes campaign. I would not be surprised if the majority of correspondence to you is about small organisations working in your constituency on very small issues and I think your antennae are probably more focused on the more professionalised end of the sector.

Mr Walker: Gosh, you seem to know a lot about my office.

Q449 Chairman: We do not need to explore it any further, I think.

Mr Etherington: On campaigning, Chairman, I think it is worth pointing one thing out because there is a pretty vociferous debate going on at the moment about charities and campaigning. Clearly civil society organisations that are not charities can do all the campaigning they want as part of the freedom of association which we would associate, I guess, with participative democracy. In terms of charities, the current law is fairly clear: it is that a charity cannot campaign if that is a dominant part of their activities.

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Q450 Mr Walker: Now it is changing.

Mr Etherington: No. There was a group who proposed changes in the law. That has been rejected by the Government and opposed by the Opposition, so the law will not be changing in relation to that. The Charity Commission are revising their guidelines and I suspect it is likely that they will say: "Cannot be dominant over a period of time". For example, if I am a charity that decides that a major piece of legislation proposed either from the European Union or from Parliament would seriously disadvantage in some way the beneficiaries of my charity, I might choose for two years to devote more resources to campaigning against that particular piece of work. The debate is "What is dominant?" in fact. If one takes Amnesty: everybody thought that when human rights was added as another charitable head in the passage of the Charities Act, that that would be okay, but Amnesty clearly is still not a charity because it only campaigns, in effect, and therefore cannot achieve charitable status. That will not change. I have just one other point on campaigning. Historically, organisations which have run services, whether they have been small and local or larger, have used the experience of running services, when they have run their services, to try to change public policy. It seems to me that a lot of organisations would not distinguish between campaigning and services, in that they will gain knowledge on the basis of the services that they run, whether they be small or large, and will want to influence you, as a public policy actor, in trying to change policy in beneficial ways. That combination has been a characteristic of the charitable sector for some years.

Q451 Paul Flynn: You are the final witnesses in part of a great tsunami of information we have had, and I find myself in a position where the more information I receive the less I understand. I am genuinely seeking after truth when I ask you these questions now. In 2006, from your organisation, Debra, there was a quote which described the Government's policy. We had the ministers here a few weeks ago, who talked about transformation: "The policy is about transformation" and most of us would regard it as being a little overambitious to use the word "transformation" in any sense. Graham Leigh, Director of Development at the Directory of Social Change, said "this initiative feels like we are hurtling down a motorway and the Government has doctored the brakes."¹⁷

Ms Allcock-Tyler: The Government would argue that engagement with the voluntary sector will transform public services. I have huge doubts about that. Our argument is much more that the way in which the Government is engaging with the sector in this delivery of public services is distorting the entire notion of what voluntary and community action is about. It is distorting the special and distinctive nature of the sector, so you end up with an individual giving evidence to the Committee saying that there is not any difference, when there is, there absolutely

is, but we are being forced into a way of engaging differently, or some charities are. This is part of the problem. This transformation is "Wouldn't it be fab if these wonderful, gorgeous, voluntary-sector organisations, full of really terribly nice people, came round delivering public services, because that would be great for us, but only if they do it in this way and to this timescale, for this money, under these conditions and with these terms. Oh, and, by the way, they've got to compete with the private sector. Oh, and we'll make it easier for the private sector because we will have set social clauses into the contract"—which do not serve us, because we don't need social clauses, we are social clauses, but which benefit the private sector. It is incredibly distorted. It is putting all sorts of checks and balances. It closes down the ability of voluntary-sector organisations to do what they are so incredibly good at, which is work with the most vulnerable and the most disengaged and the most unpopular causes.

Q452 Paul Flynn: One of the most distinctive features of these lovely people who are doing this work in the voluntary sector, as Martin Narey pointed out to us, is that 70% of them do not know whether they are going to be working on 1 April. The voluntary sector is bedevilled by the fact that their main preoccupation, the best of their energies and imagination, goes into working out whether they are going to get a contract next year. Is this not a fundamental fault and one of the main weaknesses of the voluntary sector, because you are depending on contracts and you cannot see beyond the date of the new contract?

Ms Allcock-Tyler: Yes, it is. We need to stop doing it. The Government has a particular responsibility—

Q453 Paul Flynn: Is it not a weakness that they are concentrating on their own survival rather than on the outcomes on which they should be concentrating?

Ms Allcock-Tyler: Yes. However, you have to ask yourself why that is happening. When you work for a voluntary community organisation, what you care about is Manju, and you will do whatever it takes to get the money in order to be able to provide that service to Manju. If that means that you have to engage in a contracting process, then that is what you end up doing. When anybody asks a voluntary community organisation who delivers public services under contract to the Government: "Does it compromise your independence?" of course they are not going to say, "Yes". If you ask a local authority, "Did you not give money to that particular charity because they argued with you?" the local authority is not going to say, "Yes, we were very upset about what x, y, z person said." They are not going to say that, they are going to say, "It was not as good a tender, the costs were not right" and all the rest of it. This whole contracting process is distorting both sides. We are colluding in it. But government is enormous. You are like elephants and we are like ants. We do not have a huge amount of choice really. We either have to all come together and form one giant pseudo elephant, so that we look more like

¹⁷ "Is the voluntary sector heading for a catastrophe?", Directory of Social Change press release, 28 June 2006

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you, so that we get money out of you, or we end up scurrying out of the way and the Government takes no notice of us whatsoever—which is the point I think Alex was making—which is not always a good thing, because sometimes we need support from government.

Q454 Paul Flynn: If we see the outcome of what the Government seems to be proposing, we have looked at the future and it is New York. What we saw in New York was fascinating. Virtually all they have got is the third sector. One of the weaknesses we found in one section—and, again, it is about homelessness, which was mentioned—is that the homeless problem in New York has diminished—4,000 in the whole of the area of nine million people, when there used to be one on every street—but the bureaucracy continues at the level of bureaucracy when the charities were set up, when they had an enormous problem of homelessness. That has happened here to a lesser extent. There was a controversy at Christmas time by a Conservative member of Westminster Council about this, who made a very powerful case for an overprovision in this area. What we saw in New York was a ludicrous overprovision. Part of the nature of charities is that they empire build. They serve themselves. If the cause of their work disappears, they have to invent new work. They have to decide that there are hidden homeless. They have to redefine homeless as anyone who does not have a patio or a fitted kitchen. You magnify your problem in order to make sure that your empire continues and grows.

Ms Allcock-Tyler: I think it comes down to this distortion of a market-place under contract. For organisations that are not largely funded by statutory sources under contract, we have three measures that help us to survive. We have to attract donors, whether that is funders, trusts and foundations or individuals who will give us money; we have to attract volunteers, because without volunteers most of us cannot do our work; but we also have to attract service users, because there is absolutely no point just having tons of money and lots of volunteers if there is not anybody who comes to us and needs our help. The point you are making is more likely to occur when really the only thing you have to satisfy is the contract, where the primary client is actually the commissioner, rather than having to satisfy your service users and attract donations generally and attract volunteers.

Q455 Paul Flynn: Could I ask the other witnesses: with all the activity there has been over the last 20 years and in the last 10 years in this area, of all kinds of requirements and improvements on Compacts and so on, is there any measurable improvement in the outcomes to the clients of the services which has been independently measured? Is there a correlation between the improvement in the work that is done, the amount of money that has gone down and the outcomes?

Dr Kyle: There is certainly more work that needs to be done in building an evidence base behind specific areas of third-sector work. There is evidence that

when people have the choice—I referred earlier to the problem of budget-holding service users—they tend to move towards more localised, tailored, personalised services, which tend to come from the third sector. There is evidence from the NCC,¹⁸ which said in a report that the third sector seems to be leading the way in employment services and could help to spread good practice. There are areas of research which have been pointing towards improved service quality and delivery within the sector.

Q456 Paul Flynn: That is a very tentative reply. We really are going ahead, do-gooding, feeling that this is a sensible thing to do, but the policy is evidence free at the moment.

Dr Kyle: No, it is not evidence free, but there definitely needs to be more evidence. One of the big challenges for the sector, when they engage in the contracting methods and they win bids, they use some of the money that they are getting to build an evidence base that they can use to win further bids for. ACEVO is a good example. NCVO is a good example. We are both organisations which have won bids. In the last couple of months ACEVO has won several bids amounting to several million pounds over the next three years. I, as a manager of these and implementing these bids, need to make sure that I construct around that an organisation which is sustainable and is geared to life beyond those bids. That is one of my big challenges. That is the challenge of a manager. Taking on some of the other comments, can you imagine a representative of the statutory sector going to a minister and saying, “Just give us the money. Let us get on with it. We don’t want to have to provide all these facts and figures and meet all these demands that you are saying.” It is inconceivable that any other sector working with service users would make the kinds of demands and expectations that I have heard. Grant funding has stayed the same. There are other ways of delivering the money. Nobody is forcing organisations to go for bids. ACEVO went for these bids and won these bids. That was a conscious management decision, taken not lightly but after weighing up all the pros and cons and implications it would mean for our organisation. Nobody is forcing any organisation to go for any bids and to enter any procurement processes. If they want to rely on donations, they still can. If they want to rely on grants, they can still try to get those grants. But for some organisations, this is an option, and they should not take it lightly but they should not ignore the possibilities and the potential benefits from it.

Mr Etherington: You asked about evidence, which I think is probably an issue worth addressing. I do not think this is an evidence-free zone but I do not think there is a lot of evidence around which demonstrates why one form of intervention is better than another. That is why we have argued for an increased investment in higher education, to develop the evidence base. But there is some evidence. You will find individual charities able to demonstrate, I think

¹⁸ National Consumer Council

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fairly effectively, that early intervention, say in relation to children, is more effective in the longer term; NCH has a lot of project data in relation to this. The NCC study is interesting, in that it has said that in some areas of public policy the third sector was better and in some it was no better.¹⁹ In social housing, NCC deemed the public sector and the third sector to be equally bad in terms of user engagement. Things vary. I heard evidence yesterday, for example, when there was a discussion in the *New Statesman* magazine about Jobcentre Plus, that there was quite considerable evidence that Jobcentre Plus being provided in the public sector had better outcomes than it being provided anywhere else, and yet this evidence had not appeared to impact on decision-making. There is, I think, a bit of an evidence gap. I have just one other point in relation to homelessness. There are countervailing examples. I think homelessness is an interesting one. If you take HIV/AIDS, there was a mass of voluntary sector provision when it was felt that retrovirals were not known, that a lot of people would die and a lot of people would require hospice and very specialist care. When drug interventions prevented the need for that and many people enjoyed a high quality of life although they were HIV positive, the sector contracted and merged and changed its structure. There may well be circumstances in which in other areas of public policy the sector does react to those sorts of market forces.

Q457 Paul Flynn: Charles is afraid of nationalisation of charities and many of us favour privatisation. We come from different angles on this. You have talked about social housing. If we look at social housing as far as the recipients of social housing over the last 100 years, there is one lesson and that is rent is theft. Rent is a bad idea and a poor deal. The view from politicians on high, who wish to bring these transformations and wish to supply a need as they see it. It could be argued that the greatest improvement as far as the clients of social housing over the last 50 years was the sale of council houses, introduced by Newport Council before Mrs Thatcher introduced it, the decade before Mrs Thatcher, but the ideology behind this is one between the parties, and in fact there is a bit of a retreat from it taking place now in the Welsh Assembly. Are you not concerned that the Government is talking about transformation, a big change, throwing everything up in the air to see how it will come down again, when the only sensible cause of action in this Place is not to look for any radical reform, for any great change, with ministers having their names on wonderful reform in the future, but to look at the huge, immensely complex picture we have of voluntary sectors and sectors, and allow them to evolve, rather than have government laying down some pointer to some shining path where everyone should go?

Mr Etherington: I think that is a critical point. I do not think there will be this massive step-change that is being talked about. I think it will be far more incremental than that. If you look at the relative scale, about 40% of the income of the sector comes from the public sector but it is less than 2% of public spending. You are talking about very different types of animal. There are two or three things that I think it is worth noting as to why it is important that this develops in an incremental way. Firstly, the sector does not do everything that the public sector does or should. If I am a taxpayer, I would expect a similar type of service, with a similar response, in Newport as I would in Penzance. But we do not do everything. We do discretion. Trustees operate with discretion. That is a point that you made, Mr Hopkins, I think, and it is absolutely right. The voluntary sector is not about equity; it is about trustees and discretion. Given the fact that voluntary organisations are quite clearly good at doing some things and do some things better—the evidence is variable, it is to be developed but I think there is enough to show that certain kinds of intervention by voluntary organisations are more successful—that is where it seems to me you should be coming from. What is it that I am trying to achieve with public services and what agencies are best placed to assist me to do that? In doing that, you have to be mindful of the ecology of civil society in this country: large numbers of very small organisations, and over the last 10 to 20 years we have seen an increasing bifurcation between the very large and the very small. My own view is that that is ultimately damaging to civil society and that public policies which drive that further apart ultimately work to the detriment of civil society. That means that the procurement and commissioning processes have to recognise the very nature of the civil society that you are trying to engage both in service delivery and in shaping the nature of public services. If you can get that right, I think there is real added value for the third sector. If you blindly go for shining-path-type experiments, ultimately I think you can cause considerable damage to the fabric of civil society.

Q458 Chairman: Could I finish on this, because you bring us back to the central question. In the memorandum from ACEVO you say, “Third sector organisations can and should play a major role in transforming public services.”²⁰ That is the proposition and you can find the same thing in government documents. Government and the sector are saying the same thing about transforming and it is usually with something about a particular relationship with users that gives them a particular edge in provision. Then you go on to say about these organisations: “They are currently held back by a framework that promotes inefficiency, restricts capacity, and stifles innovation. Radical reforms to the way in which services are commissioned would allow third sector organisations to develop and disseminate a new breed of coherent, citizen-focused services, tailored to local situations and individual

¹⁹ National Consumer Council, *Delivering public services*, April 2007

²⁰ Ev 150

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circumstances.” We ended with a kind of big difference between that, the transformational agenda, which is only being prevented from happening by these big blockages in the system and if only we had cleared the blockages away then the transformation could happen, and what Stuart is saying, which is, “Oh, no, it is not like that; it is about incremental change in a very complex, mixed economy.” Which is it?

Dr Kyle: I do not see there is an entire contradiction between the two quotes in the ACEVO statement you read out. There are different ways of spreading innovation and the great thing we have in this country is a welfare state which can pick up innovation and run with it in different ways. The one thing we have not really talked about today is partnership between the sector and partnership between small organisations/large organisations, because both sometimes share the same ambitions and have different approaches. Also, many people who are working with government in terms of taking government money or entering into the procurement process, see their relationship and will often talk about their relationship with government as one of partnership, because, once they have won the bid, they know that their aims are the same as those of government. There is a lot more collaboration, there is a lot more partnership between aiming and solving society’s problems and up-scaling some of the innovation. One example is a piece of innovation from the United States which made it into the Social Exclusion Action Plan, which is the nurse/family partnership which is now run out nationwide in the last budget.²¹

Q459 Chairman: This is partly the evidence argument: that we tend always to decide the projects, which is quite natural but is sort of not enough. You are saying here that this transformational potential, if it is there, is not being realised because of the framework. I want you to tell me in a sentence what it is about the framework that is stopping this transformation happening.

Dr Kyle: I will tell you in a word, and that is “commissioning”. The blockage in the system at the moment is commissioning. That is why the Office of the Third Sector is training 2,000 commissioners, which is why ACEVO has contacted the Office of the Third Sector to offer support and to try to understand what the training is going to be for the commissioners. At the moment, the full potential of the third sector is not recognised in the commissioning process. Not all commissioners understand the third sector . . . I dread to use the word “ethos” but, under the spotlight, I cannot think of another word, but what is unique about the third sector which it brings to the table. They are not used to dealing with third sector organisations. Once

the commissioning process recognises there are social outcomes as well as economic ones which the Government want to achieve, then I think there will be much greater potential to have a real step-change in the way that the third sector engages in delivering public services of all sizes.

Q460 Chairman: This has been said to us often, that if only we crack the commissioning issue then transformation follows.

Dr Kyle: I will give you a good example. I had spoken to a chief executive about commissioning—we had had a conversation similar to that we have had around the table today—and she said that she was really motivated by what she had heard in this session. She went straight home and said, “Look, I’ve really got to crack this nut, I’ve got to get back and deal with the commissioning process.” She rang up and tried to speak to her local commissioner for her services but the call went straight through to voicemail. She rang me up and said, “I’ve just rung for the fifth time this month and I’ve not had my phone call. I cannot get through to them, I cannot speak to the commissioners.” There are people who really want to engage with it but they are facing a blockage from the bottom up. That blockage is in trying to get through to the commissioners, getting there early enough to have what they can bring to the table recognised, and have their services play a part in shaping their commissioning process, rather than just responding to it when it comes out the other end, when they realise that the commissioning process excludes them, not explicitly but implicitly. Alex had a great example of the commissioning process excluding people implicitly. The Olympics, for example, had as one of the rules for entering the commissioning process that you must have a turnover of £5 million for community transport, even as a sub-contractor. There is only one third sector organisation which has a turnover of that size and is in the business of community transport, so lots of other people could not enter the bidding process because of that one rule. I think that was there for good intentions, and was probably just standard practice, but there is no need to have that qualification in there. The entire commissioning process sometimes can benignly exclude third sector organisations and can benignly exclude the very strong points which they could bring to the table and the strengths. That is where the commissioning process needs fundamentally to be changed: not at the end, where the documents go out at the end of the process, in terms of designing the service, but at the beginning, so that the commissioner sits down and says, “This is the service we want. What is the best way to do it?” talks to different types of providers, and then sees how the commissioning process can judge each organisation on the strengths from each sector.

Chairman: Thank you very much. That is a good note on which to end. We have to make sense of all this. We have certainly learned the questions. Whether we have developed any answers, we will have to see. We have had some very rich evidence, including from you this morning, and we are very grateful for it.

²¹ Cabinet Office, *Reaching Out: An Action Plan on Social Exclusion*, September 2006

Written evidence

Memorandum from Rainer

ABOUT RAINER

Rainer is the national charity for under-supported young people and young adults. Last year we worked with 14,000 people in 115 communities across the country.

The charity's routes lie in two large philanthropic organisations:

- The Rainer Foundation, founded in 1876 which gave rise to the modern probation service.
- The Royal Philanthropic Society incorporated in 1806 which was “the first active and organised endeavour to arrest the progress of crime and vice by prevention rather than by punishment”.

Today, at the end of our 200th anniversary, Rainer works with young people who are living on the margins of society: in or leaving care or custody, involved in or on the fringes of crime, out of work, struggling at school, homeless or facing young parenthood without the safety net of a supportive family.

The majority (82%) of our services are funded through contracts with local authorities, although we also develop innovative approaches and pilot new services funded by voluntary income. Our turnover for the year ending 2006 was £22 million.

Rainer is unusual amongst large, statutory-funded voluntary organisations in that we make extensive use of volunteers. We have almost as many volunteers as paid staff. They provide support to young people by acting as mentors or appropriate adults (attending police stations to support young people whose parents cannot be there).

A further part of our work is to inform and influence public policy based on the expertise and experience of our staff and the young people we support.

For further information visit www.raineronline.org

INTRODUCTION

In this response we have focused on those areas most relevant to our work, where we have direct experience.

First we will address questions around the benefits of contestability and the strengths of the third sector. Then we will focus on issues around commissioning and contracting including the effectiveness of current processes. Finally, we will address the impact of commissioning on voluntary organisations and, in particular, fears around increasing bureaucracy and loss of independence.

It is important to note that the voluntary or third sector is incredibly diverse; a “loose and baggy monster”.¹ There are some 170,000 general charities registered with the Charity Commission and as many as 350,000 voluntary and community organisations.

Rainer's response to this consultation comes from a particular perspective—that of a relatively large voluntary organisation primarily concerned with service delivery and innovation, and receiving the majority of its funding from statutory contracts.

Just as the sector is diverse, the role that voluntary organisations play is also varied. While this particular inquiry is focused on public service delivery it should not be forgotten that this is just one aspect of voluntary organisations' work, alongside campaigning and community development/strengthening civil society. It is not always easy to separate these roles. For example, a charity that involves many volunteers from the local area within its projects is also, arguably, building social capital within a community as well as delivering a direct service. Voluntary organisations are therefore valuable well beyond the specific services they deliver under statutory contracts.

1. THE BENEFITS OF CONTESTABILITY

1(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

There are two elements to this question. First, what are the benefits of transferring a particular service to the Third Sector? Second, what are the benefits of introducing social market forces into an area of public service?

Many of the benefits from contestability arise not from large-scale transfers from one sector to another but from opening up the possibility for the best provider, *from across the different sectors*, to deliver a service. In Rainer's experience there are good and bad providers within each sector and it can be highly misleading to

¹ Kendall, J and Knapp, M (1995) A loose and baggy monster: boundaries, definitions and typologies in Davis-Smith, J, Rochester, C and Hedley, R (Eds) *An Introduction to the Voluntary Sector*, London:Routledge.

attribute characteristics according to which sector an organisation belongs to (there are, for example, some incredibly passionate staff within some public sector agencies). We would therefore put forward two arguments in favour of contestability and greater involvement of the voluntary sector:

The general impact of contestability

There is some evidence that quasi-markets have had a positive impact across public service areas from education through drug and alcohol treatment and into criminal justice. It is often not just the services that are transferred to other providers that improve. The impact of competitive forces and the threat of transfer can spur improvements within existing service providers.² It is important, therefore, not to judge the overall impact of contestability on improvements within those services transferred to other providers. The argument is that “a rising tide floats all boats”.

However, for this effect to hold it is important that (a) the aims of contestability are clearly around service improvement and *not* reducing costs and (b) that an impartial, efficient and outcome-focused approach to commissioning is in place. Unfortunately, we are a long, long way from this in many areas of public policy (see answers to section 3 below).

Specific improvements in quality

Having made the point above about the *overall* impact of contestability it is certainly possible to point to specific examples of a project or service which has thrived on being transferred to the third sector.

Education—Rainer City Training

Rainer City Training, based in Portsmouth began life as part of the local authority education service. Although it still maintains a close working relationship with the local authority it now has the independence and flexibility to engage with under-supported young people who have fallen through the mainstream education system.

Young people access the project on referral from Jobcentre plus, Connexions, the Youth Offending Team and many other local agencies. Many service users are classed as Not in Education, Employment, or Training (NEET) and may have additional support needs.

Around 660 young people throughout Hampshire take part in Rainer City Training programmes each year. Last year it exceeded the target progression rate for the Learning and Skills Council and so far this year over 80% of young people have progressed to further education and employment—a figure that is well above the regional target of 55%.

Criminal Justice—Rainer Northamptonshire

In Northampton, Rainer’s Bail and Remand service aims to support young people who are awaiting a court appearance, preventing further offending. It provides an intensive support and monitoring programme as an alternative to custody and is highly valued by the courts and other statutory partners. This is a further example of a service that may have previously been provided by statutory agencies (and indeed still is in many parts of the country).

Over the last year the service achieved a startling rate of success, preventing offending whilst on bail amongst 93% of the young people it supported. This was achieved at a fraction of the cost (both human and financial) of the young person being remanded into custody. The service manager won a national justice award in 2006 for his work with young offenders.

“Court representatives viewed the (Rainer) bail team as providing an indispensable service, and the (Rainer) remand carer team as a valuable resource” HM Inspector of Probation Report on Northamptonshire Youth Offending Service, 2006.

These are two specific examples of high-quality services, measured in terms of the targets/outcomes set out for them explicitly in terms of public policy. However, many of the strengths of voluntary organisations also lie in the different approaches that they can take in delivering those outcomes (see section 2).

² Le Grand, J (2003) “Motivation, Agency and Public Policy” Oxford University Press.

1(b) *Is a loss of accountability a threat of commissioning services?*

No. There are extensive measures of accountability already in place—both directly through the contracting process and through the variety of inspection and regulation regimes which voluntary organisations fall within.

In fact, for many organisations regulation and accountability requirements are already excessive and Rainer welcomes Government's commitment to streamlining regulation through the Better Regulation Taskforce.

One academic report found that voluntary organisations could spend as much as 40% of individual labour hours dealing with contracts,³ with much of this time being taken up with reporting requirements.

One of the strengths of many voluntary organisations is that their work cuts across statutory services and government departments. Yet this can mean that they suffer multiple reporting and accountability requirements. For example, one very large organisation was subject to five different regulatory regimes in addition to the requirements from the Charity Commission.

The process of tendering or bidding for contracts also involves hefty areas of accountability. Pre-Qualifying Questionnaires are incredibly detailed and often require large amounts of evidence including copies of organisational policies and procedures.

Rainer is in favour of appropriate accountability and transparency but, if anything, current commissioning processes and inspection regimes result in excessive and often needlessly duplicated processes rather than a loss of accountability.

2. STRENGTHS OF THE THIRD SECTOR

2(a) *Is there evidence that where services are provided by the third sector, they are popular with those who use them?*

Yes. In Rainer's experience this is the area where the clearest evidence exists. In our own case, 96% of our service users are satisfied or very satisfied with the service they receive from Rainer (Rainer survey, 2006) and 92% of them said that Rainer helped them to develop a more positive routine or better lifestyle.

At the individual project level, there are numerous examples of young people willing to engage with voluntary providers where they have disengaged from other services. Much of this may be down to a more flexible approach taken by individual voluntary providers, or it may be driven by a distrust of statutory agencies, particularly amongst those who have previously been in trouble with the law or those groups such as homeless people or young runaways who state that they are more comfortable approaching a voluntary agency.

In terms of direct evidence:

- One third of the new referrals received by Rainer City Training (see case study above) are as a direct result of recommendations from existing service users.
- Rainer South Yorkshire provides education and support to young people and young adults referred from probation and criminal justice agencies. Participants frequently continue to access the service well beyond the requirements of the referring agency. Last year Rainer South Yorkshire worked with nearly 300 people. Over 100 gained City and Guilds basic skill qualifications and over 80 entered mainstream education, training or employment.
- Rainer Lambeth Youth Inclusion Project works with those young people most at-risk of crime in the local area. Despite being a voluntary programme (ie young people are not forced to attend) the scheme has been highly effective at engaging young people and has seen arrest rates amongst the core client group fall by more than 75%.

In more anecdotal terms, service users frequently cite the attitudes of staff, flexibility of the service and distinctiveness from statutory agencies as valuable.

³ Scott, D W and Russell, L "Contracting: the experience of service delivery agencies" in Harris, M and Rochester, C (eds) (2001) "Voluntary organisations and social policy in Britain; perspectives on change and choice", Palgrave.

2(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

2(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation?*

Yes. If third sector providers are allowed the necessary flexibility.

These characteristics are closely interrelated. Innovation is often the result of an unmet need amongst service users. A number of new approaches to social problems began within the third sector, from needle exchanges (piloted by third sector organisations in London before being introduced as part of official government policy) to family support centres (piloted by Shelter and NCH and now rolled out as part of the Respect Action Plan).

These, along with many other examples, illustrate the way that third sector organisations adapt new programmes in response to the specific needs of service users. However, this innovative role can be severely hampered by poor commissioning and contracting. Too often, faced with the difficulty of measuring outcomes from services, commissioners focus on process measures instead. This can lead to unnecessary constraints on the way third sector organisations deliver services and can undermine the very strengths that attracted commissioners to third sector organisations in the first instance.⁴

Rainer has repeatedly argued for the focus of commissioning to rest on outcomes rather than simply *outputs* or processes. A more streamlined regulatory and accountability programme could give commissioners the confidence in individual organisations and allow them flexibility to meet policy objectives in the most appropriate way for their service users. Unfortunately, contracts are currently ‘micro managed’ with highly specified conditions relating to almost every aspect of the service to be delivered. This results in unnecessarily complex contracting processes, a less flexible response to individual needs and a lessening of the improvements offered by contestability (since any provider winning a contract will be forced to deliver services in exactly the same way—as set out in that contract).

Again, innovation is not the sole preserve of the third sector. Nor is it a characteristic of every third sector organisation. But the structure of third sector organisations, their ability to cut across government programmes and funding streams, the passion of staff or volunteers, and the fact that many third sector organisations are started by individuals or local communities in response to a particular need means that there is arguably greater capacity for innovation within third sector organisations.

3. COMMISSIONING

In this section we address the whole of question 3 and question 4(d).

There is no doubt that contestability within public services has been a major driver in the growth of the third sector over the past two decades. Government funding is now the largest source of income for the sector, with contracting overtaking grant programmes in providing the majority of that government funding.⁵ Rainer’s own rapid growth over the past six years has also largely been driven by statutory funding.

Stability

Unfortunately, for many providers, this has not yet lead to increased stability. Too many statutory contracts are for relatively short time periods, including a large number of annual contracts. Recent commitments to pass the benefits of the Comprehensive Spending Review 3-year budgeting cycle on to the sector are extremely welcome, as is the commitment from the Chair of the Local Government Association to end the use of annual contracts. Third sector providers have to be able to plan beyond the next 12 months if they are to achieve stability and be able to focus on meeting the needs of those they support.

Similarly, delays in payments and in contract start dates can cause enormous problems. Rainer has, on a number of occasions, been in the position of having to continue a service whose contract has passed the renewal date, on fairly vague verbal funding agreements from partners. Often, the reason for delays lies with bureaucratic processes and particularly budgetary issues within local authorities. This can result in staff receiving warnings of redundancy and can have an enormously negative impact on morale. Smaller organisations may face much more serious problems as they will be more reliant on individual contracts. It is unacceptable that any voluntary organisation should have to accept such risks and leads to unnecessary problems in the long term. In other instances other organisations have been forced to lay off staff and close services, only to reopen them and start recruitment six months later, due to the delays in funding agreements.

⁴ See Smith, S & Lipsky, M (1993) “*Nonprofits for Hire: the Welfare State in the Age of Contracting*”.

⁵ NCVO Voluntary Sector Almanac 2006.

Bureaucracy and loss of independence

Much of the concern about contracting's impact on the third sector is motivated by worries that voluntary organisations that take on large amounts of statutory funding will become more bureaucratic and less independent.⁶

However, in Rainer's experience it is not statutory funding *per se* that poses a risk to flexibility or innovation. It is the manner in which such funding is awarded and the accompanying contracting and regulatory requirements, along with the structure and response of individual organisations.

For example, an organisation may receive more than 95% of its funding through government contracts. But if those contracts are long-term, cover the full costs of the organisation and, crucially, specify desired outcomes rather than detailed process measures there is no reason why that funding should have a negative impact on the organisation.

Smith and Lipsky's analysis of the contracting process in America emphasises the role that regulation plays in growing bureaucracy amongst voluntary providers and Rainer would again emphasise the importance of more streamlined regulatory processes, particularly those that may otherwise be repeated unnecessarily by different commissioners. For example, for one tender Rainer had to produce extensive pre-qualifying questionnaire documents, accompanied by multiple copies of many of our internal documents, despite the fact that we had worked with that local authority for almost a decade. We have faced similar problems on a number of occasions, wasting an enormous amount of staff time.

Some of the best partnerships with commissioners come where voluntary organisations are involved early in the planning process, identifying and scoping the need and agreeing suitable outcomes against which to measure success.

Addressing these concerns about regulation would also better-enable smaller voluntary organisations to engage in contracting, limiting the polarisation of the sector. Regulation and form-filling is one of the most common complaints from small local community groups.⁷

Another aspect of these concerns relates to organisations who may be forced to alter their mission or values in pursuing stable funding from government. From Rainer's perspective, careful consideration is given to whether particular contracts or programmes fit with our core values and charitable objectives. There are many examples of contracts that would have allowed the organisation to grow significantly but which did not fit within these criteria and so were not pursued. Equally, part of many voluntary organisation's roles involve lobbying government to prioritise the client groups they represent, campaigning to expand services where needs are not being met.

These debates are also far from new. In the mid 1800s Rainer ran a reform school for young offenders. At the time it was funded through a range of voluntary donations but the trustees were approached by the governor of Newgate Jail. He wanted to refer young people to the school, paying a fixed amount per year for their upkeep. Though they faced financial uncertainty, trustees were concerned about a loss of independence.

Their response was interesting, and still relevant today. They agreed to accept the governor's proposal providing that for each boy referred the "*case shall appear to the Committee to be within the spirit and regulations of the Establishment*".

In other words, they agreed to enter into the contract, so long as the work fit with the aims and values of the charity. Despite the modern situation becoming more complex and involving a multiplicity of such contracts Rainer believes that a similar core approach can and should be taken by voluntary organisations today.

Campaigning and criticism of government

One particular area where concerns about independence have been raised relates to campaigning, and specifically whether growing dependence on statutory funding would limit organisations' willingness to criticise government. Though this is a valid concern, it is mitigated in the case of larger organisations where the sheer number of different funding providers will limit the dependence on a single agency. In Rainer's case, we work in 115 communities across the country, limiting how much an individual contract could pose a risk to independence.

A second safeguard exists within the voluntary sector compact and the appointment of a Compact Commissioner. The compact protects a voluntary organisation's right to campaign without the fear of funding being withdrawn and this has been successfully tested through some early complaints.

Finally, the extent to which an organisation's staff, volunteers and service users play a part in campaigning should not be underestimated. A specific need or particular problem encountered by service users cannot easily be overruled by funding considerations, even if directors or trustees (who are often passionate about the issues themselves) were tempted to do so.

⁶ See for example Seddon, N (2007) "Who Cares?" Civitas or "Breakdown Britain volume 6" from the Centre for Social Justice.

⁷ Breakdown Britain vol 6.

Other concerns about contracting

Commissioning processes are extremely varied across the country and there are some local authorities who successfully manage the social market for particular services. This involves making sure that they are well-informed about; local need, effective approaches to these needs and existing local services. The best commissioners have a clear set of objectives, often spanning across different departments or organisations and agreed at a senior level. Finally, they minimise the transaction costs of commissioning by providing simplified, long-term contracts.

Unfortunately there are numerous examples of poor commissioning. In addition to the examples mentioned above, Rainer has experienced:

- Poor tendering documents, lacking clarity about the service required and focusing too heavily on process and staffing issues.
- Final decisions being taken irrespective of the stated aims of commissioning.
- Repeated requirements for the same information in different formats and irrespective of existing services delivered for the same commissioner.
- Presentations/pitches for services being cancelled at the last minute.
- Contracts being awarded purely on price, with commissioning seen as a cost-cutting exercise.

While these are serious issues for an organisation of Rainer's size, they can be disastrous for smaller organisations.

In order to maximise the benefits of contestability and the social market approach it is vital that commissioning processes are improved. Commissioning is a difficult process, requiring quite specialised knowledge. Rainer supports the planned training programme to support key commissioners working with the voluntary sector and the involvement of the Better Regulation Taskforce already alluded to. In addition, we would like to see the introduction of standard terms and conditions for many service delivery contracts. Finally, a more streamlined, centralised approach to registration and regulation for service delivery agencies would reduce the amount of bureaucracy involved and help ensure their independence.

The special role of volunteers

One important area for the third sector not yet covered is the role of volunteers. Smith and Lipsky, highlight the shift from volunteers to paid staff as a key characteristic in the process of "bureaucratisation". They note that many contracts exclude volunteers or insist on paid staff only. In Rainer's experience volunteers have a crucial role to play, both in providing an effective service to the young people we support and in ensuring the organisation goes beyond that service to fully engage with and to built trust with those people we support.

Rainer has almost as many volunteers as paid staff and for some young people a volunteer mentor can be the only responsible adult in their lives who is not paid to be there. This relationship can provide something special alongside the professional support offered by staff.

Volunteering policy, and particularly ensuring that the costs of training and supporting volunteers are properly funded, cannot be separated from questions about contestability.

Conclusion

This is a timely and important enquiry from the Committee, at a point where the role of the third sector is high up the political agenda.

The commissioning process lies at the heart of the current approach to the third sector and can either maximise or severely limit the impact that voluntary organisations can have. It is vital, therefore, that we get this commissioning process right, enabling the social market to work efficiently and protecting the third sector from unnecessary bureaucracy and burdensome regulation.

The growing role of the third sector within a range of public services, facilitated through a social market approach, offers us the chance to dramatically improve the support available to some of society's most vulnerable groups. It is vital that we take that chance, and that is dependent on effective commissioning.

Memorandum from Turning Point

ABOUT TURNING POINT

Turning Point is the UK's leading social care organisation. We provide services for people with complex needs, including those affected by drug and alcohol misuse, mental health problems or those with a learning disability. We provide services in over 200 locations and have contact with 130,000 people a year.

Turning Point has long been a social enterprise—a not-for-profit business with charitable status run for the purpose of serving our service users in the health and social care sector. We are effectively a business focused on social capital rather than profit: more flexible and trusted than many of our commercial or statutory competitors.

We believe that social care services should be based on a Person Centred Approach, and we are rolling out this approach to all our services.

What are the benefits of contestability to the users of public services?

Contestability is central to the Government's reform programme for public services. The contestability agenda is, first and foremost, a mechanism that ensures that all sectors have an opportunity to contribute to service delivery. Genuine contestability would lead to service improvements across the statutory, voluntary and public services.

Contestability may bring greater benefits to users of public services as the voluntary sector has a long history of providing user-focussed support and services to disadvantaged client groups and has the ability to engage with those often considered hardest to reach. We are able to reach marginalised groups such young people, offenders from a black or ethnic minority background, drug users and offenders with mental health problems etc. We are more able to provide flexible, personalised and tailored services and are responsive to the needs of users.

The Third Sector Commissioning Taskforce concluded that commissioners need more clearly to understand the third sector, the organisations within it and their contribution to the commissioning process, both to inform service design, and as potential providers. Contestability will only deliver benefits for users if this is addressed. Another example is that currently contracts for the voluntary sector also tend to be fairly short-term and place quite a demand on the provider in terms of drawing up the terms and then meeting them. NCVO recently estimated that as much as 40% of an organisations time could be spent on monitoring, evaluating and securing new funding rather than actually delivering services. Turning Point is currently campaigning alongside other voluntary organisations and sector membership groups to establish more standardised forms of contract to reduce this demand on resource and place the sector on an equal footing with public and private in delivering contracted services.

Commissioners should be flexible enough to allow different providers to work in partnership with each other, getting the most out of the different skills available. If social care services are to reach all of the groups that they need to, planners will have to depend on an effective mix of agencies. No one provider can necessarily effectively meet all the varied needs of service users, which is why providers should be enabled where appropriate to work in partnership to deliver more tailored solutions and provide the right support at the right time.

Have services which have been transferred to third sector organisations shown improvements in quality?

Despite the fact that third sector providers are strictly regulated, there is a perception that the voluntary sector has no concept of, or mechanisms for, robust clinical governance. This leads to the misconception that the sector cannot be viewed as a credible, alternative provider to the statutory sector. Turning Point initiated a project with the Mental Health Providers' Forum funded by NIMHE, to understand the reality of clinical governance within NHS mental health services and the third sector, to remove misconceptions on both sides.⁸ It concluded that third sector agencies are monitored regularly and in depth by numerous bodies, and in many instances by a greater number of bodies, or to higher standards than the statutory sector. For example, in National Care Standards, managers should hold NVQ level four. This applies to both the statutory and voluntary sector, but is not mandatory in the NHS.

Is loss of accountability a threat of commissioning services? If so, how can this best be managed?

Turning Point believes that the way services are currently commissioned and provided needs to evolve in order to fully meet the needs of the people we support, especially those with complex needs who often do not get a service at all. Clearer defined roles and responsibilities for commissioners are needed. There must also be a better distinction between the overall function of commissioning which includes assessing, planning

⁸ Mapping Clinical Governance in Voluntary Sector Organisations, Mental Health Providers' Forum, National Institute for Mental Health in England.

and predicting future need, and the specific task of purchasing services. Moreover, if the voluntary sector is to play a key role in providing services, then it must also help shape the commissioning process itself, acting as broker between those funding and planning services and the people who will actually use them.

Is the third sector more likely to provide better public services than the state or the private sector?

Since 1978, research has suggested that voluntary organisations are, “cost-effective, innovative, flexible and pioneering”.⁹ More recently, a theory of “comparative advantage” has been developed which suggests that voluntary organisations, at their best, can offer particular features which are of benefit to certain groups in society, who are particularly socially excluded:

- Specialist knowledge, experience and/or skills.
- Particular ways of involving people in service delivery whether as users or self-help/autonomous groups.
- Independence from existing and past structures/models of service.
- Access to the wider community without institutional baggage.
- Freedom and flexibility from institutional pressures.¹⁰

A survey of public sector commissioners by Futurebuilders found that there were some special qualities that Voluntary and Community Sector organisations brought that were highly prized. These included links with the community, specialist services that target people often missed by statutory services, greater flexibility, a can-do attitude and strong management and leadership.

Recent research by the Department of Health has also found that local authorities are extremely positive about services provided by third sector organisations, with overall levels of satisfaction high (over 80%). 83% of authorities were either “satisfied” or “very satisfied” with third sector provision of learning disability services rising to 89% of authorities being satisfied with the provision of older people’s services by third sector organisations. Many respondents felt that the third sector was able to provide a high quality service that was both flexible to the authority’s changing demands and responsive to the needs of the client group. Third sector providers were also seen as offering good value for money and/or competitive prices when compared to other external service providers. Some local authorities had already developed good working relationships with third sector organisations, which contributed to their level of satisfaction.¹¹

Turning Point is seeking to garner further evidence of the efficacy of our approach. We are pioneering a new outcomes project, an organisation-wide data collection system, which will allow us to manage and measure client outcomes. Turning Point would recommend that the Government works with the third sector to develop a better understanding of what third sector organisations (TSOs) currently contribute, defines more clearly the added value provided by TSOs and understands the potential for even greater added value. There is a need for a broader understanding of the benefits that accrue from a diverse range of providers and for specific examples to galvanise partnership working.

Is there evidence that where services are provided by the third sector, that they are popular with those that use them?

Turning Point believes that our not-for-profit ethos means we have a greater focus on service quality and service user’s experience, embracing different ages, needs, localities and cultures. Many users say that they prefer Turning Point to statutory providers because we are more independent and better linked to their communities.

Turning Point is introducing a service user survey into the organisation later this year so that we can get more quantitative data in this area. There should be an expectation that providers from all sectors can demonstrate how they regularly assess user satisfaction. They should also undertake an analysis of whether services are meeting whole needs, and how they target social exclusion.

For Turning Point, our person centred approach means that a service does not have to have clear parameters; it moves and develops to fit the needs of the person.

⁹ Wolfenden Committee (1978) *The Future of Voluntary Organisations*, Croom Helm, London.

¹⁰ Billis and Glennerster (1998) “Human services and the voluntary sector: towards a theory of comparative advantage”, *Journal of Social Policy*, 27(1): 79–98.

¹¹ Research Report prepared for Department of Health by IFF Research Ltd, 13 February 2007.

CASE STUDY: SIMON JOHNSTON

Simon has a learning disability caused by a brain injury. He decided to set up his own business, and chose the idea of a cleaning firm, as it is “something people always want done”. With support from Access Point, a Turning Point outreach service, Simon received advice from Business Link about setting up a business. He completed a course to develop a business plan and obtained legal advice on setting up a co-operative so everyone involved is part of the business. Four other people with a learning disability joined him and they have contracts for cleaning. The work is split into shifts and everyone gets paid a wage.

Is there evidence of demand for more services to be provided by the third sector? If so, who from?

According to research commissioned by the Department of Health, local authorities want to see more services provided by the third sector. One in five authorities said they would like to transfer additional services, but were unable to find external providers.¹²

Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

Turning Point’s service users have multiple and complex needs. They are people who the private sector cannot profit from and the public sector find it hard to reach. The third sector has become, for them, a more effective intervention, combining highly responsive services and hard-hitting campaigning.

Turning Point has responded to the complex needs of our clients by providing person-centred responses working with whole people not single problems and drawing together whatever support is needed across the boundaries of social care, including health, housing and education. We are clear that it is our responsibility and not the service user’s to join services together. We bring greater responsiveness and flexibility and the ability to deliver specialist services that target people often missed by statutory agencies ensuring that services both reflect the needs of communities we work in, and in turn strengthens those communities through our involvement in building social capital.

Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

Today’s health and social care provision is failing to support the many people with complex needs who need the most help. Current arrangements are fragmented and access for people with complex needs is not straightforward. There is a significant gap in provision in the most deprived neighbourhoods and many services focus on people’s problems in isolation from the rest of their lives.¹³

There is an increasing recognition amongst government, policy makers, commissioners and other providers that social care is becoming the paradigm within which future mental health services will be provided and so there will be increased demand for services for people who have mental health and other needs such as a learning disability or a forensic history. There are significant opportunities to present new models of provision, which deliver “connectedness” with other services. Voluntary sector services are often the glue between different partners such as housing and health, health and social services. We can play a pivotal role in making links with other services and help develop consistent support and help people navigate between systems.

Turning Point has extensive expertise in working with people with a range of needs and a readiness to work with people irrespective of their labels. For example, we know that half of the drug users we see also have mental health problems and those same people also need support on issues such as housing, debt and seeking employment. Our experience convinces us that in the future, health and social care services will need to be more integrated. Service users do not want to have to do the work of “joining up” services themselves: they want services that fit around their lives. People with serious social care needs should not have to knock on several different doors of several different agencies to get help, and in many cases they simply will fail to access support. As services change to deliver greater choice to clients, integration will become more and more important. Turning Point is working to ensure that primary care reform is inclusive of social care reform and that new services are integrated in a much more sophisticated way in future. Our aim is to work with commissioners to advise them on how best to innovate to deliver services that meet the needs of the whole community, and the most socially excluded groups.

To this end, Turning Point has developed a new approach to service delivery, “Connected Care” which provides a joined up, tailored range of services which are designed by and respond to the needs of the individuals and communities they serve. It is designed to focus on neighbourhoods in the most deprived areas in England. Connected care brings together mental health, substance misuse, learning disability and other specialist services. It also offers universal support—housing, education, employment and benefits—all with one single point of entry. It is a new way of commissioning services: empowering communities to have more control to design and deliver their own services.

¹² Ibid.

¹³ Turning Point/IPPR report 2004.

Another way in which third sector providers can lead to greater scope for innovation is in the opportunities for partnership with other sectors, sharing the skills and qualities that each provider can bring to the service. As with Connected Care, this partnership should not be limited simply to the providers of services, but must also be with the consumer. The people with the most understanding of which kind of services will be needed in any given area are the people who will (or will not) use them. The public should have a sense of ownership and control over public services. Individual budgets and direct payments are examples of ways in which services can be developed in partnership with the service user and third sector organisations have been leading the way in the introduction of this kind of approach.

One area where third sector involvement could lead to more of this kind of innovation is that of offender management. Turning Point already works with the Probation Service to provide drug intervention programs and could build on this experience to provide innovative rehabilitation services:

CASE STUDY—SOMERSET DRUG INTERVENTION PROGRAM

Turning Point staff at the Drug Intervention Program team in Somerset have an effective partnership with their Probation Area and with the Prison Service, to address substance misuse by offenders. They work in multi-disciplinary teams based in probation offices. The team includes members of probation staff and an NHS nurse. They not only share an office, but also facilitate group work jointly, have weekly team meetings, discuss cases freely and make joint decisions on individual plans. All team members work out of each other's bases. For example Turning Point run groups and clinic sessions at the NHS drugs clinic and see referrals for assessment and 1:1 appointments at the local Turning Point office. The Turning Point team members are known by the other individual team members and are warmly welcomed by them. Although the different workers come from very different professional backgrounds they work effectively together.

Currently not enough is being done to ensure that the underlying causes of crime are tackled within the Probation Service. Offenders often have a range of complex needs which need to be addressed:

- 78% of people who come into contact with Turning Point's criminal justice services are unemployed.
- 1 in 3 prisoners are without permanent accommodation before their custodial sentence. A lack of suitable housing can affect an offender's ability to find work. The Social Exclusion Unit found that three times as many offenders with accommodation on leaving a custodial sentence found paid employment compared to those who left without having accommodation. Without suitable housing, it may also be difficult to register with a local GP and benefit claims may be adversely affected.¹⁴
- Around half of patients in drug and alcohol services have a mental health problem.¹⁵
- 8 out of 10 male remand prisoners who were drug dependent had two additional mental health problems.¹⁶

In the past, people with such complex needs have not been given the right support. Funding has often only been available to tackle single problems, making it difficult for the voluntary sector to develop the right kind of "holistic" care. Integrated support services across mental health, drug and alcohol misuse for offenders within community sentences could revolutionise probation services and improve the health of offenders. Tackling the underlying causes of criminal behaviour will in turn reduce reoffending and bring savings to the taxpayer. An expanded role for the third sector could build on providers' experience of working with partners in probation and of linking offenders to wider community-based services to put social care at the heart of the criminal justice system.

Does commissioning benefit the third sector?

Will contractual relationships with the state improve stability within the third sector?

Turning Point is a third sector organisation which exists for public benefit. Our aim is to "turn lives around". We do not make a profit, nor do we have shareholders. The income we receive from the provision of public services is ploughed back into service delivery for the benefit of our clients. Such funding gives organisations like ourselves the stability we need to continue to achieve our aims.

We deliver services which help some of the most socially excluded people in the country. The reality they experience in general is that they frequently struggle to find the support they need. Without Turning Point support funded by contractual relationships with the state, these people very easily fall between the gaps in traditional public services.

¹⁴ The Social Exclusion Unit.

¹⁵ (Dual Diagnosis Manual Royal College of Psychiatrists (2002). Dual Diagnosis, Good Practice Guide (2002 Department of Health).

¹⁶ Ibid.

Because of the stigma and problems associated with substance misuse or mental health problems, our client group are often the people left at the back of the queue when it comes to charitable giving. Therefore to support them effectively, we need to broker contractual relationships with the state. It is the state's responsibility to fund services to ensure that these people get the support they need, but the state does not have to do all the work alone.

Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

There is no evidence that charities involved in public service provision are wary of being critical of government. Turning Point received 97% of its funding from contracts and grants from central or local government to provide public services. However, as a third sector organisation, this has never stood in the way of our work in giving our service users a voice to speak to the heart of government. In fact, the opposite is true; we are an effective campaigning voice precisely because of our frontline experience. Our research and policy work has always been rooted in making practical recommendations on how we can best turn lives around, taking those ideas to government, the media and the public and directly piloting innovative new services. Thus our campaigning and service delivery roles are complementary: the way we deliver services is informed and strengthened by our direct role in campaigning. Examples of Turning Point's effective campaigning over the last few years include:

- **Routes into Treatment:** A hard-hitting campaign calling for a radical rethink of criminal justice responses to drug problems highlighting the dangers of ignoring the public health and social care impacts of substance misuse.
- **The Crack Report:** A pioneering piece of research into the rise of crack use in the UK and the changes in policy needed to tackle the issue effectively.
- **Hidden Lives:** A shocking analysis of the stigma and inequality faced by people with a learning disability: Despite the Government's stated commitment to tackle social inequality and exclusion and to create an "opportunity society", people with a learning disability who have high support needs are too often socially and financially poor—living in, but rarely part of their communities.
- **Bottling it Up:** A campaign to highlight the needs of the one in eleven children in the UK who live with parental alcohol misuse. This previously neglected issue was as a result of our campaign, mentioned by Tony Blair in his speech to launch the government's Social Exclusion Action Plan in September 2006: "One of the biggest problems we face is parents who misuse alcohol. One in eleven children in the UK live with at least one such parent".

Is there a risk that the service providers will become increasingly bureaucratic?

There is a risk that if commissioning is not got right, too much of service providers' time will be taken up dealing with the bureaucracy of the tendering process. This is not, however, an argument for there to be no contractual relationship at all. By standardising and streamlining the contractual process, as the government aims to do, statutory commissioners will be able to get the most out of their providers, no matter what sector they come from.

Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

Turning Point delivers a much needed service to the public, but that is not the same as becoming a state-run public service. It is precisely our values as a charitable, social enterprise, unencumbered by shareholder interest that makes us so responsive and engaging for those who need us. It is interesting that the idea that the "independence" of private sector providers of public services is rarely questioned to the same degree.

Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

This question implies that larger, service providing organisations are not "radical". Thinking of national organisations, such as Turning Point, as one homogenous service provider misinterprets how we operate. Turning Point has individual contracts with many local authorities, commissioners, and primary care trusts to provide bespoke services for which we are locally accountable. This gives us the freedom and flexibility to radically respond to the different needs of our service users in different areas of the country. On the other hand, our size enables us to share best practice and to deliver better value for money, as well as giving us the ability to champion the needs of our service users in our national campaigning role.

Our experience has shown us that it is when we are commissioned to work in partnership with local providers, all the stakeholders benefit from that partnership. It is essential that the commissioning practice is inclusive of smaller organisations and that consideration is given to sub-contracting to smaller organisations.

We believe that more can be done to encourage growth in the third sector and support smaller organisations to become more sustainable. The Government's Change-Up programme should be used to enable larger voluntary sector providers to build the capacities of particularly small organisations to enable them to participate effectively.

As part of this programme, Turning Point was funded by the Home Office to support small voluntary organisations with a substance misuse connection to become more sustainable. Support offered by Turning Point included advice on setting up new services, training for staff on harm reduction and other drug issues, linking with similar organisations in other parts of the country, support with research projects and marketing advice.

Does commissioning services from the third sector have any benefits for the state?

Turning Point, like other social enterprises and third sector organisations delivers all the wealth of benefits to society that meeting the needs of our service users can bring. Moreover, we contribute to the wider economy through our services, turnover and employment, but unlike a business, we are not driven by the need to maximise profits for shareholders and owners.

Are services cheaper to provide?

It is a common misconception that services provided by the third sector will be cheaper than those provided by any other sector and that as a result either cost savings can be made, or increased capacity can be achieved for the same level of resources. Statutory commissioners can sometimes take the attitude of "This is the service we need provided, here's the money we are willing to give you get on with it", and third sector organisations can often be the first target for cuts in funding.

At Turning Point we believe in the principle of full cost recovery for our services. The third sector should not be seen as a cut-price alternative to statutory provision.

Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?

Third sector organisations need to be involved from the start in planning and providing services for the people they work with. This requires fundamental changes to the way voluntary organisations are treated. Turning Point has argued that we need a more strategic relationship that doesn't treat the voluntary sector as amateur or as a cheap alternative. The professionalism and expertise of not for profit agencies should be recognised both in the way they are funded and in the influence they have on the development of projects and social policy. Just as voluntary agencies should not expect handouts on the basis that their work is "worthy", service commissioners should not expect them to run services at a loss because they are "charities". Based on these principles the charity sector should be treated as one element in providing effective social care to every member of society, even those hardest to reach.

Third Sector organisations are not asking for special treatment. The sector needs to get better at contracting and understanding the commercial environment in which we operate. Third sector organisations should be judged with the same high standards on responsiveness, accountability and quality as any other sector. They should, however, be able to operate on a "level playing field" when it comes to public service provision. The sector as a whole has been, and in many respects continues to be, on an uneven footing with other providers:

- Unfavourable and short-term contracts are the norm. "Sudden death" contracts are not uncommon.
- There is a suspicion that voluntary or social enterprise organisations are less professional and business-minded than private sector providers.
- The costs of the Department of Health are included in PCT contracts; private sector organisations are expected to have overheads but the voluntary sector has to continuously justify and defend its own corporate costs.

To redress the balance, Turning Point has a number of recommendations to build the capacity of third sector providers.

A VOLUNTARY FINANCE INITIATIVE

Steps have been taken to help increase the capacity of the third sector. For example the Futurebuilders fund is designed specifically to provide investment support for organisations that want to take on a role in public service delivery, or expand their existing role. Turning Point would like the Department of Health to address the third sector's access to long term capital finance. In the United States, the not-for-profit sector is able to borrow money through bond issues and have access to capital. This gives greater flexibility to the voluntary sector. 60–70% of the market place is dominated by the non-profit sector to the exclusion of the

private sector. In contrast, the voluntary sector in this country is unable to access loans for large scale capital projects as it is unable to compete with the private sector. Although Futurebuilders heralds increased opportunities to expand service delivery, the part dedicated to capital investment is a small part, of a relatively small pot of money. This has encouraged practitioners in the voluntary sector to look to new forms of accessing capital finance. Turning Point would like to see the development of a Voluntary Finance Initiative (VFI) to allow not for profit organisations to raise capital finance to compete more directly with private and public sector organisations. Currently, contracts are often short-term and charities are forced to spend a large amount of their time working on contracts and securing funding. This is time that could be better spent on delivering the services that are needed. VFI would ensure longer-term and more standardised contracts that voluntary agencies could borrow against to invest in capital or other development costs of the service. The benefits of VFI would include:

- Increasing larger TSOs' capacity to deliver services, funded by PCT contracts.
- Increasing the supply of services which meet the long-term care needs of socially excluded groups, and in certain politically sensitive and pressing areas such as substance abuse, in which the private sector is relatively weak.
- Reduced pressure on other services, including hospital waiting lists.
- Increased competition and choice for commissioners and service users.
- Enabling PCTs, and other purchasers/funders, to maintain a share in equity.
- Over the longer term capital investment would return to government rather than to private investors.
- Reducing the risks of over-dependence on private sector providers.

One area where VFI could be particularly beneficial to the health service is "out of area placements". Local authorities without enough specialist services, for example mental health support, are forced to fund patients to access services out of their area. This is costing the NHS huge amounts of money each year. VFI would allow agencies to borrow money to develop services in that area, leading to long-term savings and allowing service users to stay close to their homes, families and carers.

A STANDARD FORM OF CONTRACT

Third sector organisations should be able to expect fair and consistent procedures to negotiate with local authorities, and such procedures would encourage greater enthusiasm from the sector for providing public services. Currently, there is considerable variation in contracts between local authorities and third sector providers. The nature of the contract itself can undermine what a voluntary sector organisation wants to bring to a service, for example, if it is overly prescriptive about processes rather than outcomes. Turning Point believes that a standard form of contract between the voluntary sector and local government would ensure fair contracts and efficient use of resources for both parties. A standard form of contract would clear up the anomaly, whereby a voluntary organisation has a fixed contract with central government (the voluntary sector compact) but must renegotiate new agreements with local authorities. A standard form of contract has the potential to enhance focus on the actual service rather than the legal framework it is going to be delivered under. It will also make services easier to monitor and will enable commissioners to draw comparisons across different providers and between different localities. Already tested at national level, the Standard Form of Contract is a practical step that promotes a contestable welfare market. Turning Point has developed its own standard form of contract which could be adopted across local government. This would make the contracting process more consistent and equitable.

March 2007

Memorandum from Amicus

Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and the health service.

As a trade union, Amicus is one of the few stakeholder organisations representing the needs of the workforce in the third sector. Our experience in other sectors, both public and private, puts us in a unique position to evaluate what works well in the sector, as well as to identify where there are gaps or scope for improvement.

EXECUTIVE SUMMARY

- Amicus is a major stakeholder in both the third sector and public sector.
- Amicus welcomes the new focus on supporting infrastructure in the third sector but thinks much more needs to be done.

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- The third sector is a valuable partner to public services but this is what it should be—a partner not a replacement.
 - Amicus is against the marketisation of public services and thinks that the project of involving the third sector in reform lacks clarity and an effective evidence base.
 - It is important not to over-simplify the issue—the third sector covers vast numbers of different types of organisations and these roles should be properly audited.
 - Third sector organisations have always had a role in public services but this should be about improving services and adding value to them not taking on their provision.
 - Amicus is against the creation of new third sector organisations for the express aim of outsourcing public sector jobs—such as the NHS pathfinders.
 - Commissioning is having a negative effect on many organisations in the third sector including on their independence, work-force and their ability to work collaboratively.
 - Amicus members report that the “new atmosphere of competition” is damaging services and reducing workplace terms and conditions in both the third and public sectors.
 - Amicus proposes a more measured and collaborative approach to public service reform based on our six public service values.

THE AMICUS CASE IN DETAIL

Amicus the Union

1. Amicus has over 30,000 members in the third sector and more than 150,000 public sector members in areas as diverse as local authorities, the health service, Royal Mail, education, prisons and the MOD. This makes Amicus a major stakeholder in both the third sector and public sector.

Commitment to the third sector

2. The Government has shown a welcome commitment to the third sector and Amicus acknowledges the work that the Office of the Third Sector is doing to tackle some of the biggest issues affecting the sector. However more needs to be done.

Employment in the third sector

3. The sector’s infrastructure is woefully inadequate when compared to other sectors. Recent evidence shows that wages are 20% lower on average than the public and private sectors.¹⁷ Job insecurity caused by funding pressures and short-term contracts means that staff turnover in the sector is unnecessarily high. The People Count 2006 survey found that on average one fifth (21%) of all employees in the sector left their jobs last year—the national average for all jobs is 16%.¹⁸ As a result approximately 77% of voluntary and community sector organisations have experienced retention difficulties in the past year.¹⁹

4. In addition public and private sector spending on training and development is, on average, over 50% higher than the third sector.²⁰ This has a major impact on skills in the sector.

5. Amicus members also report that pension provision varies drastically between different organisations and high staff turnover means that many people have little or no meaningful pension provision. Poor pension provision disproportionately impacts on women especially as in the Third Sector there is very little pension portability.

6. The National Council of Voluntary Organisations (NCVO) claims that 38% of the voluntary sector workforce is employed on a part-time basis and an estimated 1.1 million full-time UK workers would be needed to replace formal volunteers at a cost of approximately £25.4 billion (based on the national average wage), well over twice the number of full-time equivalent paid employees in the voluntary sector.²¹

7. The sector is also predominantly staffed and managed by women.²² Raising the employment standards in the sector would therefore have a significant impact on the historic gender pay gap and tacit discrimination against women in British employment structures.

¹⁷ Croner Reward 2007.

¹⁸ People Count Survey 2006.

¹⁹ Ibid.

²⁰ Ibid.

²¹ NCVO Almanac 2006.

²² People Count Survey 2006.

Framework for the sector

8. In the light of this Amicus is arguing for a national framework to cover all working conditions including rights for volunteers, longer and better designed funding cycles, flexible working, a commitment to life-long learning through a “university for the third sector” and a Sector Skills Council as well as a sector-wide pension system. These ideas are developed further in Amicus’ response to the Third Sector Review.²³

PUBLIC SERVICE REFORM AND AMICUS

9. Amicus recognises the importance of public service reform to meet the changing needs of service users and the modern world. Amicus further welcomes the increased levels of investment brought in by the Government over the last 10 years. The Government itself has acknowledged that the quality of peoples’ experiences of public services depends upon the individuals who deliver them.²⁴ It is therefore vital that any initiative to reform public services is done with the support and involvement of employees rather than at their expense.

10. Amicus values public services and believes that good public services are worth investing in. Any reforms must be well evidenced and piloted, sustainable and properly financed. In the light of this Amicus has launched a campaign focusing around six public services values that Amicus believes should underpin any further changes to public services—namely Valuing public service users and staff, Accountability, Long-term commitment, Universal Access, End to market madness and Sustainability. These are explored further in a paper we have published on Valuing Public Services.²⁵

11. Third sector organisations have always had a major role in public services. Organisations have often developed to fill the gaps and influence the development of our public services. They have been involved in improving the services through developing new innovative services that add value to those provided by the state. Amicus believes that this role should be supported and recognised more widely.

12. It is important not to over-simplify this. The term third sector covers a vast array of different types of organisations and their roles and actions need to be carefully evaluated if they are to have a positive impact on public services. Too often this debate is framed around the idea that the public sector is bureaucratic and inefficient whereas the third sector is a panacea to every problem. Amicus rejects this position as ideologically driven and lacking in evidence. Both the third sector and the public sector contain examples of good and bad practice and the reasons are often nothing to do with which sector they belong to.

13. Amicus calls for all services to be properly analysed and audited through the collaborative involvement of all stakeholders including trade unions.

14. Amicus’ policy is clear—Amicus is “opposed to all forms of privatisation of public services . . . Public services must be provided on the basis of human need not the drive for profit”.²⁶

15. While Amicus’ policies predominantly focus on the private rather than third sector it is difficult to separate the two sectors from the Government’s rhetoric of public service reform. A major aim is “the introduction of greater competition and contestability in the provision of public services,”²⁷ or as PASC rightly described it, opening “markets for public services to new suppliers from the private and third sector.”²⁸ Not only is this policy completely opposed by Amicus members in the public sector but many Amicus members in the Community and Not for Profit sector are seeing that while their sector has much to offer public services it is increasingly being used as an outrider for the privatisation of public services.

16. Housing associations offer the clearest example of how the sector is being used to these ends. Amicus members in both housing associations and council housing have raised major concerns over recent press releases about housing associations considering flotation on the stock exchange²⁹ and the recent recognition of a profit-making company as a “social landlord”.³⁰ Amicus members see social housing as a vital public service and work for both the public sector and non-profit organisations because they value the services and the needs of service users above their own financial gain. They do not want housing associations to be used as a stepping stone to full privatisation.³¹

²³ Amicus response to the Third Sector Review, 2006
<http://www.epolitix.com/NR/rdonlyres/576DB637-9DD0-44A1-B04D-9131F1C4BEA8/0/AmicusresponsetotheThirdSectorReview.pdf>.

²⁴ HM Treasury, “Cross Cutting Review of the Public Sector Labour Market”, November 2002.

²⁵ Amicus, “Valuing Public Services”, 2007 <http://www.amicustheunion.org/PDF/Valuing-Public-Services.pdf>

²⁶ Decisions of Amicus Policy Conference 2005
<http://www.amicustheunion.org/pdf/2005policydecisions.pdf>

²⁷ Prime Minister’s Strategy Unit, “The UK Government’s Approach to Public Service Reform”, June 2006.

²⁸ Public Administration Select Committee: Inquiry Commissioning Public Services from the Third Sector
http://www.parliament.uk/parliamentary_committees/public_administration_select_committee/pasccommissioning.cfm

²⁹ Inside Housing, “Flotation considered by many of sector’s big hitters”, 26 January 2007.

³⁰ Housing Corporation press release, “First ever private housing manager wins Corporation accreditation”, 30 January 2007.

³¹ Amicus response to the Cave review, February 2007
<http://www.amicustheunion.org/pdf/CaveReviewSubmission2007.pdf>

17. Many organisations are being forced by funding or cuts in state provision to take on delivering services wholesale. Sheila Brown, Chief Executive of BDF New Life, raised this issue when discussing the provision of equipment for disabled children: “We started off by supporting the state, and now we are replacing it . . . the Government talks about a partnership with the voluntary sector, but it’s not a partnership—it’s a replacement”.³² Amicus is against the marketisation of statutory public services and their transferral to the third sector. Amicus believes that one of the state’s key roles is to guarantee a basic standard of life to all its citizens. It should not be down to charity alone to provide for the fundamental needs of people in the UK to have a reasonable quality of life.

18. In particular Amicus is against the creation of new third sector organisations for the express aim of outsourcing public sector jobs—such as the NHS pathfinders. There is a big difference between bringing organisations with a long history of innovative work closer to public services and the Government actively creating new organisations with no grassroots legitimacy as a vehicle to outsource public sector work and jobs.

19. Amicus is concerned that the aim of this policy seems to be to transfer risk and responsibility for public service delivery away from government and onto other organisations.³³ It also seems to be about cutting costs to compensate for budget deficits caused by expensive PFI contracts and consultancy fees. The result of this policy will be the fragmentation of vital public services such as the NHS and ultimately a poorer service for users.³⁴

20. Amicus also has concerns about the levels of bureaucracy that opening markets will cause. This is especially true for the policy of “double devolution” and bureaucracy which creates the extra cost of two tiers of commissioning drawing public money away from front line services. This process seems to work against the principles of the Gershon review.

USER LED SERVICES AND COLLABORATIVE REFORM

21. Amicus fully supports the idea of user led public services and users being involved in the performance assessment and improvement of their local services. Appropriate and effective mechanisms need to be developed for this to happen. As major stakeholders, user led third sector organisations should be involved with designing and reforming public services.

22. Amicus is concerned that badly designed user engagement schemes could increase bureaucracy with negligible benefits. Any scheme needs to be effectively tested before being rolled out.

CHOICE

23. Similarly Amicus rejects the idea that choice between pluralities of service deliverers is the best way to build user led services. The agenda undermines universality and increases long-term private sector involvement in the provision of our public services.³⁵ Evidence from both the House of Commons Public Administration Select Committee³⁶ and the National Consumer Council³⁷ found that people were more interested in choosing how and when to access services than choosing between service providers.

THE INVOLVEMENT OF STAFF

24. Amicus recognises that the experience of public service users depend on the staff delivering those services. User engagement with public services works best when partnered with the engagement of staff. It is not the case that the interests of users and staff are intrinsically opposed. In fact, empowered users require empowered workers. The benefits of bringing staff and service users together to improve services have also been explored by the National Consumer Council in its Shared Solutions project.³⁸

25. Amicus recognises the positive work the Government is doing to support volunteering. Amicus is keen to see UK citizens being more involved in society and encouraging participation and volunteering as a way to support public services. However volunteers should never be used to replace the trained and skilled public service professionals that are needed to guarantee a good service to all.

³² Quoted in Third Sector, 29 November 2006.

³³ Ann Blackmore NCVO, “How voluntary sector organisations can help transform public services”, June 2006—http://www.ncvo-vol.org.uk/uploadedFiles/NCVO/Policy/Public_Services/Transform%20Report%20-%20Final.pdf

³⁴ Amicus response to “Health Reform in England: update and commissioning framework”, 2006 http://www.epolitix.com/NR/rdonlyres/30AD076C-5B1F-408F-861B-DB4FE56A9C80/0/AmicusResponsetoHealthReforminEngland_updateandcommissioningframework2.pdf

³⁵ Decisions of Amicus Policy Conference 2005 <http://www.amicustheunion.org/pdf/2005policydecisions.pdf>

³⁶ Choice, Voice and Public Services Fourth Report of Session 2004–05.

³⁷ “Engaging the user—NCVO workshop”, 15 November 2004 Philip Cullum, Deputy Chief Executive, National Consumer Council. Also in the House of Commons Public Administration Select Committee Choice, Voice and Public Services Fourth Report of Session 2004–05.

³⁸ <http://www.ncc.org.uk/publicservices/index.htm>

26. Amicus strongly opposes policies that require public service job cuts and cuts to public sector worker pensions to finance government spending plans and believes our public services require more and better trained public servants not fewer.³⁹

DEMAND

27. Amicus is concerned that there is little or no evidence about the popularity and demand for the extension of voluntary sector organisations to deliver public services. Much of the vocal support for these policies comes from employer groups such as the Association of Chief Executives of Voluntary Organisations (Acevo) or the Confederation of British Industry (CBI). The campaign by the CBI to push for a system of competitive neutrality in public service contracts is a good example of this and is part of a campaign to bypass the third sector and privatise public services rather than constructively reform them.

ACCOUNTABILITY

28. Amicus is concerned about any loss of accountability that could be associated with third sector organisations delivering public services. Under state delivery there are clear avenues for holding services to account through the election of public representatives. Amicus recognises that some third sector organisations do have a high level of services accountability through their links with different community groups and users as well as public auditors. These are valuable additions to the traditional structures of public accountability but should not be used to replace them.

SUSTAINABILITY

29. Amicus believes that part of the problem of facing public services is the Government's "permanent revolution" in public service reform and the constant political battle over the amount of money available to public services. Public service reform needs to be based on a long term commitment to funding and a sustainable approach to reform.

QUALITY

30. There seems little evidence to suggest that opening up services to different suppliers is leading to better quality services. In fact, the experience of Amicus members is that much of the Government's reform agenda is ideologically driven and actually leading to the deterioration of service quality (see below). One major concern is the fragmentation of services caused by commissioning and subcontracting. This reduces the ability of the various services to plan and cooperate effectively.⁴⁰

IMPACT OF COMMISSIONING ON THE THIRD SECTOR

31. The experience of Amicus' members is that commissioning and contestable tendering is having a negative effect on many organisations in the third sector. The move away from grant funding to service delivery contracts is leading to a reduction of the independence of many organisations removing much of their ability to innovate and advocate on behalf of service users. A recent online poll carried out by the Directory of Social Change showed that more than 72% of respondents agreed that increased voluntary sector involvement in public service delivery was changing the spirit of the sector by moving it away from its voluntary routes and tying it down with contractual relationships. Government cost-cutting and the erosion of charity independence were also major concerns.⁴¹ Similarly the recent Charity Commission survey showed that "only 26% of charities delivering public services felt they were free to make decisions without pressure to conform to their funders' wishes".⁴²

32. These concerns seem to agree with the experience of many in the Australian voluntary sector where these policies were originally developed. The Australian Institute has highlighted that the advocacy role of organisations has been curbed by the need for government funding. They report "implicit pressure to censor

³⁹ Decisions of Amicus Policy Conference 2005

<http://www.amicustheunion.org/pdf/2005policydecisions.pdf>

⁴⁰ Amicus response to "Health Reform in England: update and commissioning framework", 2006, http://www.epolitix.com/NR/rdonlyres/30AD076C-5B1F-408F-861B-DB4FE56A9C80/0/AmicusResponsetoHealthReforminEngland_updateandcommissioningframework2.pdf

⁴¹ Graham Leigh, "All change" Society Guardian, 23 November 2006 <http://society.guardian.co.uk/voluntary/comment/0,,1955275,00.html>

⁴² Charity Commission, "Stand and Deliver: the future for charities delivering public services", February 2007.

themselves”. 90% of respondents believed that dissenting organisations risked having their funding cut. Three-quarters (74%) believed that NGOs were being pressured to make their public statements conform with government policy.⁴³ Several Australian newspapers have also reported that “organisations that have been critical of the Government, such as the Australian Council of Social Service and the Brotherhood of St Laurence, have been frozen out of debates”.⁴⁴

FUNDING

33. Amicus members report that contestability is damaging services and leading to a race to the bottom in workplace terms and conditions in both the third and public sectors. To win bids organisations are cutting wages, training and pension provision. Although the Government claims that bids are based on “value for money”, in practice “best value” often means “cheapest price”.

34. For example the Citizens Advice Bureau (CAB) in Manchester had to cut staff terms and training in order to win service bids. Amicus members in the Refugee Legal Service report a funding contract leading to a three year pay freeze for all staff. If they didn’t accept this the contract would have gone elsewhere including possibly to the private sector. In three recent cases—involving Stonham Housing, Stoke CAB and NCH—this is exactly what has happened. These are all large not-for-profit organisations, but they were out bid by loss leading private companies.

COMPETITION AND COLLABORATIVE WORKING

35. Amicus members working in Save the Children, NCH, Children’s Society, Barnardos and NSPCC report that competitive funding has led to a reduction in collaborative working amongst the major children’s charities. Our workplace representatives report a new culture of fear that information sharing could lead to them losing funding to another organisation.

EQUAL PAY AND TWO TIER WORKFORCE

36. The commissioning process has led to problems with equal pay and the two tier workforce. As was mentioned earlier voluntary sector staff are often paid less than their counterparts in the public sector. At the same time employees within the voluntary sector are often on variable terms due to the funding contracts that pay for their work. This raises major issues around equal pay as some projects are better funded and thus some staff have better terms than others.

FULL COST RECOVERY

37. Contracts that are given to the third sector need to be much better developed and funded. The Office for the Third Sector told Amicus that only 57% of all public funding for the third sector currently achieves Full Cost Recovery. Worse still the Charity Commission recently reported that only 12% of charities say they achieve full cost recovery for all public services they deliver.⁴⁵ For example a survey by RNIB and National Association of Local Societies for Visually Impaired People (2006) showed that of 108 contracts won by 32 visual impairment voluntary organisations half were under-funded by at least 10%, a quarter were under-funded by 25% and nearly a tenth were under funded by 75%. Amicus recognises the work that government is doing to improve funding contracts but much more needs to be done so that contracts meet the full costs incurred by the organisations that deliver them.

38. Despite the welcome commitments from government to extend the length of funding contracts, over two thirds of all funding agreements for public service delivery are still for only one year.⁴⁶ Amicus’ report “Short term funding, short term thinking”⁴⁷ illustrates the concerns that our members have about funding contracts. Funding systems need to be far less bureaucratic and labour intensive. The current system is excluding organisations that have not got the capacity to bid and further exacerbating the divide between large and small organisations. Contracts should cover all the costs associated with them including administration and the bidding process. Many contracts need to be much longer and there should be a much

⁴³ The Australian Institute, “Government Gags Community Voice”, 2 June 2004 <http://www.tai.org.au/documents/downloads/MR171.pdf>

⁴⁴ Sarah Maddison and Clive Hamilton, “The repression of the bleeding hearts”, Sydney Morning Herald, 27 January 2007 <http://www.smh.com.au/news/national/the-repression-of-the-bleeding-hearts/2007/01/26/1169788693380.html>
“Silencing the Critics”, The Age, 27 January 2007.
<http://www.theage.com.au/news/opinion/silencing-the-critics/2007/01/26/1169788690664.html>
Patrick Allington “Silencing Dissent: How the Australian Government is Controlling Public Opinion and Stifling Debate”, The Australian, 3 February 2007
<http://www.theaustralian.news.com.au/story/0,20867,21142636-5003900,00.html> and

⁴⁵ Charity Commission, “Stand and Deliver: the future for charities delivering public services”, February 2007.

⁴⁶ Charity Commission, “Stand and Deliver: the future for charities delivering public services”, February 2007.

⁴⁷ Amicus, “Short Term Funding—Short Term Thinking” 2006
<http://www.amicustheunion.org/pdf/Funding%20Survey.pdf>

better system of contract renewal. Amicus suggests automatic renewal to successful organisations that are delivering well. These issues are also highlighted by ACEVO in its “Surer Funding”⁴⁸ survey and by the National Audit Office in its document “Working with the Third Sector”.⁴⁹

39. Amicus members working for Peace and Reconciliation in Belfast have reported a positive approach to designing and implementing funding contracts for their work. Competitive funding in this environment is inappropriate as some voluntary sector organisations in the field could be perceived to be part of a specific community and thus funding one over another could lead to accusations of bias and sectarianism. Instead a system of collective bidding and cooperative funding has been developed whereby funders and bidding organisations get together to design the project and share the funding cooperatively between all concerned. Amicus sees this as a positive way forward to develop third sector funding.

A PARTNER NOT A REPLACEMENT

40. In conclusion, Amicus proposes a more measured and collaborative approach to public service reform based on our six public service values. The third sector is a valuable partner to public services but this is what it should be—a partner not a replacement.

March 2007

Memorandum from the Commissioning Joint Committee

WHO WE ARE AND WHY WE ARE RESPONDING

The Commissioning Joint Committee comprises nominees of organisations representing all the disciplines involved in the commissioning of local authority work and services. We publish guides to many aspects of commissioning, particularly those posing problems needing input from a range of disciplines.

The CJC is sponsored by CIPFA but is an independent body, does not accept funding from any source, and meets all its expenses from the sale of guides. Our website is at <http://www.cipfa.org.uk/pt/cjc/index.cfm>

Background: The Third Sector and Commissioning The government’s push . . . is part of a wider policy agenda of contestability, or opening up markets for public services to new suppliers from the private and third sector.

Under this model, public, private and third sector suppliers compete for public service contracts on a truly “level playing-field” without discrimination on the basis of their sector membership . . .

We appreciate that that is part of the background, not a question, but we think it contains a misconception about level playing fields which underlies a number of the questions which we address later.

We entirely agree that playing fields have to be level. By this we mean that there must be no unnecessary impediment to serious tenders of any sort; and that, if clients can do anything to help any sort of competent tenderer to compete which does not hinder other such tenderers, then they should do that too. But this will not be enough to help members of the third sector, except perhaps some of its biggest members, to win more work in competition. What the sector needs is instead for clients to exercise some of their many legitimate client discretions differently from now.

For services, clients first have to decide whether to package big or small, for a single skill or several, and for all types of service users or separately for each type. It is a pipedream to suppose that many of the resulting options will please all types of prospective tenderers equally. There are for example no packages which would attract both the biggest tenderers and the smallest. Clients sometimes try to get the best of both worlds by lotting (packaging big and then allowing tenders for individual lots) but it is in practice unusual for clients to get enough small lots to cover the whole of the work.

Clients can in addition choose from an immense and valuable range of contract conditions, specifications, payment mechanisms, and tenderer selection and tender evaluation criteria. The options then chosen may serve to bring out the special strengths of some types of tenderers, thereby identifying the relative weakness of other types. Similarly, some specifications may make compliance easier for some tenderers, but harder and more expensive for others.

When as usual intelligent clients cannot suit all types of tenderers, they have to make up their minds which type of tenderer is likely to provide the best outcomes overall. All types of tenderers are nevertheless still welcome, and if in the event the best tender comes from an unexpected source,

⁴⁸ ACEVO Commission of Inquiry Report, “Surer Funding”, November 2004.

⁴⁹ National Audit Office, “Working with the Third Sector”, published June 2005.

this is of course a bonus. But it would be the exception, not the rule, and would not invalidate the client's original choices. There is nothing new about all this—it is nothing to do with creating a level playing field; it is instead what any intelligent client has to do.

It follows that what the third sector needs, if it is to win significantly more contracts, is not only a level playing field, which we hope most of them enjoy already. More importantly, it needs a re-think of packaging, specifications and all the other client options. It is also what client authorities need to do whenever they believe that the third sector is most likely to contain the best tenderers.

KEY QUESTIONS

1(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

Nobody can stop the line of communication (between client authorities and service providing staff) being lengthened by contracting out. But accountability is not then lost, it just gets more expensive. Authorities nevertheless continue to contract work out, because its advantages often outweigh such disadvantages. We see no reason why using the third sector should in this respect be any different from using the private sector.

3(a) *Will contractual relationships with the state improve stability within the third sector?*

Having contractual relationships with the third sector will give public sector clients a strong interest in its stability, and there is a great deal which clients can do to protect it. This calls for:

- payment mechanisms which protect contractors against steep and arbitrary changes in the volume of orders, which are often unavoidable. Unit rates for example often need to be stratified more sharply, for example, so that they are high enough at the bottom of the range to cover contractors' fixed costs when volumes are unexpectedly low; and low enough at the top of the range not to make contracts unaffordable when volumes are unexpectedly high;
- the simplification and abbreviation of contract documents. Small contracts do not need every possible nuance and contingency to be covered in the same way as for large contracts;
- the least possible prescriptiveness as to methods. Third sector bodies often use unconventional (and sometimes startling) methods, and readily change such methods of their own volition whenever different methods look more fruitful, and are best left free to do so;
- abstinence on the part of clients from driving unduly hard bargains. Influential clients can and often do secure heroic tenders, but these are seldom good business for either party. Although expressed to be enforceable, the courts are in any case often unwilling to enforce them.

3(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

Criticism of central government is unlikely to affect, or be affected by, contracts with local government. Whether it will be affected by contracts with central government will depend in the long run on how ministers react to criticism. We hope they will not react at all, or not adversely.

3(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

It is hard to believe that there will be no such effect at all, if indeed increasing use of the third sector is sustained. Clients can however minimise it by:

- matching their specifications, and their selection and evaluation criteria, as closely as they can to the abilities sought from the third sector bodies which they want to attract to the service under consideration. The more sensitively and effectively that clients do this, the more likely that contracts will reinforce the ethos of third sector bodies, rather than erode it;
- avoiding imposing on small third sector tenderers the same insurance requirements and financial standing criteria that they impose on large private sector contractors. There is no point in trying to make third sector bodies act more like private sector bodies, or in forcing them to insure at high cost with reluctant insurers. Client bodies ultimately have to pay anyway, so that requiring small contractors to take out insurance puts clients in the same position as if they were themselves insuring a multitude of small risks with high chances of occurrence, which for large organisations is not cost effective.

3(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

Giving any sort of business to any sector must be expected to have the effect of making some of its members bigger. Whether this would tend to make them less radical is a separate question, which we tried to answer at question 3.b, and we hope that third sector bodies will be encouraged to carry on with any campaigning which they think fit.

We do in any case see no correlation between small size and radicalism. Some of the biggest and longest-standing voluntary organisations have always been forceful and intrepid campaigners.

4(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

There is certain to be some perceived loss of control. One of the strengths of voluntary organisations which work with vulnerable and disadvantaged people is that such people do not normally perceive third sector staff or volunteers as being “officials”. Any such “loss” is likely to be counted as one of the advantages of using the third sector.

It is of course always possible that small voluntary organisations will use methods so unconventional as to embarrass client authorities. To strike the right balance, client officers will need a good grasp of two disparate subjects, namely of contract law and practice, and of the real world in the service areas in question. There will at first almost certainly be a shortage of such practitioners.

4(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

All stages in commissioning call for the same range of expertise and knowledge as just mentioned. This suggests to us that it would be unconstructive to force (for example by legislation) the pace at which third sector services are taken up.

4(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

Some duplication is unavoidable whenever any work or services are contracted out, for the reasons given in answer to question 1.b. It can however be reduced by:

- rationalising all the different data needed for making contract payments, supervising output, updating personal records, and ordering essential support services. The more often that one piece of data can serve several such purposes, the better;
- eliminating the number of different clients’ personnel who have to visit the same end users, or the same sites. This means rationalising their duties in the same way as for data.

It has to be accepted that this also reduces useful occasions for cross-check between different types of data, and the work of different officers. Judgements will have to be made as to how far it is safe to go in the pursuit of economies, and experience will from time to time no doubt trigger reappraisals of such judgements.

4(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

This debate is academic unless it is thought possible that the public sector is so bad at the jobs in question that it would be better not to commission work from the third sector at all. We know of nobody with knowledge of the subject who goes that far.

It seems more constructive to look constantly for ways in which both jobs can be done better. We have done our best to suggest improvements in our own recent Guides to Buying from the Third Sector, and Commissioning Social Care.

5(b) *Are there “hidden costs” such as contract oversight?*

There are always costs to any type of contracting out. They are not so much hidden as unquantifiable. Many attempts were made to quantify them when competition for most work and services was compulsory in local government, but with no success. There is no reason to expect any similar attempt at quantification to succeed in the case of commissioning services from the third sector. Client authorities therefore have to make their own judgements about whether to go ahead with contracting out.

5(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

Financial and other rules have been tried for different sectors but most have had short shelf lives. They have in some cases been lobbied for by service providers but have failed to command the respect of practitioners. These would almost certainly prefer voluntary guidance, of which there is no shortage. Apart from our own Guides, a steady flow of guidance is likely from OGC and, in local government, from the Society of Chief Procurement Officers, the Improvement & Development Agency and the Regional Centres of Excellence.

Competitive neutrality is unattainable if it means commissioning in such a way as to make contracts equally attractive to all three sectors. This is for the same reason, which we try to explain in our notes under “background”, that a level playing field is not enough. The decision as to which sector is likely to serve best has to come first, and the competition comes afterwards.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

This is a fair rhetorical question, but we prefer not to answer it. Generalised judgements of this sort can only be highly subjective, and all participants will no doubt form their own.

It seems however inevitable that there will be horses for courses. Different types of service provider will be top of class in different specialisms. The sooner that judgements about their relative merits gain wide acceptance, the sooner that practitioners will be able to adapt their packaging and other procurement strategies to the types of service provider most likely to perform best.

We hope that there will be plenty of other guidance and research focused on bringing out this sort of information.

March 2007

Memorandum from UNISON

BACKGROUND

The following document is UNISON’s submission to the Public Administration Select Committee’s inquiry into commissioning public services from the third sector.

In December 2006 two key policy documents were released. The Treasury and the Cabinet Office published *The Future Role of the Third Sector in Social and Economic Regeneration—Interim Report*, and the Office for the Third Sector in the Cabinet Office published *Partnership in Public Services: An Action Plan for Third Sector Involvement*. Throughout our comments, these two government documents are referred to as “the interim report” and “the action plan” respectively.

Last year UNISON commissioned two major pieces of research into the voluntary sector and its role in providing public services: *Third Sector Provision of Local Government and Health Services* by Steve Davies of the Cardiff School of Social Sciences, and *False Economy? The Costs of Contracting and Workforce Insecurity in the Voluntary Sector* by Ian Cunningham of Strathclyde University. Both documents are due for release in March, after the deadline for submissions to the Select Committee. UNISON would therefore be keen to submit both reports as soon as they are released, as they will represent new and detailed contributions to this debate.

INTRODUCTION

UNISON has always been a friend to, and a member of, the community and voluntary sector. We have always had many thousands of members in the sector, in organisations which campaign for progressive social change, develop new and innovative ways of improving civil society, and work in partnership with statutory bodies. We recognise that all of these roles are crucial to the UK’s public services.

UNISON now has more than 60,000 members employed in community and voluntary sector organisations such as charities, community groups, social enterprises and housing associations, and we are engaging in progressive, modern partnerships with many of those employers. In addition, we also engage in joint campaigning work with many community and voluntary sector organisations. As a result, we are uniquely placed to comment on the role of the community and voluntary sector, including social enterprises and housing associations, in civil society and public service delivery.

WHAT IS THE THIRD SECTOR?

The interim report defines the third sector as “on-governmental organisations which are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives”. Voluntary and community organisations, charities, social enterprises, cooperatives and mutuals are all included.

UNISON feels that this definition is so broad that it leaves open the possibility of a distortion of what the sector is and should be; it risks organisations qualifying as third sector organisations which perhaps should not be.

At one extreme, the use of the word “principally” leave open the possibility that private companies which re-invest a proportion of their profits in a social good could qualify for the government assistance being pledged in the action plan. This would clearly be an inappropriate use of the funds set aside for developing the sector, as it would be indirectly contributing towards the profits of a private company—which is not the intention of the interim report or the action plan.

Although the Government now uses the term “third sector” to refer to a variety of organisations which are neither public nor fully private companies, we prefer our term, “community and voluntary sector”, as it reflects the qualities which third sector organisations have historically brought to public services and society in general: independence, innovation, campaigning for progressive social change, the ability to identify gaps in public sector provision of public services, and working in partnership with the statutory sector to develop solutions to fill those gaps.

An increasing number of “third sector” organisations are being set up specifically in response to a perceived desire on the part of government to contract out services to such organisations, often hived off directly from a statutory body or a section of a statutory body. For example Trafford Community Leisure Trust and Wigan Leisure and Culture Trust (one of the case studies in the action plan) were both set up as charities after it became possible for charities to provide public services which public authorities have a statutory duty to provide.

UNISON has grave worries about these organisations, which emerge merely so as to boost competition, often by removing sections of the public sector. This seems to us to run the risk of being privatisation by another name; and even if the organisations do not emerge directly out of a statutory body, their creation merely to compete for services will have harmful implications for public services. The result is the increasing marketisation of public services, with terms and conditions and the quality of the service provided driven down so that organisations can successfully bid for services.

Meanwhile, other third sector organisations are being formed in a more ‘organic’ manner, taking on the community and voluntary sector roles described above, but with perhaps a more business-like way of operating. At their best, such organisations could be performing the roles that voluntary sector organisations have been performing for a long time, like campaigning, advocacy and innovation. UNISON support this work and wants to see it flourish. However, these organisations may also end up behaving much like those set up specifically to bid for services, as described above. Many factors will help determine which of these paths such organisations go down, and perhaps the most important of these determinants is Government policy.

UNISON’S SUPPORT FOR THE SECTOR

UNISON welcomes the rise of modern, professional community and voluntary sector organisations, as we would support any organisation’s commitment to run itself professionally and ensure its own stability, as this will help provide job security for our members—and stability for service users. Many of the more old-fashioned charities are suffering severe financial difficulties and this is often manifested in detrimental changes to terms and conditions—for example recent moves by two of the UK’s largest charities to remove their final salary pension schemes.

At the same time, the Government’s attitude towards the community and voluntary sector is changing. In particular, the creation of the Office for the Third Sector within the influential Cabinet Office, with its own dedicated minister, should join up the Government’s approach to the sector. If the Government is genuinely committed to quality public services without any ideological bias towards contracting out, then this new Office will be a constructive force for reform.

However, several government departments have set up task forces or similar groups to look at increasing community and voluntary sector provision of public services, and the membership of these groups and the proposals coming out of them suggest that the aim is to look at how the Government can go about increasing sector provision as it wants—not to look at whether or where this should occur. Our worry is that the result will be “knee-jerk” transfers, with insufficiently broad or detailed consultation.

COMPETITION

The Government seems to be in grave danger of creating a community and voluntary sector in the private sector's image, rather than recognising the current and historical value of the sector and building upon its strengths and capacities.

Wherever the community and voluntary sector's involvement in public services is increased, the Government seems determined to base this involvement on the principles of markets and competition.

Contracts for service provision are now the Government's preferred option for supporting the "third" sector, as opposed to grants. In 2003–04, 38% of community and voluntary sector income came from statutory sources, and this figure has been and will continue to rise. Meanwhile, for the first time, the community and voluntary sector obtained more money from contract fees than it did from grants, and again, this trend is continuing.

As a result, organisations are forced to put an increasing amount of their own resources into winning contracts, and less into obtaining grants and donations. Of course, this means that contracts are becoming the source of an ever-greater proportion of voluntary organisations' income. In this way, the move from capacity-building grants to the dominance of contracts has already begun to convert many voluntary organisations into service providers, without the same degree of independence and advocacy as before.

With this move, of course, comes competition. Intrinsic to the process of bidding for contracts is the Government's notion of contestability. Whereas before a local service would be provided by the local authority, unless that authority felt that a particular voluntary organisation could bring something particular and useful to the process, often now the authority decides first to contract out, and then lets various voluntary organisations fight it out. For the service users, there can only be one result: a cheap service. For example, in many parts of the country, NCH, Barnardo's and the Children's Society are competing for children's services contracts based on who can do it cheaper—not on the qualitative question of their approaches and ethos in respect of the needs of local communities.

TERMS AND CONDITIONS

When organisations begin to compete in this manner, the obvious way for them to do it is by implementing reduced, or unequal, terms and conditions. Below we examine four aspects of this.

1. *Two-tier workforce*

As contracts are won and lost, staff are transferred—from the public sector to a voluntary organisation, and from voluntary organisation to voluntary organisation—whether the voluntary organisation is a charity, a community group or a social enterprise. Trade unions fought hard for the Code of Practice on Workforce Matters, which prevents the emergence of a two-tier workforce in cases where public sector employees are contracted out to a service provider, ensuring that new recruits receive comparable treatment. However, this is not being fully implemented, and in any case it does not apply when workers are transferred from one community and voluntary sector service provider to another, or between community and voluntary sector and private service providers.

The result is that there are still many cases of workers employed by the same organisations, doing the same public service work, but being paid different amounts. This is clearly unfair. Without proper enforcement of the Code, or a fair wages clause, this problem will get worse as voluntary organisations provide more public services.

2. *Spiralling low pay*

Low pay is a problem in the community and voluntary sector. Community and voluntary sector and social enterprise salaries are already lower on average than those in the public sector. For example, in Greenwich Leisure Ltd., held up as a beacon of excellence and best social enterprise practice in the action plan, workers' salaries are consistently lower than those of workers employed by the public sector to do the same jobs. There are examples of very poor terms and conditions in private care homes, which based on the definition in the interim report could be classed as third sector organisations.

As long as these differentials remain in place, the sector will lose any competition with other sectors for the best staff. If you can't recruit or keep the best staff, the quality of the service provided will fall. To make up for this, organisations will have to make the services even cheaper, and this downwards spiral will continue.

3. *Pensions and staff training*

The problem is not just with basic conditions like pay rates. For most community and voluntary sector organisations, full cost recovery is an aspiration rather than a reality. When organisations need to compete on costs grounds to win contracts, the first terms and conditions to be affected are pensions and training. Many community and voluntary sector organisations in which UNISON organises are presently downgrading their pension schemes; one major charity with which we work closely, and which prides itself on its historic commitment to training its staff and using this development to tailor its children's services, has had to cut its training budget by 50% in the last two years, and attributes this directly to the inability to achieve full cost recovery from commissioning bodies. This problem is inherent in the process of implementing a service delivery system based on contestability.

4. *Insecurity for all*

Recent moves towards three-year contracting cycles are welcome. But even this places a massive burden on organisations which have to invest significant amounts of money in re-bidding. Staff's jobs are permanently insecure; but more importantly, the service users feel insecure. The kind of public services which the action plan envisages the sector delivering are often the kind which require a direct one-on-one interface between service users and staff—for example the National Offender Management Service. Such insecurity cannot be in the interests of providing a high quality public service.

INNOVATION

Historically, the community and voluntary sector has played a crucial innovatory role in public services: using its campaigning and advocacy to find holes in public service provision, develop solutions, and work with the public sector to implement them. The action plan makes clear the Government's appreciation of the voluntary sector's capacity to innovate, and UNISON both applauds this good practice and wishes to see it continue with proper Government support.

However, as third sector organisations change expenditure patterns so as to win contracts, the research and development investment needed for such work is in danger of falling. So in the long-term too, the Government's own reform agenda for public services could be damaged, as it is beginning to destroy what could be seen as its own "R&D" division. The proposed Innovation Exchange will be of little use if the innovation under discussion ceases to take place.

REGULATION

The interim report states that "the Government is committed to ensuring that regulation is appropriate and that complying with regulation is as easy as possible". Although UNISON is in favour of making regulation easier to understand and reducing unnecessary administrative burdens, the Government should be careful not to fall into the trap of assuming that all administrative burdens are unnecessary. Although UNISON is in favour of public service deliverers working efficiently, we believe that a clear framework is needed for rigorous regulation of the voluntary sector, especially those in health and social care which are likely to be dealing with vulnerable people. NHS Trusts and Local Authorities are strictly regulated, and any other organisation providing such services should be treated equally.

FUNDING

The interim report and the action plan both refer to capacity building measures such as the ChangeUp hubs. UNISON is in favour of measures which help the voluntary sector to build its capacity without necessarily bidding for contracts for public service provision. However the unions have had difficulty in engaging with the Workforce Development Hub, despite the fact that a lot of the information the Hub wishes to disseminate is already available from the unions. We feel that a valuable opportunity for partnership working is being missed.

In addition, we do have some reservations about the £10 million a year which was committed for funding for investment in social enterprises in the *Scaling new heights* action plan, and which is referred to in the public service delivery action plan. UNISON is concerned that such funding is being made available to social enterprises at a time when the NHS is struggling to repay large historical debts. This funding may give social enterprises an in-built advantage when it comes to bidding for contracts.

UNISON'S RECOMMENDATIONS

UNISON's policy is to oppose privatisation and contracting out. However we have always supported, and will continue to support, the community and voluntary sector—workers who for many years have made a vital contribution to public services.

In addition, even having opposed transfers, where they occur we will defend the terms and conditions of members in the new employers. So if the Government is committed to transferring to social enterprises, charities, community groups, housing associations and other voluntary organisations, the transfer and contract processes must be better managed.

Full cost recovery

There should be some statutory mechanism to enforce “full cost recovery” principles on all bidders, so that all contracts include payment for workers' training and development, incremental pay increases, pensions, and so on. As voluntary organisations become ever more reliant on public service contracts, it becomes increasingly vital that their contracts enable them to fund ongoing overheads such as these. For example if they cannot pay for training and development, the result will be that existing staff's skills will fall behind, and the organisation will not be able to recruit the best possible staff. The service users will clearly suffer.

Full cost recovery principles have obtained wide support from the sector and government. But if this is not enshrined in some statutory manner, then nothing will happen. No bidder for work will include such overheads in bids if competitors may not do so. Enforcement of full cost recovery is essential.

Contract length and bidding processes

Contracts should be stable and longer than one year. “Third sector” organisations spend a large proportion of their time and resources reviewing bids and then re-bidding for them. Staff are subject to a series of short-term contracts, which lowers morale and harms the organisation's ability to recruit staff. Once more, the final result of all of these factors will be a poorer quality public service. Consequently, we believe that contracts should be longer, so that organisations can get on with providing the best possible service. We welcome recent moves towards three year contracts, but many private sector contractors receive much longer contracts, and voluntary organisations will not be able to compete on a “level playing field” with the private sector (as the Government expressly wishes) unless contract lengths are equalised.

Contracting processes need careful examination so that successful bidders have an interest and expertise in the relevant services. If “contestability” refers to competition based on both cost and quality, then the systems put in place to assess organisations' capacity to deliver an expert service must be robust.

Umbrella schemes

The Government should investigate the possibility of cross-sector schemes for training and development and pensions, to protect workers who are transferred to small, community-based groups which do not have the capacity to provide such benefits. The benefits of such a move to the workers in question are obvious, but the Government's own vision for its relationship with the “third” sector depends on this as well. If such schemes are not developed, then the largest community and voluntary sector bodies will become increasingly like competitive private companies. They will dominate sector provision, and the local, community-based organisations which are less able to provide pensions, training and so on will be at a permanent disadvantage. The vision of public services driven by locally-determined user needs will be severely undermined.

UNISON is keen to work with the Office of the Third Sector in helping to develop such schemes.

Fair terms and conditions

Agenda for Change terms and conditions should be safeguarded for staff transferring from the NHS, and implemented for those already in the community and voluntary sector, to avoid two (or multi) tier issues. Similarly, local government terms and conditions should be safeguarded and extended. If all of the sectors are to compete for services on an equal footing, then the workers carrying out the same work but employed by different sectors deserve the same terms and conditions. If this does not happen, then organisations providing inferior terms and conditions will be better able to win contracts, and with lower terms and conditions will come a poorer quality of service (for the reasons given in various places above).

February 2007

Memorandum from the Commissioner for the Compact

I took up post as the first Commissioner for the Compact in October 2006, and have worked with a small interim team since February 2007. I welcome this inquiry and have some general points to make. I then have some evidence to offer in answer to some of your questions.

THE COMPACT

1. The Compact was agreed between government and the voluntary and community sector in 1998. The Compact and its Codes set out a framework for government and sector relationships and partnerships, recognising the independence of the sector, its role in voice and advocacy, the expertise it should be able to offer through consultation and its right to be fairly funded for any public services it provided.

2. The Compact predates both concepts in your inquiry—the wider grouping that is the “third sector” and the new sense of “commissioning”. There are a range of understandings and definitions of these terms; I use the HMT and OTS definitions.⁵⁰ However both have been used in a confusing variety of ways, though some of the issues were around before 1998, albeit with different names.

3. The Compact and its Codes reflect the diversity of the sector: some of its organisations do not want to deliver public services; some are interested in voice and community engagement or do not want to work to the public sector’s agenda and funding; others are revising their missions or reconfiguring into social enterprises to embrace the public agenda. Most are in between.

IMPLEMENTATION OF THE COMPACT

4. Though there is general commitment to the Compact, both government and the sector have a gap to close between rhetoric and practical implementation; particularly when delivering full cost recovery, longer-term funding and reducing disproportionate bureaucracy. One predominant issue is the tension between the tightly focused nature of competitive service procurement, and the need for competitive procedures to be fair to all; and the special undertakings that government has made to the third sector in (or alongside) the Compact.

5. Some of these special undertakings relate specifically to financial relationships, whether based on grant or contract: for example, timely decision-making on funding; adequate notice of its termination, full-cost recovery; three-year funding as the norm except where value-for-money requires otherwise. Some relate to wider relationships, and assert a commitment to a role for the third sector where, nationally or locally, policies are made and services are specified: for example, meaningful and timely consultation; a key role in the new, local “place-shaping” agenda; and a say in the identification of needs and the design of services to meet them.

THE FINANCIAL RELATIONSHIP

6. Difficulties arise with the financial commitments partly because most competitively funded services where the third sector is involved in delivery are not exclusive to them as providers. They are bid for also by others in the private or public sector. On a “level playing field”, it may not be straightforward for commissioners to deliver consistently and fully the Compact financial undertakings to third sector partners unless these have been built into the terms of the programme concerned at the outset, and thus apply to bidders from other sectors as well.

7. This is not consistently the case. Commissioners may point to the difficulties of reconciling third-sector specific Compact commitments with a competitive environment. But the third sector may correctly point to the facts that the commitments have been unequivocally given, and that the Compact Code on funding and procurement explicitly states⁵¹ that they are consistent with the requirements of Government Accounting and EU procurement law, and that they apply in contract relationships as well as grants.

8. The current trend towards a procurement, rather than a grant, model may also blur public bodies’ wider Compact obligations to third sector bodies that bid. It is important for public bodies to recognise that their responsibilities to consult and involve the sector in decisions about policy and strategy are not disconnected because a contract exists for the provision of services.

9. Also important is the Compact commitment by government to act in financial relationships in ways which strengthen the third sector’s capacity in the long term. The implication is that public bodies should look past the narrow delivery issues of particular service procurements and consider, on a range of alternative approaches, what the impact may be on the composition of the third sector. This is particularly important locally, where a procurement which allows for (as opposed to imposing) bids by consortia or for subcontracting by a lead partner may strengthen the sector’s capacity, while one that favours a single, non-local supplier may seriously damage it.

⁵⁰ Partnership in Public Services—An action plan for third sector involvement, www.cabinetoffice.gov.uk/thirdsector

⁵¹ Para 1.4 of Funding and Procurement: Compact Code of Good Practice (2004)

10. The pace of change in the landscape is striking. I am concerned at the rush to “sector-blind” attitudes fostered among public sector staff by the shift towards a procurement model of finance, and the problems inherent if these came to dominate the mindset to the detriment of the wider “nurturing” relationship and other public sector Compact commitments.

MOVE FROM GRANT FUNDING TO PROCUREMENT

11. In the past few years, and looking to April 2008, the sector sees less grant, less funding which is ring fenced for them or their traditional activities and more commissioning and more competitive open procurement. This applies across local and central government and the regional bodies. The sector does not experience government as one corporate entity in delivery, but has very different interactions with different departments, programmes within departments, and agencies. Some are local, others national and some have regional delivery of national bodies’ programmes. Often there is no thread to connect national, regional and local delivery—or the national and local Compacts.

12. The OTS Public Services Delivery Plan sets out eight principles of commissioning agreed with the then five key delivery departments. But departments and their NDPBs work with different legislation, different policies, different bidding and monitoring regimes and different partners in delivery chains. This is very hard for a third sector organisation that is trying to work across departmental boundaries—such as Foyers working with young homeless to provide skills and counselling. Of course government has very different relationship with big national charities such as Barnardos to those with a small body which may be just starting to deliver services.

13. My final concern is the extra pressure put on commissioning from the third sector at a time of financial constraints or structural reorganisation. In some cases the pace of change is too fast for the sector and perhaps for the long-term outcomes the community wants; grant streams are being pooled together and/or devolved to Local Area Agreements to choose how to deliver—including by commissioning or involvement of the third sector—but are simultaneously decreasing in 2007 or will end in 2008. The predominant perception by third sector funded bodies is of rationing, rather than the creation of opportunities for transformation of services that both the Government and the sector aspire to as an aim of cross-sector partnership. The priorities are largely those set by government through legislation, Public Service Agreements (PSAs) and the inspection and regulation process, and to a lesser degree by Local Area Agreements, many of which have some third sector representation.

14. Many third sector organisations have found European Social Fund funding in particular involves disproportionate bureaucracy and inflexibility. I will shortly be meeting with DWP as I hope they will be able to address these sector concerns in the 2008–11 programme.

ANSWERS TO SOME OF THE COMMITTEE’S QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

1.1 In theory, contestability offers benefits of choice, pushes services to be more responsive to users needs, and enables new providers to “enter the market”. A number of benefits to users are asserted by the third sector from their involvement in service delivery: innovation; understanding of and responsiveness to the needs of users as individuals; contribution to social cohesion by community and volunteer involvement where this occurs. Both the sector and government assert a belief in the value of these benefits, although little quantified evidence to demonstrate and evaluate them authoritatively is available.

1.2 Guidance to commissioners in the public sector generally draws their attention to potential benefits of this kind, and to their ability to give them weight in assessing competitive bids. There is a widespread perception, however, that this happens to a limited extent in most cases; and that decisions are driven predominantly by factors that are both more tangible and more traditional to procurement professionals, including low cost. It should be a priority both for government and the sector itself to assemble evidence on the added value from third sector involvement in services. If government wishes such added value to weigh more as a factor in procurement decisions, action is needed to develop methodologies and to develop the working practices and culture of commissioners so as to encourage their application.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

2.1 There is no decisive evidence to answer this, and I agree that more research and analysis is needed, looking at specific services and client groups as circumstances will differ:

- (a) Is there evidence that where services are provided by the third sector, that they are popular with those that use them?
- (b) Do public services provided by the third sector more accurately reflect the changing needs of those that use them?
- (c) Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

2.2 These are all areas needing more research. On popularity, there is positive objective evidence such as from CSCI⁵² about some social care services, and I have heard many accounts of locally provided services, well commissioned to meet special needs, such as culturally specific meals on wheels provision. But I have also noted the contrary findings of the recent research⁵³ published by the National Consumer Council into sector-specific customer satisfaction with public services.

3. *Does commissioning benefit the third sector?*

3.1 Good commissioning can benefit the sector and enable more of those within it who want to provide quality services to do so. But the reality is difficult—even the best commissioner operates with constraints of time, money, geography.

3.2 Even third sector bodies which make a success of partnership in the delivery of public services often find the process very difficult and demanding. Funding is often uncertain, and, though recent commitments to three-year deals as the norm may help with this, may be given only for short periods in many cases. Processes are variable, and often over-complex and inconsistent with good practice. Many small organisations cannot commit the capacity, skills and resources to be involved on the terms the public sector seems to require, going through several stages of bids.

3.3 I hope that OTS's programme for the training of 2000 commissioners, which I strongly support, will specifically address these issues, especially as they affect smaller organisations.

3.4 In considering benefit to the third sector, it is important to bear in mind that even those third sector organisations which operate under commercial business and management disciplines are strongly driven by altruism, rather than by profit, and that they will generally be engaging in service delivery as a way of furthering a charitable or philanthropic mission.

(a) *Will contractual relationships with the state improve stability within the third sector?*

3.5 Long term funding is important for stability, which can be achieved through contracts or grants. However, there may be instability for individual organisations and sections of the third sector if the public sector moves too quickly or too strongly towards highly-specified contracts away from grants.

3.6 I want to see that contracts have the Compact principles built in, in keeping with the commitments that government has given for itself and its commissioning arms. These include Lottery bodies, agencies and NDPBs, and the NHS. In the interest of consistency and stability, I would like to see the Government adopt clearer disciplines to support this building-in. These might most obviously take the form of consistent requirements for public reporting by departments of delivery of Compact commitments, including exception reporting where they have been departed from.

3.7 In keeping the Compact and Codes under review I will be interested to consider the comments in other evidence to the Inquiry supporting standard contracts and pre-qualification questionnaires to help those working across several commissioning relationships—local, regional and national—or across sectors such as health and employment support.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

3.7 Large national charities such as Barnardos and Turning Point are strong enough to be able to speak out confidently in the interests of their service users regardless of their financial relationship with government and its many branches. But I hear plenty of concern about this, particularly at local level, from organisations who feel that their prospects depend on their maintaining good relationships with a small number of politicians or key officials. However, I have seen evidence that it can be managed: I would like to see third sector bodies being more assertive in demonstrating the special added value that they believe they bring to service delivery, and in challenging what they feel may be coercive behaviour on the part of funders or particular individuals within them.

3.8 These issues turn on personalities and cultures, and there is no systems answer that can deliver a complete solution. At local level, however, the development of commissioning through LSPs and LAAs involving third sector representatives may help to develop working methods and cultures that ensure respect for the independence and the multiplicity of roles of the sector and of individual organisations within it.

⁵² The state of social care in England 2005–06, CSCI December 2006

⁵³ Delivering public services : Service users' experiences of the third sector. Report to the Office of the Third Sector by the National Consumer Council (June 2007)

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

3.9 The risk of these things does exist. In my view it is most likely to materialise when:

- bidding and monitoring processes are disproportionately onerous for third sector service providers; or
- the third sector provider cannot recover its full costs in providing a service and has no resources from which to subsidise the shortfall; or
- the third sector provider, in the search for resources to sustain its existence, promises more than it is equipped to deliver.

3.10 Pressures on third sector organisations to form consortia, or to operate as sub-contractors to a large prime contractor, could also increase the risk, though, depending on circumstances, third sector bodies (and particularly small ones) may also find these approaches the best way to safeguard their ability to become involved in service delivery.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

3.11 The sector is massively diverse now but the polarisation is not so simple. Some of the largest organisations are both significant service-providers and active campaigners for change. It is difficult to predict the long-term effects of a big shift towards commissioning and contestability. The unpredictability is greater given that most commissioning is done at local or regional level, which is creating different patterns of activity across the country. Overall, however, the likelihood is that the distinction will increase between those organisations whose activities wholly or mainly involve delivery of publicly funded services, and others.

4. *Does commissioning services from the third sector have any benefits for the state?*

4.1 Good commissioning—enabling the third sector to offer its best mix of skills, commitment, understanding of citizens' needs, and challenge to the policies and practices of government—will benefit the wider community that the state exists to serve. There will be better outcomes from quality services and efficient use of resources.

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

4.2 Evidence to date is that loss of state control is less of an issue than damage done by over-tight specifications which proscribe innovation.

4.3 Given the devolution of commissioning responsibilities it will be important for commissioners to consider how best they can act in the interests of the users, residents, citizens and taxpayers. That must surely be by involving them in design of services and in decisions about trade-offs and rationing. The state in listening to the competing voices of the various interest groups, must be able to distinguish between special pleading and concerns of broader importance.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

4.4 I am concerned that resources are wasted in monitoring which adds nothing to service quality. I want to encourage central and local government, through the LGA, to undertake streamlining of monitoring and inspection processes, in line with existing commitments to proportionality in these areas in the Compact and its Codes.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

4.5 Good effective commissioning exists but not everywhere. The state is very diffuse—the NHS, Non-Departmental Public Bodies, and local councils have a far greater commissioning role than central government departments have. My staff are currently considering various cases and programmes where there have been problems to learn lessons. In some cases the core Compact commitments have not been adhered to—and the failures have been on both sides. Some in the sector have also been slow to understand their responsibilities in this process.

4.6 On the Government side, Ministers acknowledged at the last Annual Review Meeting for the Compact⁵⁴ that there was a gap between the commitment expressed to Compact undertakings and their delivery in practice. Departments do not feel as responsible as they should for delivery of Compact commitments by the NDPBs and other spending bodies they sponsor, and I have already stated my concern at how “competitively neutral” processes are not always linked to appropriate capacity building and preparation to enable competent third sector groups to reach the “level playing field”.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

(b) *Are there “hidden costs” such as contract oversight?*

5.1 Most local authorities now operate a complex mix of relationships with the third sector—from very small local community groups with few or no staff to big national players. Authorities also buy services from each other and private suppliers. The costs of contract oversight are dependent on other factors besides the sector of the provider, such as the size of the contract and the experience and professionalism of the provider. There is not yet a level playing field, given differences such as irrecoverable VAT, the costs of TUPE and a reluctance to consider full lifetime benefits beyond short-term considerations. Many third sector organisations also need capacity building support and pump-priming before they deliver to their best.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

5.2 There is wide consensus today that third sector organisations have special characteristics enabling them—in some circumstances—to provide services which satisfy the needs of citizens more completely than other service-providers could. There is some evidence to bear that out—but the evidence base is patchy and the evidence itself is not conclusive.

5.3 The decisive factor in the commissioning of any service is surely the quality of the service—the extent to which it meets needs and provides value for money in doing so. Clearly there should be fair treatment of all organisations as regards the bidding, monitoring and other processes in which they are required to engage. But equally it is right to take into account, when considering what represents a high quality, value for money service, any wider social benefits that might flow from the choice of a third sector organisation as the service-provider. I am not suggesting that those wider benefits can be inferred in the case of every third sector organisation. But they should be looked for, and where they are likely to materialise, acknowledged and given weight in commissioning decisions. The decisive consideration should always be the quality of services delivered to users.

5.4 For the time being, and without prejudice to the wider issues, the Compact and its Codes commit government to operate special financial rules of the kind in the question, though such rules at present are not fully or consistently delivered.

June 2007

Memorandum from Futurebuilders England Ltd

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

In Futurebuilders England’s experience it is the complementary aspect of third sector organisations delivering services that is transforming provision, rather than just transferring it from one provider to another. Third sector organisations—in partnership, not in competition with—the public sector, can offer more to patients, residents and communities. It is not about removing or transferring services from the public sector, but adding distinctive value for better or more sustained provision.

Third sector organisations are often well placed to deliver services because they focus on the needs of users; have particular experience and expertise, flexibility, independence and ability to build users’ trust; and because they involve local people, engaging volunteers and help build social capital.

Futurebuilders England is keen to help third sector organisations deliver public services where they want to and are best placed to do so.

⁵⁴ Minutes of the Seventh Annual Meeting (22 November 2006) published in a report to Parliament (March 2007)

In practice, we have seen how third sector organisations identify need and fill gaps left when the public or private sector cannot, or do not wish, to provide a particular service. An excellent example of this is Futurebuilders investee East Midlands Community Dental Association, which trades as Genesis Dental Care.

Genesis opened three new not-for-profit dental practices in Grantham, Derby and Lincoln late last year (2006) after competing for contracts from Primary Care Trusts. After the new DH dental contracts came into effect in April 2006 many practices stopped providing NHS care and treatment. PCTs had to tender new contracts based on local need and Genesis was able to provide the same high-quality NHS care, but with additional significant and distinctive advantages over traditional NHS dentists. As a social enterprise, all profits are ploughed back into the organisation, dentists are on a competitive fixed salary and patients are invited to become members of the organisation to ensure it responds to their needs and is patient-led.

Another example is Building Blocks Solutions Ltd—a mental health social enterprise which offers advice on benefits, housing and employment. They recently linked with GPs in Nottingham to provide patients with non-medical support and advice freeing up valuable GP appointment time and allowing GPs to offer an extra dimension to their own services.

These are just two examples of many more Futurebuilders could provide, where the third sector is proving how it can offer improvements in quality in public service provision.

(b) Is loss of accountability a threat of commissioning services? If so, how can this best be managed?

Like all contracted services, regardless of who provides them, there should be a clear line of accountability between the purchaser and provider through an agreed contract. This is the same whoever delivers the public service. Good commissioners ensure that the services they are planning and subsequently providing (through the third, private or public sectors) respond to specific user needs. The contract should include criteria which ensure service users have the opportunity to feedback directly on the quality, level and access to the services they are using.

Third sector providers are already geared up to provide this level of accountability as they are often either user-led or have a high involvement of volunteers from the sector or area they are working in—who in turn have direct experience of the needs that the organisation is attending to.

2. Is the third sector more likely to provide better public services than the state or the private sector?

Futurebuilders England was set up in 2004 to test whether the third sector could provide better public services through longer-term investment in the form of loans and grant investment packages.

Every investment offer we make to a third sector organisation asks whether the investment will lead to a significant improvement in public service delivery. So far we have made over 200 investment offers, all of which have to satisfy our assessment criteria. This is set to analyse the public service they plan to deliver or expand, and the likelihood of a public sector body paying for their service.

Whether the third sector is more likely to provide better public services than the state or private sectors depends on what definition of “better” is being used and how success is measured. For example if success is measured by engaging users; using volunteers or creating sustainable communities, then the third sector is more likely to be best placed to deliver this. However, if the outcomes or measurables are not directly linked to measures such as this then any sector could be successful at delivering high-quality services.

(a) Is there evidence that where services are provided by the third sector that they are popular with those that use them?

Two of our health and social care investees are providing services which meet an un-met need within the NHS. Both are innovative and user-designed, but work in partnership with their local health services to ensure they also meet the needs of their purchasers.

Social enterprise Impact Integrated Medicine Partnership provides complementary health services including acupuncture, chiropractic and homeopathy to patients with long-term conditions in Nottingham.

Since 2004 Impact has treated over 300 people, tackling health inequalities and reducing NHS costs of longer-term care and treatment. After completing an Impact programme, 87% of patients report reducing or stopping their prescribed medication; 76% visit their GP less frequently; and a number no longer require hospital treatment such as physiotherapy or spinal injections.

After winning the 2006 NHS Alliance Acorn Award for Integrated and Complementary Healthcare, Impact is now working with local GPs, Nottingham City PCT, and Nottinghamshire Healthcare NHS Trust to develop complementary services for more NHS patients. This will primarily be through the new practice-based commissioning initiative within the NHS.

One Impact patient said: “When I first came to Impact I was on anti-depressants and knew nothing about homeopathy. My doctor said I’d need to be on medication for at least six months, but I was able to safely stop taking it three months after starting at Impact. It’s helped me get back to a normal life. What we need now is for the NHS to provide these services all over the country.”

Barnet Voice for Mental Health, a user-led mental health organisation, opened its crisis house in December 2006. As the first crisis house in the country to be run by people who have experienced mental health problems, it was developed in conjunction with the Mental Health Partnership Board—the joint commissioning body for mental health services for the London Borough of Barnet and Barnet PCT—the house will provide people with mental health problems with a place to go in times of crisis.

Based in North Finchley, the house will initially offer a weekend service, providing a safe and supportive non-medical environment for people experiencing a mental health crisis. A support group will also be held at the house mid-week to provide ongoing support for those who have used the crisis house.

One volunteer from Barnet Voice for Mental Health said “My personal experience of mental health problems started some 11 years ago as a complete breakdown with severe clinical depression due to a medical negligence. At one stage in my illness it was decided I needed hospital admission, but because my illness was due to a medical procedure that went horribly wrong and left me with post-traumatic stress disorder, it was decided that in-patient care would not be the best option in a crisis. The site of a hospital was more than I could cope with. There was no available alternative than to be treated at home, and there, heavily medicated, I became isolated and a recluse for some two years. I feel that the less clinical environment of a friendly crisis house with other users to talk to and pressures of everyday life taken away for a time could have contributed to a quicker recovery and prevented me becoming a recluse for those lost two years.”

(b) Is there evidence of demand for more services to be provided by the third sector? If so, who from?

This is a complex question. First of all, it is important that service commissioners find out what service users want and build this into their service specifications. Secondly, commissioners should test the market to see who is best placed to meet this specification. And finally, commissioners should be willing to pay the right price for services that meet this specification.

If all these conditions are met, we believe there will be increased demand from both commissioners and service users for more services to be provided by the third sector, because, in our experience the third sector is well-placed to respond to users’ needs.

We have 200 investees who are working across the public service areas of children and young people, health and social care, education and learning, crime and community cohesion. There are many more outside of the Futurebuilders current remit working in the arts, sports and leisure, waste and recycling and the environment. There are also examples of progressive local authorities that want to diversify their provision through the third sector and are using local strategic partnerships and forums to better understand the sector and what it can provide.

Futurebuilders is also working with one local authority whose plans, if realised, could herald a significant step forward in the whole area of public sector commitment to provision of services through the third sector. This authority is in the early stages of scoping a plan to find a third sector provider to run a proposed new Children’s Centre, and is considering offering a 15 year full cost recovery contract to a suitable third sector provider prepared to include in its tendering the commitment to take on a Futurebuilders capital loan. If the plan becomes reality, it could become a blueprint for creative and enlightened commissioning across the country and an example to other commissioners of productive risk-sharing.

Wakefield Metropolitan District Council holds regular meetings to make sure private and third sector providers are well informed about Council plans and priorities, and Futurebuilders is being asked to speak at an increasing number of commissioner-hosted information events.

Some public sector organisations are also working with Futurebuilders to help more third sector organisations get ready for contestability and compete for contracts on a level playing field. Portsmouth City Council is in discussion with a local provider about submitting a Council-endorsed bid for capacity building to Futurebuilders, while in Yorkshire & Humberside the third sector support organisation Clinks is working with the Regional Offender Management Service support to develop a Futurebuilders bid for development grant funding. The scheme as a whole is designed to give commissioners greater confidence in the abilities of third sector providers to address offending in the region.

(c) Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

The third sector is incredibly diverse and it is difficult to generalise whether all services provided by the third sector reflect user needs. Our investees tend to be driven by user need rather than financial return or centrally driven targets. They also proactively engage their users to develop services that meet their needs. It is therefore logical that they focus on the (evolving) needs of users. We believe the evidence tends to bear this out.

Futurebuilders investee, PeaceMaker is an excellent example of this, as Director Siddika Ahmed explains:

“PeaceMaker was formed in 1997 by a group of young British Asians who had witnessed the development of segregated communities as a result of the misunderstanding, prejudice and racism which were prevalent across Oldham at the time. With little or no action being taken the ongoing tension and segregation between communities finally culminated in the Oldham riots in May 2001.

“As new approaches and solutions to these tensions were explored we become an established organisation recognised for its work delivering a range of community cohesion activities. Working with young people and supporting the wider community, PeaceMaker developed a portfolio, which is now recognised at local and Government level as being at the forefront of anti-racist work across the country.

“By bringing different groups of people together we have had a significant and sustainable impact on the lives of the people who participate in our programmes. Many of the young people we have worked with have become peer educators or mentors at PeaceMaker, and have gone on to incorporate what they have learnt into their professional lives”.

PeaceMaker continually adapts to the needs of the young people they work with and the communities in which their varied programmes are aimed.

(d) *Is there evidence that contracting to the third sector leads to a greater scope for innovation in public service delivery?*

RNID, the charity for deaf and hard of hearing people, is launching a national, innovative, specialist £5 million mental health service for deaf people with financial support from Futurebuilders and the Royal Bank of Scotland. This major new service development aims to tackle the crisis in mental health provision for profoundly deaf people. RNID will develop four purpose-built, residential mental health units, specifically designed for deaf people.

The new eight bedded units, supporting people with acute mental health needs, will offer services to promote social inclusion and independent living. The community-based residential units will be designed to enhance communication and aid longer-term recovery. They will also offer an alternative to hospital for many deaf people who are trapped in a cycle of readmission to inappropriate mental health care settings.

Dr John Low, Chief Executive, RNID, says: “The incidence of mental health problems amongst deaf people is much higher than average, and individuals are often discharged from acute care straight back to the community without intermediate rehabilitative or community-based support. {With the mental health sector considerably under-funded, even more so for deaf and hard of hearing people, this project will go a long way to ensure that they are included and have access to appropriate and high-quality care”.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

The stability of the third sector is not just dependent on a contractual relationship with the state. We know that our model of loan finance is helping our investees to focus on sustainability, sharpen their financial planning and increase their ability to secure full cost contracts, as Liverpool Crossroads Caring for Carers explains: “The Futurebuilders investment has helped Crossroads to move to the next level in our development as a social care provider. This will bring forward activities that could not have been envisaged for at least a couple of years”.

Third sector sustainability depends on a number of variables: whether they are receiving full cost recovery contracts; how much they rely on short-term grant funding; number and length of contracts (ie one-year or three year) and their ability to sell services and generate income.

We believe that an appropriate mix of grant, loan, contractual income and voluntary income will help many more organisations become sustainable. Moving from one-year to three-year contracts as the norm will also help organisations to focus on sustainability, rather than spending quality time on renewing grant and contract funding every year. Joint commissioning of services across boroughs boundaries and public sector departments could also support the third sector stability.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

Futurebuilders has funded two Citizen’s Advice Bureaux (CAB)—North Liverpool CAB and Cambridge CAB. Both are registered charities and delivering public services for their local population. They provide free, independent and confidential advice, but also collect evidence on behalf of clients to campaign for change in local and national government policy. They are able to be critical of government yet at the same time retain a close involvement with service provision and met the needs of their clients.

(c) Is there a risk that the service providers will become increasingly bureaucratic?

Yes. Monitoring and evaluation must be proportionate and fair. The burden of bureaucracy must not be unnecessary and this will depend on the quality of the commissioning. We would like to see commissioning focus on outcomes, rather than inputs and outputs. With outcomes that have a real impact on the people using the service. With good commissioning it should be possible to avoid bureaucracy.

Our investees have experiences of commissioning that at a basic level are not consistent or comparable. We have evidence of investees receiving short documents to 300-page tomes when competing for similar contracts across the public sector. For Genesis Dental Care (as mentioned in 1. a) while a Lincolnshire PCT was happy to award two contracts to the order of £350,000 pa, others have been reluctant to offer more than unworkable six month initial commitments, claiming to be unable to make long-term contracts with a new organisation.

The impact of uncertainty and budget constraints across all commissioners is well illustrated by Age Concern Suffolk (ACS), which has a £204,000 Futurebuilders investment to deliver Day Care and Active Ageing services in and around Bury St Edmunds. The ACS model combining day care and Active Ageing services represents an extremely cost-effective approach to quality services for older people, encouraging well being and independence. At the time of applying for an investment, ACS had secured agreement with Suffolk County Council's Adult Care & Community Services to provide a specified number of daycare places (under block contracts), and additional "spot" purchases, at a price that reflected the high standard of the facilities to be provided. Suffolk Council agreed to a three-year contract (a significant commitment, and a real advance on previous short term, or ad hoc arrangements) which was agreed by all the relevant parties. However, two months before the centre was due to open (January 2006), the Council insisted that a six month break clause be inserted and the "spot" purchases were effectively withdrawn.

It made these changes in response to a requirement to save over £14m from its care services budget. The lack of long term commitment and a reduction of up to £46,000 pa in day care income will have a drastic effect on older people, as well as the income and sustainability prospects of this project. Furthermore, other ACS day care centres and services are having referrals reduced and/or funding cut.

Paul Baker, ACS Deputy Chief Executive, said, "The Government is looking to the voluntary sector to extend its service delivery programmes. For the first time it looked as if we had a degree of security in the form of a three year contract, only for that security to be severely reduced and the income heavily cut".

Futurebuilders investees, and other third sector organisations, have expressed frustration at the lack of proportionality between the size of contracts on offer and the amount of documentation sometimes required in order to tender. We welcome the moves, by the Department of Health and other commissioners, to introduce the concept of proportionality into their emerging commissioning frameworks.

(d) Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

N/A.

(e) Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

Futurebuilders England has made over 200 investments offers since 2004. The majority of these (80%) are to third sector organisations delivering services locally or regionally. 25% of our investees are organisations with a turnover of £100,000 or less and 18% are black and minority ethnic-led organisations.

In our experience, it is precisely the small, user-led nature of some third sector providers that makes them invaluable to commissioning bodies. First Step Opportunity Group, for example, is a small to medium-sized (SME) organisation, founded and led by the parents of children with disabilities, that works to support other families in similar circumstances. It has developed a strong relationship with local commissioners who value its ability to relate individual families, understand their difficulties and design solutions that larger, more bureaucratic organisations cannot develop or deliver.

18% of our investees work in rural areas where access to traditional services is limited and the public sector find it hard to provide services that meet the needs of those living outside of town and village centres. Two of our investees—Esk Moors Caring and Harrogate Community Transport Association—have helped many more people to stay in contact with public services without taking away the benefits of rural living.

We also have a number of large national organisations that work within a specific service delivery area that is best placed to be delivered at a national level—for example RNID and their new mental health centres for deaf people.

Due to Local Area Agreements for example, we also feel that developing consortia is an important—and alternative—aspect for third sector organisations to consider. We are currently working with the Learning and Skills Council to help local third sector organisations contract and deliver larger accredited learning contracts; and the Crossroads Association to help member networks work closer together in social care and health services. We also encourage larger networks to work in partnership with small local organisations.

Commissioners will need to make an effort to understand what smaller, more local groups can deliver and the distinctive added value they bring, such as being closer to the user and their needs, having unparalleled access to hard-to-reach groups; and focused on the outcomes and impact on peoples' lives. To help deter polarisation commissioners could include these values in their tenders and base criteria on achieving outcomes.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

N/A.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

N/A.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

The Public Accounts Committee's 2006 report into Working with the voluntary sector stated that application and monitoring procedures can be unnecessarily burdensome for voluntary sector organisations. Futurebuilders England supports their recommendation to ensure that the Government works with departments to promote the concept of a lead funder in contract negotiations.

As part of an organisation's terms and conditions with Futurebuilders we also ask for specific monitoring information, but we are clear to include this as part of their regular monitoring to their board/management committee so it is not bureaucratic and in line with what they already have in place.

Good commissioning would ensure that clear frameworks would be discussed in advance of a contract being signed so quality time was spent on the delivery of the service rather on the administration of the contract.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

N/A.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

N/A.

(a) *Are services cheaper to provide?*

Public services should be provided by whoever delivers the best value for money.

As already outlined, there are a number of additional benefits that the third sector brings to public sector provision. All services regardless of who provides them should be costed appropriately and a commissioner should make a decision on who provides those services based on quality and cost-effectiveness rather than what is the cheapest option. One sector is not always cheaper or more expensive than another—it will depend on what service is being offered, what needs the commissioner wants to meet and what competitors are working in the market.

By using a third sector provider, the state may see additional benefits to users through the form of volunteers—but it is important to note that volunteers should never be a substitute for paid staff.

One of our investees, John Grooms, has made it clear that it will provide a service above and beyond the contract specification it has with purchasers and to provide this it will use voluntary income. This is not a case of the purchaser not adhering to full cost recovery as it is paying the charity for the work it is delivering as per the contract. However, John Grooms knows that the service they provide will be of a higher quality by using its voluntary income, but also knows the purchaser can't afford it. They feel they have a duty to deliver the best service they can and this way the users and the purchaser get a much better service than one from the public or private sector.

As all third sector organisations are not-for-profit organisations all money that is invested, through grant or contract income, is invested and recycled within the organisation. By paying a third sector organisation to deliver services commissioners will not be paying over and above the costs of delivery to pay shareholders.

(b) *Are there “hidden costs” such as contract oversight?*

N/A.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

Futurebuilders England would like to see further capacity building support for third sector organisations as appropriate, so they can compete equally alongside other sectors. It would not be fair or appropriate to introduce criteria or rules that subsidised any sector. A level playing field and good commissioning would be far more beneficial.

Ultimately this would be a political call. And European rules would make this difficult to enforce, even if the political will was there.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

N/A.

February 2007

Memorandum from Barnardo's

INTRODUCTION

1. Barnardo's works directly with more than 110,000 children, young people and their families in over 350 services across the UK that provide a range of services to the most vulnerable. We receive 55% of our funding from the state and this goes directly to providing the public services that we are contracted to provide (not 78% as recently incorrectly stated in the Civitas report *Who Cares? How state funding and political activism change charity*). We work with local authorities and public bodies across the UK and this response draws on that experience.

2. We welcome the Public Administration Select Committee's inquiry, as these questions are vital in light of the Government's policy to commission more services from non-Government bodies. Barnardo's welcomes the opportunity to bid to deliver public sector services as this is an opportunity for us to be directly involved in improving outcomes for children, young people and their families.

EXECUTIVE SUMMARY

3. Barnardo's would like to see:

- Minimum three-year contracts, with five and ten year contracts becoming the norm, for improved stability.
- Implementation of the Cabinet Office's *Action Plan for Third Sector Public Service Delivery* in particular training of commissioners.
- Two-stage tendering processes—a pre-tender questionnaire that, if approved, would result in invitations to tender and full tenders being submitted from a select few bidders who have a real possibility of winning the contract.
- The introduction of standard contract terms and removal of unnecessary burdens from contracts.
- Measures to allow direct cost comparisons between the statutory and third sectors on a level playing field and a focus on measuring outcomes.

Question 1(b)—*Is loss of accountability a threat of commissioning services? If so how can this best be managed?*

4. Contracts provide the mechanism to manage accountability, but only (as outlined below in response to question four) if they include clear and measurable outcomes, effective reporting and monitoring processes, and clear complaints procedures.

Question 2—*Is the third sector more likely to provide better public services than the state or the private sector?*

- (a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*
- (b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*
- (c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

5. Evidence from Barnardo's work shows that services provided by the third sector are popular with both service users and with commissioners.

6. In the North East, three local authorities have recently stated to us that their preference would be to commission parenting services from us, but that in some cases commissioning and procurement rules inhibit them in doing so. The Senior Parenting Practitioner posts ("Super Nannies") announced by the Government as part of the Respect programme were established with the intention that they would be based in the statutory sector. In at least one instance, "because of Barnardo's exceptional work in this area" the post has been based with us in the third sector.

7. Gateshead Youth Offending Team (YOT) work with the Barnardo's to deliver parenting interventions to parents of young people in the criminal justice system. Our SunGate service offers a variety of interventions to support parents from 1:1 support through to an eight week course offering advice on parenting. They report that "whatever the intervention, the satisfaction with the SunGate service reported by parents who use it is high. Close collaboration between the YOT and Barnardo's staff means the service is constantly reviewed and hopefully improved in light of this feedback".

8. Each of our services evaluates its work in a number of ways including through direct client questionnaires and feedback. The Hive, a project based on a housing estate to encourage community development found that the majority of residents accessing our services would not approach social services. The following is a typical response from a service user at The Hive. We can provide the Committee with further examples if that would be useful.

"Before coming to Barnardos I found it difficult to get any sort of help and guidance, I felt as though I was in a shell and I had no where to turn to. { Since moving to Fence Houses I found out about Barnardos and I feel like a different person, the help and support I have received has been fantastic.

I have come out of my shell and have a lot more self-confidence. When I first found out about Barnardos I didn't think I would get anything out of it but I have been proved wrong. They have helped me sort out my home and finances and have introduced me to courses such as peer mentoring and youth work, the confidence I have from attending these courses is fantastic I feel so much better and happier in myself.

I know that when I have completed my courses I will be able to go out back into the community the help and guidance I have been given. { Barnardos has saved me in a way whether I need help and support or just a chat and a coffee they have been there for me, for the first time ever I feel like a person that is valued and not just a statistic I can never repay the life line they have given me.

Thank you Barnardos xxxx"

Question 2(d)—*Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

9. One example is Barnardo's Mosaic service that works with young people who have been abused. These young people have not engaged with the local authority and have often had poor experiences of child abuse investigations. As a result some of these young people have been involved in training social workers to improve the process that young people experience and the service given to them by the statutory sector.

Question 3—*Does commissioning benefit the third sector?*

- (a) *Will contractual relationships with the state improve stability within the third sector?*

10. Contractual relationships with the state offer the opportunity for improved stability within the third sector, but only if contracts are issued for longer periods of time. A three-year contract would be the minimum needed for increased stability, but five or ten year contracts would provide greater stability. Barnardo's believes there needs to be a shared commitment to make this work and for contract terms to be fair; for example for the contract only to be broken through breach, and not operating under essentially a six-month rolling contract (see below in response to question 4(d)).

Question 3(b)—*Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of Government?*

Question 3(d)—*Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

11. Barnardo's receives 55% of our income from the state⁵⁵, and this goes directly to fund service provision as contracted. We use voluntary funds to complement this statutory work and for our campaigning and influencing work. Barnardo's services, which work with 110,000 children each year, provide an authoritative base for our influencing work. The issues we have raised recently clearly show that we retain our ability to be critical of government—

- Criticising Anti-Social Behaviour Orders.
- Highlighting the poor educational outcomes for children in care and calling for change.
- Highlighting our support for young carers.
- Criticising the inhumane treatment of asylum-seeking children.
- Convincing the Government to introduce polygraph tests to help monitor adult sex offenders released on licence.
- Reinvigorating the End Child Poverty Campaign.

Question 4(b)—*What capacity will the state need to ensure that it can be an intelligent consumer of services?*

12. Barnardo's supports the practical suggestion in the Office of the Third Sector's *Partnership in Public Services: Action Plan for Third Sector Public Service Delivery* (December 2006) for training for key commissioners on working with the third sector. The Government will establish a two-year National Programme for Third Sector Commissioning that will invest in the skills of 2,000 commissioners from across the public sector—including staff in Jobcentre Plus, Primary Care Trusts, National Offender Management Service and local councils—who they consider have the biggest impact on the third sector.

13. We also support the Action Plan's eight principles that commissioners of services should do:

- develop an understanding of the needs of users and communities by ensuring that, alongside other consultees, they engage with third sector organisations as advocates to access their specialist knowledge;
- consult potential provider organisations, including those from the third sector and local experts, well in advance of commissioning new services, working with them to set priority outcomes for that service;
- put outcomes for users at the heart of the strategic planning process;
- map the fullest practicable range of providers with a view to understanding the contribution they could make to delivering those outcomes;
- consider investing in the capacity of the provider base, particularly those working with hard-to-reach groups;
- ensure contracting processes are transparent and fair, facilitating the involvement of the broadest range of suppliers, including considering subcontracting and consortia-building where appropriate;
- seek to ensure long-term contracts and risk sharing wherever appropriate as ways of achieving efficiency and effectiveness; and
- seek feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.

14. The outcomes that the Government expects children to achieve have been set out in the Every Child Matters Outcomes Framework. Barnardo's advocates the following methodologies and believes that if introduced across all local authorities it could promote better commissioning of children's services, and better outcomes for children and young people:

- The Centre for Child and Family Research at Loughborough University has developed a "Cost Calculator for Children's Services"⁵⁶ which assists local authorities in monitoring the true costs of services to children and improve strategic planning and commissioning. The value of this type of tool is that it allows comparisons to be made between the different types of care placement across groups of children or for individual children. The tool was based on research to assess how far variations in the cost of different types of provision are reflected in the quality of care experienced by children with different needs. The tool is specific to children's social services and calculates costs

⁵⁵ Not 78% as incorrectly cited in the report Seddon, N (2007) *Who Cares? How state funding and political activism change charity*, Civitas.

⁵⁶ www.ccfcs.org.uk

from the bottom up based on the actual case history of the child, and each individual child's placements and needs. It also analyses costs by outcomes, which links to the *Every Child Matters* agenda.

- The measurement of *Every Child Matters* outcomes achieved for children and young people through providers is vital. Barnardo's is currently working with services in the North East to modify the questionnaires that young people fill in before their looked after review to include some questions on outcomes. The software used is called Viewpoint, and in addition to being used by some local authorities as a tool for the looked after reviews, it is also used more widely, for example to undertake questionnaires in schools.

Question 4(d)—*How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

15. In our experience local authorities are very poor in both managing the bidding process and defining contractual obligations.

Bidding process

16. It is not untypical to have less than two weeks to submit a substantial tender, and then wait months whilst the commissioner makes a decision. The bidding process can often involve hugely detailed questions to all bidders as a one stage process. This is very time consuming for organisations, particularly for those who may have very little chance of success. Each public body also requires different amounts and types of information and supporting documentation.

17. Barnardo's recommends as an alternative a much shorter pre-tender questionnaire that, if approved, would result in invitations to tender and full tenders being submitted from a select few bidders who have a real possibility of winning the contract. We believe that this would be cost effective for both parties, reducing administration and bureaucracy.

18. We believe that further thought should also be given to address what documents may validly be requested during the tendering process, and whether a public authority having once received certain documents is deemed to have notice of them (rather than tenderers submitting fresh documents on each submission).

Contractual obligations

19. Our experience of contract terms is that they are increasingly contained within documentation issued at the tender stage. This often stipulates that by submitting a tender, the organisation is deemed to accept the contract terms. Tenders will also not be considered if submitted on a conditional basis, for example stated to be subject to agreement on contract terms.

20. We understand the rationale for the commissioner to set out very clearly what is required for provision of the service; however it puts third sector organisations in a difficult and unequal position. In these circumstances the options available are to:

- Not submit a tender.
- Risk not being considered for the tender by asking to discuss specific contract terms.
- Agree the contract terms even though they may not be able to be complied with in practice (eg because of unworkable monitoring arrangements) or because the contract poses a theoretical or real risk to the organisation (eg unlimited indemnities which may far exceed insurance cover).

21. Contract terms are almost always those of the public body, and third sector organisations very rarely have the opportunity to present their own terms, or negotiate terms.

22. There are no standard contract terms across the public sector, so each of the local authorities that we deal with produce their own contract terms, which may vary widely from area to area. For third sector organisations this raises a number of concerns:

- Repetitive review and negotiation of contract terms.
- Drain on management time and diversion from core activity of providing services.
- Deciding whether a full legal review of each contract is required, possible within the time constraints or affordable. Many of the staff who have the direct service expertise necessary to respond to tenders do not have legal training to deal with complex issues.
- Negotiation is often not an option because the public body personnel are not authorised to agree changes, or do not have the expertise to do so.

23. In our experience the contract terms we have seen are frequently drawn up by external law firms which:

-
- Contain a lot of legalese with hidden requirements or draconian terms—these need to be interpreted by a lawyer.
 - Follow a “one size fits all” approach—for example having a 100 page contract for any scale of proposed service with a total lack of proportionality.
 - Are unreasonably one-sided in favour of the public body.
 - Are understood fully by neither party to the contract.

24. Below are some examples of the types of unreasonable or poor contract terms that we have experienced:

- (a) Aspirational and sometimes ambiguous provisions which create potential for risk of breach—for example a requirement to improve the lives of 200 children in an area with no clear criteria of how this is assessed.
- (b) Unreasonable and unworkable reporting and monitoring requirements.
- (c) Transfer of all legal liability of the public body to the third sector provider for statutory responsibilities such as human rights and freedom of information. This transfer is questionable given only public bodies are legally bound by these obligations. The costs associated with transferring this responsibility and attendant risk is also not factored in.
- (d) Provisions to claw back unspent money. We believe this should only be used in relation to grants, as a contract is an agreement to provide services in exchange for a price.
- (e) Unilateral right for the public body to alter terms.
- (f) Indemnities are usually unlimited, unrelated to risk, and local authorities are unprepared to restrict to the third sector organisation’s level of insurance.
- (g) Employment and pension provisions—imposing conditions on staff conduct which can confuse/undermine the employment relationship potentially leading to employment claims or unbudgeted redundancy costs; and requiring third sector organisations to be liable for pre-existing service for pensions.
- (h) Short-term funding—inability to plan, uncertainty for staff and service users and overhead costs associated with short-termism.
- (i) Provisions for the public body (or both parties) to terminate with six months notice, effectively creating a six-month rolling contract even though the contract is for three years.
- (j) Failure to match the term of funding to other issues—for example three year funding but a five year lease break clause.
- (k) Failure to provide for costs on termination.

25. Barnardo’s supports the recommendations made in the Government’s Action Plan for Public Sector Delivery to remove unnecessary burdens from contracts, and that standard contracts are developed in some key service areas.⁵⁷ We suggest that the following areas offer scope for standardisation and being made mandatory:

- Dispute resolution.
- Reporting and monitoring.
- Confidentiality.
- Data protection.
- Freedom of Information.
- Boilerplate—force majeure, severability, notices.

26. We also suggest the following as types of contract terms where there could be mandatory outline terms—a requirement that they be included and parameters for what is acceptable:

- Service provision/specification.
 - Duration and termination.
 - Payment.
 - Pensions.
 - Staffing.
 - Complaints.
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⁵⁷ This commitment was reiterated in: HM Treasury, Cabinet Office (2006) *The future role of the third sector in social and economic regeneration: interim report*, para 6.16.

Question 5—*What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

(b) *Are there “hidden costs” such as contract oversight?*

27. Comparing the cost of services provided by the third sector and those provided by the state directly is difficult for a number of reasons.

28. Many government departments and local authorities are not able to cost their services on a “full cost” basis as they do not know, or are not able, to attribute all their support costs to services. For example finance or HR is a cost already incurred rather than support to service delivery. Therefore a proportion of these costs is not included in the cost of delivering public services; however third sector organisations are expected to include these, but not be more expensive. It would be fair to say that third sector organisations could be smarter at reducing these costs and attributing them better to service delivery, but at the moment we are not starting from the same baseline.

29. There is not a level playing field in regard to VAT. Local authorities are often able to recover VAT on their costs, but voluntary organisations are not. Charities are therefore more expensive, particularly where there are a lot of non-staff costs in the delivery of the service. There needs to be an equitable application of VAT rules across providers.

30. An example of the difficulties of cost comparison has arisen recently in relation to the sustainability of the voluntary adoption sector as there have been reductions in placements from local authorities to voluntary adoption agencies of up to 33%.⁵⁸ Barnardo’s has placed 50 children for adoption in the last year, compared to 70 children in each of the previous two years—a 29% drop in placements.

31. Local authorities are under pressure to reduce costs, and we are concerned that because of this, using voluntary adoption agencies has become a last resort. The average cost of a placement through Barnardo’s is £19,000 compared with approximately £12,000 through another local authority. On the face of it this seems like a cost saving for local authorities, but there are three issues to consider:

- The basis of the cost calculations for each type of placement—as above.
- The additional costs whilst waiting to place a child—An unpublished Deloitte report (commissioned by the Department for Education and Skills) found that 40% of children and young people identified for adoption are still waiting for a placement. For these children an appropriate adoptive placement is likely to best meet their needs, and this should happen as soon as possible, to ensure that children achieve the best possible outcomes. The high ongoing cost of keeping a child in a residential home or foster placement while waiting for a suitable adoptive placement should be taken into account in local authority costings. A fairly straightforward fostering placement could easily cost £12,000 per annum in placement costs alone, more specialist foster carers could cost in excess of £25,000 per annum and there will be additional costs in social work time supporting these placements. The biggest cost is to the child who is deprived of an adoptive placement and for whom the clock is ticking; every year spent in care (looked after) makes the probability of a breakdown in the subsequent adoption home more likely. For children placed after the age of 7 there is a 50% chance of breakdown.
- The best interests of the child.

Question 5(c)—*Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

32. At the moment there is not a level playing field—the example above in relation to VAT being a case in point. It may therefore be appropriate to have financial rules or incentives to counter the current imbalances and get to a “competitively neutral” position. Barnardo’s would like to see a level playing field, a transparent tendering process and for the third sector to be given work where it demonstrates that it deserves it.⁵⁹ Competition provides an opportunity to demonstrate value for money and effectiveness and can lead to improvements in services.

⁵⁸ Harrison, D (2007) “Voluntary adoption agencies face closure”, *Sunday Telegraph*, 4 February 2007.

⁵⁹ Further arguments are presented in an article written by Barnardo’s Chief Executive, Martin Narey in an article for the *Guardian* newspaper: Narey, M (2007) *Preferential Treatment*, Wednesday 10 January 2007, *The Guardian* <http://society.guardian.co.uk/futureforpublicservices/story/0,,1986329,00.html>

Question 6—*Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

33. As outlined in the response to question five above, at the moment it is very difficult to compare the costs of the services provided by the state and by the third and private sectors. There are, however, benefits in delivery of public services by the third sector which the Government recognise:

- Ability to reach the disadvantaged groups who lack trust in statutory sector services.
- Innovative service provision.
- Expertise in working with the client groups in specialist areas.

March 2007

Supplementary memorandum from Barnardo's

I am writing to thank you for the opportunity to give evidence to the Committee on 10 July, and to follow up on some issues from the session.

David Heyes MP asked if Barnardo's could quantify the costs involved in abortive bids, in particular the proportion of Barnardo's income that goes on competitive bidding that does not result in a contract or service to the public (Q227).

I am able to provide the Committee with some figures based on the average costs of unsuccessful bids. In 2006 Barnardo's bid for 275 contracts, 91 of these were unsuccessful (33%). The annual value of the 91 unsuccessful bids in 2006 was £10.2 million, so an average value of £112,000 per contract. Barnardo's can spend, on average, up to £2,000 in preparing a tender (85% staff time, 15% on other expenses: stationery, postage, travel etc).

The approximate cost to Barnardo's in 2006 of unsuccessful bids can be estimated at £182,000, or just under 0.1% of our turnover. We also calculate that Barnardo's spends about 1.8% of the total value of a contract in preparing for that bid. I hope that these figures assist the Committee, please do get back to us if you require further clarification.

Barnardo's would be delighted to host a visit for members of the Committee to any of our services to explore the issues raised during the session in further detail. Please get in touch if you would like to arrange a visit.

I look forward to seeing the outcome of your report in due course.

August 2007

Further memorandum from Barnardo's

At Martin Narey's oral evidence session before the Committee in July 2007, he stated as an example that 70% of our work in the North West had uncertain funding. This memorandum updates the Committee on the situation after 1 April 2008.

At 31 March 2008, Barnardo's in the North West lost 11 contracts—five from the Children's Fund totalling £290k, and six from a range of funders totalling £355k. This represents a loss of 5% of our work. In addition five contracts have been extended on a temporary basis ranging from 6 to 12 months and these have a value of £1.437 million, representing a further 10% of our current work which has funding threatened.

Regardless of the amount of work retained, the issue remains that because of the funding arrangements large numbers of staff in the voluntary sector face an uncertain future every year. Whilst we have been fortunate to be able to continue most of our work in this region, uncertain funding means that this is a process that the voluntary sector must go through each year.

Unless more is done to secure longer-term contracts and funding stability, Barnardo's and other charities will need to issue redundancy notices to significant numbers of staff every year. At the end of January 2008, Barnardo's had issued redundancy notices to over 100 staff across England, and 261 more staff knew that they might also be issued with redundancy notices. We are able to withdraw notices as contracts get renewed, but all the staff affected worry about what will happen to their livelihood. This is in comparison to the public sector where staff know that they will never be treated in this way.

Although we are pleased that we have retained a large proportion of our work, I wanted to make it clear that Martin's original point is still of deep concern, and one that we do not think has been adequately addressed by central and local government.

May 2008

Memorandum from Rt hon Ed Miliband MP

I am writing to follow up on the two outstanding questions from 20 November 2007 when Phil Hope MP, as Minister for the Third Sector, and I gave evidence to the Public Administration Select Committee.

There were two questions we agreed to provide further information on. The first from Paul Rowen MP about third sector contracts with the Government and the second from yourself about pre-appointment hearings in respect of public appointments and whether there is a need for legislation.

Paul Rowen MP asked about the range of contracts that the third sector has recently won across different departments of Government.

Let me briefly take this opportunity to reiterate the Government's approach to commissioning and the third sector. We want to take action to ensure an environment where each sector—public, private and third sector—can play to its strengths. This means ensuring that, where third sector organisations wish to do so, they can engage with the public sector with a view to playing a greater role in public service delivery. Our policies are aimed at helping those third sector organisations that are well placed to deliver public services, to compete on a level playing field when bidding for contracts.

To pick up on a point you asked about in your last question to me at the Committee, it is obviously for the commissioning process to determine who wins the contracts, private sector, third sector or public sector. Third sector organisations often have a closeness of relationship with the users of their services which places them in an advantageous position in terms of understanding and meeting personal needs and tackling difficult social issues. Thus, the third sector has the potential to make an important contribution and as I stated before the Committee I would expect the amount of third sector delivery to increase.

What I sought to do at the Committee is draw a distinction between an approach which will involve greater third sector delivery in a number of areas where they are well placed to deliver a service, and an approach which says we automatically transfer services into a particular sector because we simply assume in advance that it will always be superior. As some of your third sector witnesses said, this is not the basis on which these judgements should be made.

What is important is to ensure that in areas where the third sector can make a contribution, it is open to them to bid for contracts. The public services action plan for third sector involvement (*Partnership in Public Services: An action plan for third sector involvement*) published in December 2006, should be seen in this context, ensuring that we open up specific areas of public services to the possibility of third sector delivery. It set out five broad areas of public service delivery in which we expect a growing role for the third sector. This was not a finite list but rather an indication of where some significant opportunities lie to use the skills and expertise of the third sector. Although we are moving along a long journey of culture change, we have already seen results in each of the areas identified in the plan:

DWP: EMPLOYMENT SERVICES

In the area of welfare to work provision, a number of third sector organisations bring a specialism to bear in terms of knowledge of particular sources of disadvantage, local area knowledge and user credibility. As I mentioned above, the recent commissioning process carried out by DWP in the Pathways to Work area has seen a significant increase in the role of the third sector in public service delivery. Out of the 15 Pathways to Work prime contractor contracts that DWP awarded in the first phase, two were awarded to third sector organisations, worth a total of over £40 million. Moreover, around half of the sub-contractors to the successful primary contractors were third sector organisations. Phase two contracts have now also been announced. Of the eight organisations selected to run the primary contracts, four are from the third sector, representing 40% of the total value of the Phase 2 programme. It is expected that again, around half of the subcontractors in Phase 2 will be from the third sector.

MINISTRY OF JUSTICE: NATIONAL OFFENDER MANAGEMENT AND CORRECTIONAL SERVICES

The National Offender Management Service (NOMS) was created to deliver end to end offender management. The third sector is pioneering new ways of working with offenders. For example, the St Giles' Trust which runs a peer advice programme—training prisoners to provide housing advice to other prisoners. These kinds of services show that third sector organisations can often reach out further than the public or private sector in this particular area.

NOMS has already funded a pilot looking into providing peer mentoring support for young adult offenders to be delivered by a group of third sector organisations and is currently consulting on a specific third sector action plan.

NOMS will invest £2.2 million for three years from April 2008 in a new National Infrastructure Grants Programme to fund third sector capacity-building, voice for the sector, volunteering and mentoring development. From April 2008, NOMS will begin to commission prison and probation services and will provide the opportunity for third sector organisations to compete for contracts to deliver offender management services.

DEPARTMENT FOR INNOVATION AND SKILLS: LEARNING AND SKILLS

Third sector organisations are often well placed to deliver learning and skills services to those who are hard to reach. The Learning and Skills Council (LSC) has recently opened up its procurement process which has resulted in 43 new contracts across the third sector, worth £7.6 million. Going forward, all regional commissioning plans for learning and skills prepared by the LSC will highlight where the third sector might contribute. Moreover, the LSC has been supporting the Quality Improvement Agency, the body that works to improve the learning and skills sector, in offering one-to-one support on the tendering process to 70 third sector organisations.

DEPARTMENT FOR CHILDREN, SCHOOLS AND FAMILIES: CHILDREN'S SERVICES AND EDUCATION

The third sector has for some time made a very important and growing contribution to child care provision. The proportion of child care provision for full day care by the third sector has risen by over 300% in the last five years amounting now to some 23% of full day care. The third sector now accounts for the provision of nearly 70% of sessional care (that is, specific sessions of childcare, rather than full time care during the whole day). In addition, nearly 44% of out-of-school care is provided by the third sector.

The Department is opening up further opportunities for the third sector through its Children's Plan, which was developed in consultation with the sector. The plan emphasises the importance of prevention and early intervention—an area of traditional strength for the children's voluntary sector.

DEPARTMENT OF HEALTH: HEALTH AND SOCIAL CARE

The third sector is already playing an increasingly important role in the delivery of health and social care. For example, in the provision of community equipment to facilitate independent living. The Department of Health has worked with stakeholders to develop a retail model for delivering community equipment services, which enables people to present their prescription for free equipment to a range of providers, which can include the private and third sector. Oldham, Cheshire and Manchester are already using this model, which has seen third sector organisations such as Independent Living Centres and Age Concern become retailers of community equipment. In addition, some local authorities and PCTs in England, such as Leicestershire, have opened up aspects of community equipment services to contestability resulting in third sector organisations such as the British Red Cross winning several contracts.

The Department has also set up a Social Enterprise Fund, worth £73 million over a four year period, to stimulate and encourage the development of a vibrant social enterprise sector in the delivery of health and social care services. In addition, 26 pathfinders were established to demonstrate best practice in innovative service delivery and the experience gained from them and other social enterprises that receive investment from the fund will inform the development of further investment.

Since the publication of the Office of the Third Sector's public services action plan on 6 December 2006 there has been good progress on the specific actions listed in the plan. I enclose a copy of the "one year on" review document, published on 5 December 2007, which gives more detail.

In addition to the action plan, there have been further developments across sectors. For example, there has been a large increase in third sector involvement in public sector delivery, particularly in waste and recycling, for which the Department for Environment, Food and Rural Affairs has responsibility. An estimated 1,000 third sector organisations in England are currently operating in waste and recycling. Third sector organisations typically run recycling and composting schemes, or handle specialised waste such as furniture, white goods and IT equipment which are refurbished and distributed to low income families or community groups. In addition these organisations sometimes deliver added benefits to the community through employing disadvantaged and/or long term unemployed people to undertake collections, refurbishment and sales.

One recent example illustrates the contribution of the third sector in this area. In November 2007, a leading social enterprise, ECT Recycling, the UK's largest community recycling provider, signed a new multi-million pound 10-year contract with Bath and North East Somerset Council to provide doorstep recycling to the borough's 75,000 households.

I hope the above summary is helpful. I would be pleased to provide you with any further information you need on any aspect of commissioning from the third sector.

Let me finally turn to your question about pre-appointment hearings in respect of public appointments. We are currently compiling a list of suitable appointments for pre-appointment scrutiny and in that context, we are considering whether these appointments would necessitate legislation. We also look forward to your report on public appointments.

May I end by thanking you and the other members of the Committee for undertaking the third sector inquiry and I look forward to the final report. I am copying this letter to the other members of the Committee.

January 2008

Memorandum from ACEVO

INTRODUCTION

1. acevo is the professional body for the third sector's chief executives, with 2,000 members. Our mission is to connect, develop and represent the sector's leaders.

- (a) The majority of our members are registered charities, and over 50% are engaged in some form of public service delivery.
- (b) We promote a modern, enterprising third sector, and call on third sector organisations to be:
 - Professional and passionate in achieving change and delivering results.
 - Well-led with a commitment to professional development, training and diversity.
 - Well-governed and accountable, with robust and fit-for purpose systems to protect independence and enable effective decision-making.
 - Enterprising and innovative, taking a businesslike approach to funding issues and striving for continuous improvement and sustainable development.

2. acevo has undertaken extensive research, consultation and advocacy in recent years to help third sector leaders in fulfilling the sector's potential as a provider of public services. We have consistently argued that third sector organisations should be encouraged and supported in developing this role.

3. We have also drawn attention to the shortcomings in commissioning and funding arrangements, which are restricting the sector's ability to realize its potential. We have worked to ensure that public authorities conform to the principles of good practice in commissioning services from the sector, and that third sector leaders have the knowledge, skills, and confidence to negotiate effectively for such arrangements. This submission will explore these shortcomings in more detail.

4. Our key publications on the subject of charities and public service delivery include:

- Choice and Voice: the unique role of the third sector (2006).
- Mind the gap: a funder's guide to full cost recovery (2006).
- Communities in Control: the new third sector agenda for public service reform (2005).
- Speaking Truth to Power (2004).
- Full Cost Recovery (2004).
- Surer Funding: improving third sector public service delivery (2004).

5. We also worked closely with the Cabinet Office to assist in preparing *Partnership in Public Services: an action plan for third sector involvement*.

SUMMARY

Third sector organisations can and should play a major role in transforming public services. They are currently held back by a framework that promotes inefficiency, restricts capacity, and stifles innovation. Radical reforms to the way in which services are commissioned would allow third sector organisations to develop and disseminate a new breed of coherent, citizen-focused services, tailored to local situations and individual circumstances.

This response:

- Outlines the benefits of commissioning services from the Third Sector, pointing to specific examples where service transfer to the third sector has led to improvements for users.
- Identifies remaining challenges and difficulties for commissioners.
- Provides proposals for improving commissioning practice and signposts further sources of help and advice.

SPECIFIC

Benefits of contestability to users of public services

- By opening public service markets to increased competition, contestability should drive up quality, efficiency and innovation. Where services have been struggling, new providers and new forms of delivery can impart a greater end benefit to the user.
- There is strong independent evidence that leading third sector organisations provide high-quality, customer focused services, closely tailored to help hard to reach clients.
- One reason for this may lie in their ability to provide joined-up services, working across boundaries between central and local government, and between those distinct local governmental agencies.

Our 2005 publication, *Communities in Control*, identified the following areas where the third sector is well placed to make an immediate impact in improving services:

- Employment Training.
- Children's Services.
- Offender Services.
- Health and Social Care.
- Education.

There are examples of improvements in service quality following transfer, as the following two case studies demonstrate:

CASE STUDY (1) TOMORROW'S PEOPLE

Tomorrow's People: is a specialist charitable trust, helping people out of long-term unemployment, welfare dependence or homelessness into jobs and self-sufficiency. It acts as an expert intermediary between government, business and individuals, using professional, dedicated staff to help the hardest to reach groups in their own communities. During the last 20 years, Tomorrow's People has helped 382,000 people in their quest to move out of long-term unemployment.

An independent study by Oxford Economic Forecasting identified the following hallmarks of their work:

- One-on-one contact with clients—A Tomorrow's People adviser will spend 45–60 minutes with a client per meeting, compared to the 14 minutes they would receive at Jobcentre Plus.
- An environment of trust—many clients come forward by word of mouth, recommended by friends and relatives who have already been helped and trust the organisation to deliver.
- Good links with employers—understanding their requirements and building trust that applicants forwarded will be appropriate for their organisations.
- Focus on after-care—so that both the employer and employee know that if any problems arise in the early stages of their relationship they can call on Tomorrow's People for support.
- Independence from government—making it easier to win the trust of clients who may be wary of speaking to “authority-figures”.

On average 76% of those helped by Tomorrow's People are in work 12 months later and the gross cost per job created by Tomorrow's People is around £2,050. This compares to £3,500 for the New Deal and £3,700 for Employment Zones.

- There are also wider benefits which accrue to society as a result of improvements in the health of those who find jobs through Tomorrow's People: a reduction in child poverty and social exclusion, and lower levels of crime.
- In addition, economic benefits arise from the training assistance which Tomorrow's People has provided. Oxford Economic Forecasting has calculated that these economic benefits are worth around £450 million. For every £100 invested by Tomorrow's People, the whole of society is £160 better off in the long term through lower expenditure, additional taxation receipts and wider economic and social benefits.

CASE STUDY (2) MENTORING PRISONERS—THE TRAILBLAZERS PROGRAMME

“Trailblazers” is a mentoring programme based inside HMYOI Feltham, providing Mentors to young male offenders in custody. Mentees are linked to a Volunteer Mentor from the community for approximately one year. Visits take place inside the prison every two weeks during the last six months of his sentence then continue for a further six months post-release to help ease the transition back into society.

The selection process for mentees is minimal: any prisoner who wishes to join the programme can do so.

In addition Trailblazers also offers a life skills programme for prisoners, topics include careers advice, job search skills, interview techniques, drug and alcohol awareness and making choices, which all help prepare for their release.

210 young offenders have benefited from mentoring via Trailblazers. Of those, only 17% have reoffended so far. Home Office statistics show that 76% of Young Offenders reoffend within two years of leaving custody. In comparison with Trailblazers mentees shows that of the 210, 55 mentees have been released for over two years and only 31% have reoffended.

Accountability

- Commissioners can retain accountability through robust, improved commissioning. Greater clarity on the split between purchasing and providing services is needed. Where services are being commissioned from state providers, commissioners need to be clear and transparent about this.

- Our publication *Surer Funding* (2004), established 4 key principles for public service contracts:
 1. risk should be shared equally between partners, and not fall solely on the provider;
 2. contracts should be of a sensible timescale, with three years as a minimum;
 3. bureaucracy should be minimized; and that
 4. pricing should be fair, and related to performance.
- Commissioners should involve third sector organisations more in the design as well as the delivery of contracts. More dialogue will help deliver clearer and improved outcomes, and an understanding of the added value that the third sector can bring.

Demand for third sector services

There is no cast iron guarantee that the third sector will provide a better service than the state or the private sector. However, there is evidence that services provided by the third sector are popular with users:

CASE STUDY (3) THE BRITISH RED CROSS

The British Red Cross is the largest third sector provider of community equipment in the UK, helping tens of thousands of people in need each year.

For the past nine years the British Red Cross Community Equipment Services (CES) in Leicester has held the contract with the local council and health services to manage all community equipment services for Leicestershire and Rutland, helping over 20,000 people per year. More recently the Red Cross has won similar contracts to manage CES support for Barnet and Doncaster.

Run from a small call centre and a warehouse in the centre of Leicester, the Red Cross staff in the Leicester service handles 7,500 calls per month and delivers almost all equipment within seven working days.

The Audit Commission has officially cited Leicester as an example of good practice. Other statutory authorities seeking advice on how best to operate such a service regularly visit the Leicester BRC CES site, which continues to expand its service year on year. In 2004, the Leicester service won a national Dept of Health award for innovative use of IT.

CASE STUDY (4) SURE START NUNEATON: A CHILDREN'S CENTRE DEVELOPMENT LED BY NCH

Sure Start Nuneaton was approved in July 2000, and covers a culturally diverse urban area within Warwickshire. NCH are the Lead Agency and the Accountable Body is North Warwickshire PCT.

Services operate from the Main building (Riversley Park Centre, owned by PCT), an outreach venue (a refurbished shop), a local school, and a church building.

The Centre provides:

- Early Education and Day Care.
- Family Support and outreach to parents.
- Child and Family Health Services.

It also links with Job Centre Plus, through a service level agreement. Job Centre Plus sessions are held at Riversley Park every month, and CV Writing courses are delivered as part of an Adult Learning Programme.

The Programme Director cites the following factors as key to its success:

1. a common understanding and commitment to integrated working and inclusive services through a child and family centred approach;
2. developing and sustaining effective partnerships between agencies;
3. having a system in place for listening to children and families and responding where possible;
4. challenging inequity and poor quality provision; and
5. not compromising on quality.

Popularity of third sector services

- Third sector services are popular with users for several reasons, many of which are outlined earlier in this response: they are joined-up, provide flexible, tailored services; and for isolated, hard to reach groups are seen as genuinely independent and less threatening than some state providers.
- Third sector services have often been set up to meet a need that has not been addressed by statutory services. Success in one geographical area can lead to an increase in demand, and expansion regionally or nationally.

CASE STUDY (5) MOTABILITY

Motability is a national charity, set up to assist disabled people with their mobility needs. The organisation directs and oversees the Motability Scheme which enables disabled people to obtain a car, powered wheelchair or scooter simply by using their government-funded allowances.

Motability grew up in response to an area of identified need where statutory services were unable to provide a sufficiently user-focused solution.

In the UK, over 1.7 million disabled people qualify for the Higher Rate Mobility Component of Disability Living Allowance and over 16,000 qualify for the War Pensioners' Mobility Supplement. Currently, some 430,000 disabled people have chosen to have their allowances paid to the Scheme to meet the cost of having a car, powered wheelchair or scooter through contract hire or hire purchase schemes.

Since 1978, some 2 million cars, powered wheelchairs and scooters have been provided through the Motability Scheme. Today the Scheme purchases over 5% of all new cars, powered wheelchairs and scooters sold in the UK, via a national network of over 3,800 Motability dealers.

The following factors have contributed to the success of the organisation:

- a highly developed and specialised offering which provides a sound basis for commercial competition;
- a strong conviction that the services they provide are, or should be, mainstream services financed by the state;
- the expertise in commercial negotiations to win business on viable terms from statutory commissioners; and
- the ability to join up a diverse range of funding sources and providers (or types of service) to create a single, coordinated, user-focused service.

Benefits of commissioning to the third sector

- Government bodies sometimes achieve poor value for taxpayers' money in commissioning services. At present, both government and the third sector expend a huge amount of time and resource in managing short-term renegotiations of relatively small quantities of money, so the commissioning process is not currently geared towards increased efficiency.
- By placing funding on a more stable, performance-related footing, government would free resources for greater investment in the frontline, producing better services for users and better value for taxpayers.
- Implementing the principle of full cost recovery and a contracting in-line with the Surer Funding Framework would have benefits for both sides.

FULL COST RECOVERY

acevo has led research into the issue of cost recovery over the last 10 years. It is now accepted at central government level, that commissioners should recognise overhead costs—the principle of full cost recovery—in contract discussions. Key drivers behind the rationale are that:

- The distinction between overhead costs and direct costs is artificial, and damaging.
- Overheads are essential to all projects.
- Each project should include a share.
- This is Standard commercial practice.

In contract discussions and negotiations, the third sector should be subject to the same degree of scrutiny as the private sector.

- The Government has recognised that commissioning needs to improve: *Partnership in Public Services: An action plan for third sector involvement* outlines four sets of proposals, to:
 1. invest in the skills of the 2,000 most significant commissioners for the third sector, under the **National Programme for Third Sector Commissioning**, providing targeted support across commissioning agencies to build the skills and knowledge necessary to involve the third sector;
 2. improve commissioning from the third sector by committing itself to the **eight commissioning principles** set out in the action plan;
 3. create a cross-government forum to align the **development of departmental commissioning frameworks** that reflect these principles; and
 4. drive continuous improvement under Compact principles.

These proposals need to be delivered for the sector to deliver higher quality state commissioned services at better value for money.

Independence

- The relationship between government and the sector is both more subtle and more complex than many of the arguments around independence give credit for.
- If more service delivery provides greater influence and power for third sector organisations and for their beneficiaries, then this is both central to the third sector task and essential to the growth of civil society. As organisations develop and increase service delivery, their evidence-base for influencing and campaigning can be enhanced and their voice increased.
- The assumption that government corrupts those with whom they treat does not accord with the reality of mature partnerships. Government knows that when it buys into sector delivery, part of the value of the deal lies in our very independence.
- Some commentators have raised concerns that the charitable purpose of organisations might be diluted or distorted by a greater focus on public service delivery. In many ways, the distinction is artificial: many long-established charities have delivered public services for centuries. For example, the first “children’s centre” was established in 1739 by the Coram Family.
- Although many third sector organisations have a flexible and enterprising approach to service development, they are also strongly focused on their missions. There is no suggestion that those organisations should deliver services that run counter to those missions, or that campaigning or capacity building organisations should be encouraged by government to engage more directly in service delivery.
- Fears over losing independence can hinder an organisation’s impact on its users and beneficiaries. As Victor Adebawale, CEO of Turning Point has said:
“The idea that we should turn our backs on those who need a service in order to maintain an ideology of independence is not only misguided but unpalatable”.
- There is strong evidence that charities receiving statutory funding are able to campaign effectively.
 - In recent years RNID ran a vigorous campaign to improve the quality of hearing aids, while taking on an active role in improving the procurement of audiology within the NHS.
 - Barnardo’s continues to campaign against the introduction of any sort of “Sarah’s law”. Meanwhile, with other children’s charities, it has helped to reinvigorate the End Child Poverty campaign.
 - NACRO, the crime reduction charity, campaigns to shape policies on crime while working directly with 60,000 ex-offenders every year.
 - Even at local level, many organisations successfully combine service delivery with campaigning, using knowledge gained from work with service users to inform their advocacy. The Surrey Alcohol and Drug Advisory Service, which runs services for 1500 people each year, now also hosts the Surrey User Group, which aims to represent the drug and alcohol user’s voice at a policy and service level.

March 2007

Memorandum from NCVO

1. INTRODUCTION

1.1 NCVO is the largest general membership body for charities and voluntary organisations in England. NCVO has sister councils in Wales, Scotland and Northern Ireland. Established in 1919, NCVO gives voice to over 5,000 organisations. Nearly 3,000 of our members are local organisations, and over 3,600 of our members have an income of less than £500,000. NCVO champions voluntary action, our vision is of a society in which people are inspired to make a positive difference to their communities. A vibrant voluntary and community sector deserves a strong voice and the best support. NCVO works to provide that support and voice.

1.2 NCVO welcomes the opportunity to submit written evidence to the Public Administration Select Committee’s inquiry into commissioning public services from the third sector. NCVO has been at the heart of the debate about the role of the third sector in public service reform in recent years. In particular, we worked with the National Audit Office in 2004–05 assessing implementation of better funding practices in line with HM Treasury’s 2002 cross-cutting review. This culminated in the *Shared Aspirations* report, enclosed with this submission.⁶⁰

1.3 In June 2006 we published *How voluntary and community organisations can help transform public services*, a position paper outlining the steps that are needed to achieve a genuine, lasting and positive transformation in public services. There is a real danger that the current debates about public services are

⁶⁰ Not published.

not addressing the real issue: namely why it is that government wants the sector to take on public service delivery and, equally important, why it is that many third sector organisations do want to take on public service contracts. Simply transferring existing services out of the public sector to another provider will not achieve transformation in itself. A wider review of how service needs are defined, and how services to meet those needs are designed and commissioned, is the only way to achieve a real transformation of services. This submission explores the issues raised in the paper in more detail, a copy of which is enclosed.⁶¹

1.4 While the focus of the committee's inquiry is clearly on commissioning services and service delivery, it is worth noting that the third sector has the potential to play three different, and equally important, roles in the reform of public services:

- identifying service need, as a result of gaps in service provision, or poorly designed or delivered services;
- helping to design solutions to meet a need; and
- delivering services.

Individually, some organisations will want to contribute to all three roles, others to only one or two of them, but it is this combination of roles that means the sector as a whole can help to truly transform public services.

1.5 Many of the questions in the inquiry are concerned with sustainable procurement and good commissioning. While there are some issues that apply specifically to the contracting process, many of the principles of good funding practice are the same for all funding mechanisms and all activities. It is also worth noting that the public and third sectors work in partnership in a range of areas, including empowering citizens and strengthening communities, which are outside the scope of this inquiry.

1.6 If you require further information or clarification on any of the points raised in this submission please contact Mubeen Bhutta in our Policy Team on 020 7520 2475 or email mubeen.bhutta@ncvo-vol.org.uk

2. *What are the benefits of contestability to the users of public services?*

2.1 Contestability in itself has limited capacity to bring genuine improvements for the users of public services. If the public sector continues to design and commission services in the same ways that it always has done, and simply asks third sector providers to replicate existing models, nothing will really change for users. To achieve a real transformation there needs to be a wider review of how service needs are defined, and how services to meet those needs are designed and commissioned.

Have services which have been transferred to third sector organisations shown improvements in quality?

2.2 If services are simply transferred to third sector organisations, there is limited scope to bring improvements in quality. Many third sector organisations have been willing to take contracts on a transferred basis because they believe that even within the constraints of a standard public sector contract they can still provide better services to users. While this may bring some marginal benefits, the only way to bring genuine improvements in quality is to build such changes into commissioning and procurement processes. For example, commissioners could ensure that service users are involved in designing services as well as providing opportunities for feedback on the services that they currently receive.

Is loss of accountability a threat of commissioning services? If so, how best can this be managed?

2.3 Accountability for commissioned services resides with the public sector, and should be appropriately built into commissioning and procurement processes. Such requirements will vary depending on whether services are statutory obligations or not. There should be no difference in the degree of accountability irrespective of who is delivering in the service.

3. *Is the third sector more likely to provide better public services than the state or the private sector?*

3.1 Historically, there has been an apparent belief that simply transferring existing services out of the public sector to another provider will achieve more efficient and effective services through the market mechanisms of competition and choice. The real issue is whether those services are the right ones. It is only if service needs are specified and met properly, that any sector—including the third sector—can genuinely provide better public services.

3.2 Those commissioning and procuring services need to better understand and value the range of strengths that different partners can bring to public services. In particular, the third sector could be funded to play a representative or consultative role in relation to the development of specific services, or to empower

⁶¹ Not published.

service users to make their views known. Once needs have been identified, commissioners should also draw on the expertise of the third sector in helping to design and purchase solutions that meet those needs effectively.

3.3 There has been much focus in recent years on the “added value” that the third sector can bring to public service delivery, but the real point is that commissioners need to be clear what value it is that they are seeking for a particular service, and which potential providers are best able to provide that value. This needs to be properly specified in the commissioning process. For example, if commissioners would like to see user engagement, then this should be built into the contract, rather than rest on an assumption that the third sector will bring this as “a free extra”.

3.4 When services are properly designed and purchased, the third sector can bring a number of benefits to provision. Many organisations have a greater ability to engage with and understand the needs of users and communities than statutory agencies are able to do. There are a number of reasons why this may be the case, including:

- the way a particular organisation is set up—for example many VCOs are founded by people with direct experience of the issue they are seeking to address;
- the way they operate—such as having users on their board, or amongst their staff;
- because the organisation is based in the local community;
- because the organisation specialises in a particular issue; or
- higher levels of trust, confidence and credibility than the statutory sector, in some cases simply because a VCO is independent and not part of the state.

But these benefits can only be realised if the right service is being commissioned in the right way.

Is there any evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

3.5 Third sector organisations have pioneered a number of social innovations. Indeed, the nature of the sector means it is often finding solutions to gaps in existing provision. However, the current nature of public service contract funding means that there is limited scope for this work to be undertaken in relation to service delivery. Consideration should be given to how greater flexibility can be introduced within the funding regime to enable this to happen, without losing accountability. For example, procurement staff could measure outcomes and the quality of service provision rather than financial data, or larger service contracts could be designed to include scope for innovation or testing out new ways of working.

3.6 The wider engagement of third sector organisations in designing, commissioning and delivering services may mean that the solutions developed and piloted by the sector become part of mainstream service provision. If this results in a better service for a larger number of people, then it is still a successful outcome both for the organisation and those with whom it works. However, there is a need to consider how such a process of mainstreaming is managed, including consideration of the impact on existing users and service delivery.

4. *Does commissioning benefit the third sector?*

4.1 Involvement in public services is undoubtedly a way for some third sector organisations to meet their mission, and can bring real benefits to the individuals and communities they work with. Those working in both the public and third sectors have a shared aspiration: to achieve better public services, with improved outcomes for users and beneficiaries. This should be the benefit that commissioners and providers alike are seeking to achieve.

Will contractual relationships with the state improve stability within the third sector?

4.2 Almost all forms of finance flowing into the third sector—whether they are donations, loans, contracts or trading income—can bring both stability and uncertainty for organisations. Where the statutory sector is commissioning services from the third sector under contract, there is widespread agreement on the elements that are needed to bring sustainability to the funding mix of the third sector. HM Treasury’s 2002 cross-cutting review of the role of the voluntary sector in public service delivery identified reforms needed to improve procurement, which have been subsequently reiterated by the National Audit Office and the Public Accounts Committee.⁶² These elements are:

- length of funding tied to length of objective;
- full cost recovery;
- proportionate application and monitoring requirements;

⁶² HM Treasury (2002) *The Role of the Voluntary and Community Sector in Service Delivery*, HM Treasury, National Audit Office (2005) *Working with the Third Sector*, TSO, House of Commons Committee of Public Accounts (2006) *Working with the voluntary sector*, TSO.

- payment on time; and
- appropriate balance of risk.

There has been limited progress on putting these reforms in place across central and local government. The recently published Cabinet Office action plan on public services⁶³ has given a new impetus to more sustainable procurement from the third sector. If these measures are not put in place, there continues to be considerable risk not only to the sustainability of third sector organisations, but also to the sustainability of service provision.

Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

4.3 There is no reason why involvement with service provision should impede the ability of the third sector to challenge government policy. Indeed, the freedom to campaign irrespective of any funding relationship that exists is one of the hallmarks of the Compact agreement.⁶⁴ However, NCVO's Campaigning Effectiveness Programme, working with the Sheila McKechnie Foundation, has found that further research is needed on the sector's perceptions of the relationship between government funding and freedom to campaign.⁶⁵

4.4 If government wants individuals and communities to become more engaged as active citizens within public services, consideration must be given to the role of third sector organisations in enabling people to make their voice heard. Third sector organisations can use their direct service delivery experience to identify shortfalls in provision and campaign for change, but non-service delivery organisations are also well placed to identify the needs of citizens and communities. It is important to note that such engagement and advocacy work, while often at the heart of the work of the third sector, has resource implications. Commissioners should therefore provide flexibility within funding for public service contracts to support responsiveness to users and advocacy activities.

Is there a risk that service providers will become increasingly bureaucratic?

4.5 There is no inherent risk that service providers will become increasingly bureaucratic. The bureaucracy associated with service delivery is determined by commissioners and purchasers, not by service provider organisations. However, concern remains high in the third sector that the processes applied to service delivery, including application, monitoring and evaluation, are disproportionate and can be onerous. This can have a number of implications, including more expensive public service bids to cover the costs of meeting monitoring requirements.⁶⁶ Purchaser and provider should discuss and agree a monitoring, reporting and evaluation framework that is proportionate to the level of funding and size of the organisation, and one that will deliver meaningful information to both parties. When it is done effectively, monitoring and evaluation can be a learning mechanism not just a regulatory or compliance mechanism.

4.6 There can be particular issues for third sector organisations that have a number of funding streams and work with a range of commissioners. The 2002 HM Treasury cross-cutting review recognised the need for streamlining monitoring processes, and suggested that financial information about third sector service providers should be "passport" between government departments. There has been limited progress in this area since 2002.

Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

4.7 There is no inherent risk that third sector organisations will lose their independence, their identity or their distinctive ethos by engaging in the design or delivery of public services. However, commissioning and procurement processes must operate in ways that enable these particular strengths to thrive. For example, third sector organisations are mission driven: their objective is to achieve a social, environmental or economic impact. This difference is reflected in their governance structure and the roles and responsibilities of trustees. They do and should operate differently because they are operating with different objectives and different stakeholders. This difference must be respected and reflected in public service reform processes.

Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

4.8 There remains a concern that increasing demands on the statutory sector to make efficiency gains will lead to ever larger public service contracts. If commissioners prize economic savings and throughput over designing services that are tailored to meet the needs of users, there is a danger that they could exclude smaller, specialist or locally based organisations. At best, the most this model has achieved is to provide

⁶³ http://www.cabinetoffice.gov.uk/third_sector/documents/public_service_delivery/psd_action_plan.pdf

⁶⁴ For further information, please see www.thecompact.org.uk

⁶⁵ More information is available at www.ncvo-vol.org.uk/ce

⁶⁶ Further information is available at <http://www.ncvo-vol.org.uk/index.asp?id=1386>

consistent services for the majority, but this may well be at the expense of vulnerable, harder to reach users who need more specialist or different services. Reaching all citizens requires a different approach, which draws on the breadth of third sector organisations.

4.9 There has also been a focus in recent years on increasing collaboration amongst third sector organisations, including collaboration for public service delivery. For example the national charity Scope has set up a programme to sub-contract the government tenders that they have won to smaller, locally based VCOs where appropriate. The recent Cabinet Office action plan on public services also indicated that government will be reviewing sub-contracting arrangements and will be developing models for establishing third sector consortia. This could help to ensure that different size third sector organisations are able to play their full part in public service reform. There is a need to ensure that there are genuine reasons for such consortia, otherwise there is a risk that this could be seen as for its own sake or, at worst, be seen as coercion.

4.10 It is unhelpful to suggest that those third sector organisations who do not deliver public services are “more radical”. This suggests that only non-service delivery organisations undertake campaigning work, and directly challenge government policy. In fact, all third sector organisations exist for a purpose: to further a cause or to meet particular needs. They will seek to raise awareness of their cause and give voice to the needs and concerns of their members and beneficiaries in order to further their mission (see paragraphs 4.3 and 4.4).

5. *Does commissioning services from the third sector have any benefits for the state?*

5.1 As already noted, commissioning services from the third sector can bring a number of benefits for the state such as more responsive provision, holistic services and greater flexibility. However, these benefits will only accrue if the statutory sector puts appropriate measures in place to capture these benefits
Does the state risk losing control of service delivery in a way which might be damaging?

5.2 There is no reason to suppose that commissioning services will in itself erode statutory control of service delivery. Those in the public sector managing contracts must ensure that they have appropriate accountability measures in place for both statutory and non-statutory service provision.

What capacity will the state need to ensure that it can be an intelligent customer of services?

5.3 Increasing focus on the role of the third sector in shaping and delivering public services has thrown up a new set of challenges for those working in organisations in both sectors. NCVO and Futurebuilders England launched the Public Service Delivery Network on 23 January 2006⁶⁷, to develop the capacity of those in the VCS with responsibility for negotiating and managing public service contracts. The network has attracted significant interest from both the VCS and the statutory sectors, and feedback from events to date indicates that there is need to provide greater support to individuals as well as fora for people to share experiences and expertise and enable them to develop mutual understanding of the framework that each other is operating within.

5.4 The Cabinet Office action plan on public services⁶⁸ includes a commitment to training the two thousand most significant commissioners for the third sector. This should help to improve the skills of those who are designing and purchasing services to better understand what value the third sector can bring and how to harness that value.

How is duplication of effort in order to monitor and manage contracts best avoided?

5.5 As the work of the Performance Hub demonstrates,⁶⁹ both sides of the funding relationship should focus on the outcomes they want to achieve and agree realistic and relevant outcomes for the funding or project to work towards. Focusing on the change they are able to deliver will help concentrate both purchasers and providers in avoiding unnecessarily duplication and unhealthy or perverse targets and incentives.

5.6 Purchasers should also seek to make better use of the monitoring and management processes that are already in place. Some third sector organisations have developed their own monitoring and evaluation processes to better assess progress on their desired outcomes. For example, Magpie Dance in Bromley developed their own monitoring framework that involved client self-assessment. This was subsequently accepted by some of their funders in preference to their standard monitoring and evaluation processes.

⁶⁷ Further information about the network is available at <http://www.ncvo-vol.org.uk/sfp/earning/contracting/index.asp?id=2390>

⁶⁸ http://www.cabinetoffice.gov.uk/third_sector/documents/public_service_delivery/psd_action_plan.pdf

⁶⁹ Please see www.performancehub.org.uk

How good is the state at managing bidding processes and defining contractual obligations when commissioning services?

5.7 The third sector's experience of bidding processes and contractual management is mixed, and can vary from provider to provider and from service to service. The lack of consistency in current practices is well illustrated by the 2005 NAO review,⁷⁰ which found that funding methods are highly variable across government. In particular, there was confusion in government departments about when to use grants and when to use contracts, poor understanding and implementation of full cost recovery, resistance to long-term funding arrangements and late confirmation of funding.

6. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

Are services cheaper to provide?

6.1 As with any provider, different services delivered by the third sector will have different costs attached to them. There has been much disquiet in recent years that the motivation behind government's desire to contract with the third sector is that it will provide "a cheap option". While third sector provision may cost less than statutory provision in some cases, third sector organisations have also often developed services in areas of market failure or niche markets where service provision may cost more. Public services provide not just a private benefit to individual consumers, but also a public good. It is not sufficient to ensure that a service meets the needs of the majority of the community, it must also be available to citizens who need an adapted or quite different service, which may have less scope for economies of scale and therefore be more expensive to provide. The full costs of public service provision must be met irrespective of who is providing those services.

6.2 However, the VCS can play two key roles in efficient use of public funds which have yet to be fully recognised. Firstly, VCOs often provide preventative services and put interventions in place, for example running a healthy living initiative, that may stop some service users from becoming future users of other state services, for example primary or secondary health care, thus accruing savings to the public purse. Secondly, VCOs have a user-focused approach and can often join up provision that may otherwise come from a number of agencies. For example, many people who present at Citizens Advice Bureau go for one reason but then have a number of problems that the organisation then goes on to support them to solve.

Are there "hidden costs" such as contract oversight?

6.3 As already noted, scrutiny and monitoring of public service contracts should be proportionate to the size and nature both of the organisation and the activity. All such requirements should also be included as legitimate overhead costs.

Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?

6.4 The key thing is to ensure that the service is specified and costed properly. Once this process has taken place, purchasers can identify what conditions to apply. There are a number of national and EU procurement rules which govern when competitive neutrality should apply. However, there are some instances where such competition is not appropriate, for example if a third sector organisation is the only possible provider for a particular service specification.

6.5 In 2005, the Better Regulation Task Force⁷¹ argued that third sector providers are being discriminated against compared to their private sector counterparts in the contracting process. In particular, funders sought to clawback any surplus funds, would resist entering into negotiations and sought detailed information about overhead costs. In a truly competitive situation, this should not be the case.

6.6 It is also worth noting that there have been a number of initiatives in recent years, particularly Futurebuilders and Capacitybuilders, that have sought to build the capacity of the sector to take on public service contracts. This is not contrary to the concept of competitive neutrality as it both builds up a market that government is keen to develop, and fits into a broader strategy to strengthen the whole third sector which is not merely restricted to public service reform.

⁷⁰ National Audit Office (2005) *Working with the Third Sector*, TSO.

⁷¹ <http://www.brc.gov.uk/downloads/pdf/betregforcivil.pdf>

7. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

7.1 The public sector is able to determine costs and benefits through the commissioning processes. Different organisations will bring different things to different services at different times, and it is for statutory commissioners to be clear about what they are seeking.

March 2007

Memorandum from Accenture

INTRODUCTION

1. Accenture welcomes the opportunity provided by the Public Administration Select Committee to comment on “Commissioning Public Services from the Third Sector”.

2. The UK Government’s recent creation of an Office of the Third Sector demonstrates its determination to use the sector as a key means of effecting public service reform. By positioning the sector as a key delivery partner of public services, the Government hopes to maximise the range and depth of services available, in order to deliver the choice and devolution agendas that it is enacting across the country.

3. Accenture is a global consulting organisation dedicated to helping government and third sector organisations achieve high performance results that meet the challenges of a rapidly changing environment.

4. Accenture’s Atlantic and Europe group has more than 1,400 employees dedicated to government and third sector organisations. Our people come from a wide range of cultural, academic and geographic backgrounds. We bring together people with different skills and experiences to deliver great things for our clients, to shape the future of our own business and to make a real difference to the communities in which we live.

5. This response considers the following areas:

- growing emphasis on the third sector;
- benefits of greater involvement of the third sector;
- success factors for partnership working.

GROWING EMPHASIS ON THE THIRD SECTOR

6. Opening up markets for public services to new suppliers should allow a greater choice for users. The devolution agenda centres on the efforts to provide personalised services across all public services, to empower citizens to influence the services they are entitled to and increase the choice for users. The nature of the third sector means it has the capacity to tailor services at the point of need and reach those on the “fringes” of society, increasing the range and depth of services for users. Such personalisation, range and depth is likely to increase competition between providers, which is assumed would lead to a better quality of services overall.

7. Significant affinity exists between the Government and the third sector, as both are driven by a public service ethos and share the aim of improving the lives of the people they serve. This makes a partnership between the Government and the third sector appealing: the third sector can help meet government outcomes, while the Government can provide sustainable funding opportunities to the third sector through contracts, further enabling an improvement in outcomes.

8. Over the last few years, the third sector has shown its ability to make a positive difference to the country’s economy. Made up of charities, social enterprises, voluntary and community groups, the third sector possesses flexibility and adaptability as they manage and work towards multiple bottom lines—financial, social and environmental. What’s more, both government and the third sector face challenges in achieving their goals, which the other can help overcome through effective joint working. The question is how to make such a partnership work? Clearly setting out the benefits to both government and the third sector of working together will help both parties to understand not only why they should work together, but how to position themselves effectively in the market using the solutions they offer. It will also help the Government plan how it can best enable the third sector to achieve these benefits.

BENEFITS OF GREATER INVOLVEMENT OF THE THIRD SECTOR

9. As independent organisations, based in the heart of local communities, the third sector offers accessibility in terms of where services are delivered and importantly, in the relationships they build with users. This enables the third sector to support people on the “fringes” of society, who would otherwise never access mainstream services. Insights from our work to date show that the capacity to build strong relationships with users based on a high level of trust means that users are often more affiliated to such third

sector organisations, beyond the name and reputation of a private body. This ability of the sector to reach both individuals and communities is core to its appeal. It offers much more than additionality, it offers a way of reaching its audience which the statutory sector often finds difficult to replicate.

10. Furthermore, by being based in neighbourhoods and communities, third sector organisations understand both what services need to be delivered and how. The third sector selects appropriate services through a combination of service development against local statutory sector priorities and user consultation. As the third sector can be flexible and has the capacity to tailor services at the point of need, it can offer choices to users that best meet their requirements and therefore have a higher likelihood of success.

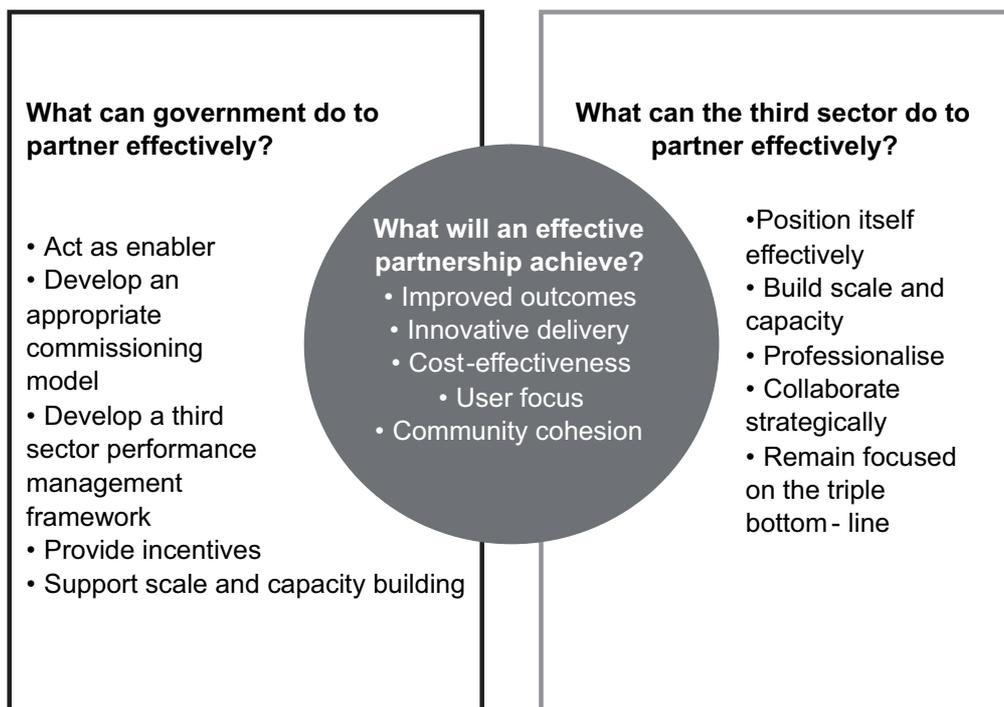
11. That the third sector has the ability to adapt its methods of service delivery is vital. By making initiatives both appealing and bringing them closer to home, the third sector maximizes uptake and impact on users. For example, Healthy Living Centres understand that health services must be delivered in culturally sensitive formats if they are to access certain users. By combining religion-based activities with physical activities such as chair exercise or health MOTs within a mosque, some Healthy Living Centres have been able to help men and women that are marginalised by mainstreamed forms of service delivery. This ability to bring their services to market in highly targeted and creative ways is a key part of the innovation of the third sector—finding new and better solutions to existing problems.

12. Social outcomes are key to what a commissioned third sector—in particular social enterprises—offers over and above the private sector. An organisation within the third sector works towards multiple bottom-lines in a way that makes this sector unique in its capacity and commitment to delivering multiple types of benefits. For example, a social enterprise might be set up to address health inequalities but because of its approach will also impact social capital aspects such as community cohesion. Crucially, social enterprises reinvest their profits back into the community. This reinforces and builds on the initial social impact, enabling the community to see the results of its involvement, creating a positive driver for improvement and change.

SUCCESS FACTORS FOR PARTNERSHIP WORKING

13. For the third sector to help the Government achieve its aims, the latter needs to put in place a range of mechanisms to enable the third sector to be effective in public service provision. These should be developed to allow the third sector to respond successfully to the new open market without curtailing competition or giving the third sector unfair advantage over other potential providers. At the heart of any strategy the Government adopts must be the implementation of an effective commissioning process that incentivises and enables the third sector to compete effectively using the skills and unique value they bring to public service delivery.

14. The diagram below summarises key elements of what the Government and third sector can do to partner effectively, and what this will achieve:



15. The Government needs to ensure that local government and statutory bodies have a clear commissioning process and criteria which providers need to meet. This requires an end-to-end commissioning process to be put in place which encourages an open market for applicants, which effectively evaluates the suitability of each candidate across a broad set of criteria, and which provides a structured way of monitoring and evaluating the success post contract award.

16. While the commissioning process is an important one, it will not work alone in bringing about successful partnership working. This submission highlights four key factors that should be considered alongside a clear commissioning process to ensure that the right environment exists to successfully harness third sector organisations in delivering public services—the four factors are ensuring the third sector is fit for purpose, performance management, incentivising the third sector, and scale and capacity.

Enabling the third sector to become fit for purpose

17. To be a viable choice for citizens in an increasingly contestable public service marketplace, third sector organisations must undertake both an organisational and cultural shift. They will be expected to become more professional and to implement relevant business practices to ensure value for money for the tax payer. To support this, government must make professionalisation a key component of its third sector agenda, setting out clear requirements around business management. At the same time, the sector must adopt and embody a culture of professionalism, accountability and transparency. It is only when government enables, and third sector corresponds, that the third sector will be able to:

- plan and manage its operations more effectively;
- grow, building capacity and expanding its service delivery to reach more people and meet government demand;
- innovate, better meeting user needs and further improving outcomes.

Performance management

18. Performance management is a key aspect of the professionalisation required of the third sector. The third sector has been subjected to different performance requirements from a range of different funders, which are often more about the funders' monitoring needs than the outcomes of an organisation's work. Both the number and disparate nature of these monitoring requirements also mean that it is difficult for the third sector to take a focused approach to performance monitoring and improvement, which in turn represents a challenge to the local government and statutory bodies in commissioning services.

19. In order for commissioning to be effective, the Government should establish a standardised but sector appropriate set of indicators that enable the third sector to monitor their own performance in terms of outcomes achieved, and how well they are running internally. In this way, the third sector would be able to implement a reliable, recognised performance management framework that will help the drive to greater professionalisation.

20. Getting the full value from the third sector means that a balanced set of performance criteria must be used to both select and monitor the right partner for service provision. This is essential if the “triple bottom line” is to be accurately reflected in the commissioning process. To get a true picture of performance, the Government needs to define appropriate indicators to assess its providers across two core criteria: outcomes achieved and cost of service delivery.

21. In terms of outcomes, indicators are required which focus on social capital improvements (such as increased wellbeing of users and attitudes towards the safety of a community) and short term self-reported outcomes from users (eg numbers back in work or numbers who exercise three times a week), rather than the long term indicators of improvements currently measured and tracked, but which are difficult to link directly to the work of an individual organisation.

22. In terms of costs, the selected indicator needs to reflect the total cost of delivery for the third sector, that is, reflecting full cost recovery across service delivery, overheads, management, training and research, and development costs. Bringing these elements together to measure cost effectiveness is particularly challenging in the third sector. For example, government must recognise both the challenges and benefits of working with volunteers, which might actually increase the cost base of a third sector organisation, rather than decrease it. Indeed, it is important that the third sector is not seen as the “cheaper” option, but instead value for money is recognised through the wider social and environmental impact it achieves. Therefore, using an accurate cost per user as a performance measure is essential to both reflecting the true work involved in delivering third sector outcomes, while also giving an indication of the reach of the service provided.

23. It is also important that whatever model or structure the Government selects for regional and local levels, it does not result in over-regulation of the third sector. This is why we have suggested “outcomes achieved” and “cost of service delivery” as the two core indicators which local government and statutory bodies should use to assess its providers, which would form part of the performance management framework. Commissioning bodies cannot expect to have sight of the full performance management framework of the third sector as it would a mainstreamed organisation—third sector organisations need to

retain management independence, as occurs in existing private sector contracting relationships. This is why it is important for government to provide the framework for performance management to the third sector, as a guarantee of good practice in performance management, rather than seeking to monitor across the whole of the sector's performance. Placing an emphasis on good performance management encourages transparency and accountability in both government and the third sector, while at the same time, helping to build open relationships and driving efficiencies through the streamlining of evaluation and monitoring, all ultimately leading to better achievement of outcomes.

Incentivising the third sector

24. While the links between the Government's drive to provide more cost effective and accessible services and the increased focus on involvement of the third sector are evident, there is nevertheless a need for central government to ensure that local statutory bodies play an active role in creating the right environment for the sector to truly flourish. The third sector is prime for a move beyond mere additionality into playing a vital developmental role for public service provision. For example, entrepreneurship is an essential part of the third sector, driving innovation which will lead, in the mid and long term, to continuous improvement in social outcomes. The work of ECT group embodies this.

25. ECT is one of the largest not-for-profit waste organisations in the UK and is committed to the triple bottom line, incorporating social responsibility, environmental sustainability and economic viability into all that it does. However, ECT Group's experience of bidding for government contracts has been a difficult one, with local authorities seemingly favouring private sector firms that have more negotiating clout and financial flexibility to accommodate their terms and conditions. What the ECT Group's experience demonstrates is that the Government must not only create a clear and robust commissioning framework that is equitable to all potential providers, it must create a landscape in which third sector organisations can take risks in the way they meet user's needs, without compromising their chances of gaining contracts. Through the ECT Group securing the contract for integrated waste disposal in the London Borough of Ealing, it was helping to create social and economic value for numerous constituencies. By combining creative thinking and innovative business practices, local communities are experiencing an increased sense of well-being from the environmental benefits of recycling and effective waste disposal; the Borough of Ealing, on the other hand, meets its waste disposal targets and gain political capital through the provision of cost-effective services to satisfied residents.

Scale and capacity

26. While the sector has grown significantly, the recent rise in the number of charities, community organisations and social enterprises has not always led to an appropriate increase in scale and capacity. As such, both of these now represent clear priorities for the sector if it is to become a key delivery partner of the Government. There are multiple ways in which the Government can help the third sector augment both scale and capacity. First of all, government can extend initiatives such as "Together We Can", by further involving the local community in the development and delivery of services. This brings multiple advantages to both the Government and the sector. By being steeped in their local communities, third sector organisations can provide a bridge between the Government and the citizen in the processes of double devolution from central government, through to regional/local government and finally to the citizens themselves. Involving the local community plays to the strengths of third sector organisations, helping to build social capital. Involving the local community also means the third sector has a large potential workforce at its disposal that is brimming with local knowledge, but which also allows them to strike the optimum workforce mix for meeting government standards and delivering the services that are needed to the places and people who need them in the most cost-effective way.

27. Collaborating with others, be they private sector organisations or statutory bodies, is crucial to building scale. Joined up working in local government through, for instance, joint commissioning between health and social services, is a good means by which to encourage collaboration and partnership in providers. For example, the Healthy 4 Life Healthy Living Centre works in close and formalised partnerships with three other organisations so that they can meet the demands of joint commissioning and deliver more and better public health services to a larger constituency in Leeds.

28. Another instance of policy encouraging partnership working is evident in Hackney, East London. Primary care in the borough of Hackney went through a shake-up when approximately 50 GPs came together to form a social enterprise called East London Integrate Care (Elic). Elic was formed to harness the collective will of GPs to engage in Practiced Based Commissioning of health services, and was intended to streamline the process by which such commissioning take place. In practice, what Elic will achieve is the enactment of government policy in an efficient manner, the devolving of service procurement decisions from centralised bodies such as Primary Care Trusts to front-line workers like GPs and nurses, and the involvement of the citizen/patient in his or her own care through the practice of choice.

29. Finally, government and statutory bodies must be open to the unique ways of working, sharing and learning that take place in the third sector when commissioning services. It is often the case that the ways of working within the sector are intimately bound up with the creation of social and economic value. For

instance, the third sector is overwhelmingly defined by the tenet of non-profit, where profits, monetary or otherwise are reinvested back into individual organisations, the sector and communities themselves. One way in which this reinvestment occurs is through stewardship—where organisations mentor each other and actively share resources. Cuckoo Lane is a social enterprise that provides GP services in West London that is being helped by the more experienced ECT Group. Because ECT focuses on the business side of the practice—such as accountancy and HR—it has freed up frontline workers such as nurses to deal with over 70% of the complaints that come through the door, demonstrating that there are clear benefits to be derived from managed stewardship.

CONCLUSION

30. For the Government to fully harness the potential of the third sector to help achieve positive outcomes and to make the choice and devolution agendas tangible requires that it recognises and plays its vital role as enabler. In practice this means a willingness to change how it operates on a day to day basis—to effect organisational change where necessary, engage in knowledge sharing and create a robust and fair commissioning process. As for the third sector, it must mobilise itself in order to drive increased professionalisation and attain higher standards so that it can compete in a world of contestability with vigour and a commitment to excellence.

31. It is only when the appropriate balance is struck between what the Government must do and how the sector must respond that both—and by extension citizens—will profit from the benefits that joint working between the Government and the third sector promises. There are significant synergies to be gained from the interaction of the third sector, the private sector and the statutory sector. The Government can set the structure and environment into which the third sector brings its values and user-focused approach, while the private sector can be accessed for its proven business practices. All parties have a vital role to play in helping to ensure the third sector can play its full part in the delivery of quality public services.

April 2007

Memorandum from Age Concern

Age Concern England is the national partner in a federation of 380 organisations, which deliver services funded by contract, by other arrangements with statutory funders, and by voluntary income, to around one million older people per year in every locality in England. Together, Age Concern is probably the biggest independent provider of health, social care and supporting services to older people. Age Concern England provides infrastructure support to local Age Concerns, and campaigns and represents older people at national level.

This letter is in response to the Public Administration Select Committee's consultation on the Government's policies relating to the third sector in public services delivery.

Age Concern has clear evidence that our own delivery has often been more successful than that of prior statutory sector direct provision. This includes increased welfare benefits maximisation from contracted-out advice services, and improved outcomes from contracted out case-finding and assessment (identifying people in need of services who are not receiving them, and ensuring that help is provided). And we have evidence of our own services having impact where there was no prior provider, particularly in community-based services designed to prevent unnecessary admissions to hospital, and health promotion.

We also have evidence where our own provision seems to have broadly equal performance to that of statutory provision, such as in certain health promotion activities. To date we have little evidence of relative performance against private sector providers, as we tend to operate in different areas of activity. However, this may change in the future.

This is not evidence that third sector provision is necessarily superior in specific types of public service activity, merely that one third sector provider has produced good results in certain services in certain areas of the country. Age Concern believes that there are certain Third Sector providers which are very good at the provision of certain services, are well-placed to provide them, and where expanded provision may be of benefit to service-users. Our position, however, is that the best possible provider should be contracted to deliver services. The "best provider" is the one that delivers the best outcomes as defined by service-users, within limits of cost-effectiveness. Public sector procurement has a duty to select providers on this basis alone, and to be effectively "sector neutral".

Where the evidence seems to be most clear, is that "whole-systems" approaches involving the statutory, local third sector and other providers seem to be the most effective. Initial evidence from the Government's Partnerships for Older People Projects (POPPS) is an excellent example of this, established joint working between third sector organisations and the Pension Service is another.

Age Concern has concerns about the wider agenda of contestability. Whilst welcoming the provision of choice for service-users, the quasi-market which it is intended will provide this, has not been modelled in detail and has some potential flaws. This includes a requirement for surplus capacity provided by sustainable

and competing organisations. This situation is unlikely to spontaneously arise, and may be impossible to achieve, leading to a real danger of market collapse. One area of the market dynamic which is very difficult for third sector providers in particular is that commissioners, operating as single local purchasing agents, have great market power, leading to smaller organisations being under pressure to accept unfair or disproportionate levels of risk in contracting. It is likely that this is the main barrier to the creation of a “level playing field”, not any specific cross-sectoral issues. Until a truly level-playing field can be created, by improving good practice in commissioning and contracting based on the best interests of service-users and communities, it is likely that special assistance to third sector organisations is necessary. Certainly, unfair contracting practices towards third sector organisations have persisted despite decades of contracting-out in social care.

The involvement of more third sector, and more private sector, providers does have the potential to deliver greater innovation by the input of different ways of thinking, and this can be demonstrated through a huge list of examples of innovative approaches by commissioned independent providers. The scope for innovation will be further increased if commissioning is based less on the type of service to be commissioned, and more on the basis of demonstrated outcomes for service-users, which is the intention, if not yet the reality, of government policy.

Age Concern is unsure whether there is a “polarisation” of the sector, although there is certainly a trend where larger public service-providing organisations are expanding rapidly. This would not be a concern as long as all the diverse organisations in the third sector were thriving and working more closely together. We are concerned that this may not be the case, although we have examples of large Age Concerns working with smaller organisations through community development initiatives, or facilitating networks and partnerships which involve small groups.

Where there does appear to be a serious risk is in the loss of “independent” services previously funded by statutory organisations on a more arms-length basis than contracting (such as grants or service level agreements), and services which do not directly meet key government targets. These include information and advice services, and independent one-to-one advocacy support. Age Concern has completed a study of its own information and advice services, which has shown a projected decline in funding of one-third over the next three years. If “choice” and personalisation of services through Direct Payments and Individual Budgets, is to be to the benefit of service-users, this independent support is essential.

February 2007

Memorandum from the Audit Commission

INTRODUCTION

1. The Audit Commission welcomes the Committee’s focus on commissioning public services from the third sector and is pleased to submit evidence to this inquiry.

2. The Commission audits and inspects a wide range of public sector organisations, including local authorities; fire and civil defence authorities; national park authorities; passenger transport authorities; probation boards; strategic health authorities; primary care trusts; and NHS trusts.

3. Many of these public sector organisations now procure services from the voluntary and community sector, and particularly from the larger charities.

4. The Commission’s mission is to be a driving force for improvement in public services. Therefore, we have a strong interest in how well local authorities commission services from the voluntary sector. The basis of the Audit Commission’s response to this inquiry is our experience of the audit and inspection of public sector organisations, and our studies of public service delivery. Our current comprehensive performance assessments (CPA) test whether local authorities understand and meet the needs of their diverse communities and provide value for money to users and taxpayers through the effective use of resources.

5. We are currently undertaking research into commissioning from the voluntary sector. The term “third sector” encompasses a much broader range of organisations than our current work, which focuses on voluntary and community organisations and excludes housing associations, leisure trusts and social enterprises. Therefore, we refer to the “voluntary sector” and to “voluntary and community organisations” throughout our evidence.

6. We hope to publish our report on the voluntary and community sector and its role in the delivery of local public services in summer 2007. We would be happy to discuss emerging findings in more detail with the Committee or its officials, if that would be helpful.

7. In this submission, we make specific reference to our findings from a number of other studies as well: *Choosing Well: Analysing the Costs and Benefits of Choice in Public Services*, which was published in May 2006; *Innovation in Local Government, Use of Information and Contestability and Competition*, which are in progress and have not yet been published. The latter two will also touch on issues related to the Committee's concerns including the place of competitive neutrality in commissioning public services and the conditions that encourage innovation by public service providers from all sectors.

Detailed response

8. The voluntary sector is diverse rather than homogeneous; failure to recognise this may result in failure to secure the potential benefits of engaging the voluntary sector in the delivery of public services.

9. The diversity of the sector is evident in the various sizes of voluntary and community organisations, their different sources of income and their governance arrangements. We consider it helpful to think of the sector as having three separate groupings or tiers, each of which has a different perspective on common issues and a different capacity to deliver services:

- The first tier comprises the small, volunteer-only, community-based groups that are providing specific services on a modest scale under grant funding arrangements. They have neither the capacity nor sometimes the desire to compete for service contracts.
- The second tier comprises small to medium sized voluntary and community organisations that are often struggling to find their position in relation to public service delivery. These organisations are delivering services but sometimes find it difficult to compete in the market because they lack the skills and experience to formulate successful bids for contracts.
- The third tier comprises large national or regional voluntary organisations that are already delivering services under contract and have the capacity and willingness to compete.

10. The objective of getting value for money by using the voluntary sector in service delivery appears simple, but is not well understood by all parties. We found some commissioners assessing value for money in terms of the outputs achieved for public money. This is a reasonable basis for assessment, but one that may conceal the full cost of service provision where a provider is contributing funds of its own or leveraging them in from elsewhere. Some voluntary sector service providers see value for money as a broader concept encompassing their wider contribution to the community.

11. The long-running public debate about the value for money provided by the voluntary sector has therefore been conducted without using consistently understood terms. Moreover, there is no sound evidence base for assessing the value for money delivered by voluntary sector service provision, nor would it be easy to create one. None of the parties who contributed to our study could provide sound quantitative evidence to support their stance. Given the keen interest in the voluntary sector's contribution to public services in government and elsewhere, it is important that an objective basis for rational decision-making is developed in the future.

12. There is very little existing research on whether services delivered by the voluntary sector deliver better value, however defined, than other services. Indeed, seeking to make any such assessment at a local level is simpler than seeking to do so at a national level, because the data is more likely to be available to local commissioners. It will probably also be more useful, because the findings of such an assessment are more likely to influence future commissioning decisions. There was a consensus among those who contributed to our study that it was more useful still to concentrate on how, and to what extent, the Government's objectives⁷² in using the voluntary sector in public service delivery had been achieved or could be achieved.

13. The Government has sought to use two levers to achieve its objectives: capacity building programmes and the commissioning process. Capacity building programmes have only been partly successful to date in raising the capacity of voluntary sector organisations to deliver. Compacts have had some benefits in developing funding arrangements and commissioning processes, but commissioners and providers have told us that the development of a Compact has not always been a priority where resources are scarce. The Change Up programme, designed to build infrastructure and capacity, has proved administratively complex and resources have not filtered through to front line voluntary sector organisations delivering services. The Futurebuilders England investment fund has proved unable to help many smaller organisations, who are often unwilling to take on debt obligations. Even those who are willing have been unable to secure evidence of long term funding that would enable them to take advantage of the facility. Commissioning is the more directly influential mechanism.

14. Commissioners of services find themselves under considerable pressure from government expectations. Some commissioners see tensions between responding to the efficiency agenda and taking specific steps to encourage the voluntary sector to compete for service contracts. However, these tensions

⁷² As described in the Committee's call for evidence.

are similar to the more general tensions that commissioners often face. For example, awarding a single contract at a low price may deliver short term value for money gains at the expense of being able to run a competition next time round if there are no other available providers by then. Similarly, letting aggregated contracts to larger providers may deliver economies of scale in both service delivery (for the provider) and contract management (for the commissioner). But it might prevent many organisations, including smaller or local ones, from bidding for the work, weakening competitive pressure and potentially excluding providers with something to offer. Commissioners need to assess their priorities and strike a balance appropriate to their circumstances.

15. We believe that the key to getting the best out of the voluntary and community sector is intelligent commissioning practice. By this we mean thinking carefully about:

- the nature and variety of services that a commissioner wants to procure for a range of service users;
- the sort of organisations likely to be able to deliver them at an affordable price; and
- how best to construct a tendering process that will ensure that a variety of delivery organisations have the opportunity to bid.

Intelligent commissioning is the best way to secure good value for money for an authority. The benefits of intelligent procurement probably outweigh the impact of capacity building initiatives, valuable as these are. However, some smaller organisations feared that even intelligent commissioning practice would leave them unable to contribute to public service delivery because they lacked the ability or capacity to compete successfully for contracts with public, private, and larger voluntary sector providers.

16. Effective commissioning is a complex challenge, and we have found many authorities that have struggled with it. But we have also found examples of good commissioning practice. For example, some authorities have broken up large contracts to enable small providers with particular competencies⁷³ to compete and to maintain a competitive environment for future contract rounds, or to provide opportunities for smaller voluntary organisations to sub-contract or form consortia to bid for contracts. Others have invested in capacity building by providing training and advice.

QUESTIONS

Q1 *What are the benefits of contestability to the users of public services?*

- (a) *Have services which have been transferred to third sector organisations shown improvements in quality?*
- (b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

17. Service commissioners are accountable to citizens and taxpayers for securing the highest possible quality of service at the lowest price they can achieve, regardless of whether the service is outsourced or delivered in-house.

18. There is some evidence that third sector social care providers are more likely to meet national minimum standards.⁷⁴

19. We are not aware of any evidence that services transferred to third sector organisations show distinct improvements in quality following the transfer. Nor are we aware of any evidence that services transferred to the voluntary sector improve to a greater extent than services transferred to the private sector.

20. Local authorities often outsource services that they see as failing, and therefore the initial transfer is likely to produce some level of improvement from a poor baseline. This makes it very difficult to assess whether any improvement is attributable to inherent advantages brought by the external provider. However, emerging qualitative evidence from our study on competition and contestability suggests that simply transferring poorly performing services to another provider will not lead to marked improvements in quality. Commissioners need to work with providers before and after outsourcing to re-design failing services.

21. Local authorities need to establish the framework for accountability as part of the way they commission services. They need to develop a clear specification for the services required and an effective mechanism for monitoring performance. They should then put sound contract management arrangements in place, in order to assure the quality of service delivered. This requirement is the same regardless of whether the service is ultimately delivered in house, or by a private sector or a voluntary sector organisation.

⁷³ For example, voluntary organisations may have special expertise in dealing with people who have a specific medical condition, or with drugs and alcohol rehabilitation.

⁷⁴ Commission for Social Care Inspection [2007] *The State of Social Care in England 2005–06*.

22. Some local authorities interviewed in the course of our studies on competition and contestability and working with the voluntary sector were reluctant to outsource certain services, fearing that this might lead to an unacceptable loss of control and accountability. This concern related particularly to services they deemed sensitive, such as child protection.

23. We found some specific examples of poor accountability that occurred because the service delivery arrangements between the local authorities and the voluntary sector were relatively informal. But we did not find widespread evidence of loss or lack of accountability as a result of contracting out services.

24. Many authorities recognised a need to improve accountability in their outsourced relationships, including those with the voluntary sector. Some told us that they were converting their grant-funding arrangements with the voluntary sector into service level agreements or formal contracts in order to address this issue.

Q2 Is the third sector more likely to provide better public services than the state or the private sector?

(a) Is there evidence that where services are provided by the third sector, that they are popular with those that use them?

(b) Is there evidence of demand for more services to be provided by the third sector? If so, who from?

(c) Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

(d) Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

25. None of our studies sought evidence on the comparative popularity of services delivered by different providers. Our research on choice in public services found that what matters most to users is the quality of the service they receive, rather than who provides that service. Citizens do not always know who provides their services—sometimes they have no idea whether it is the local authority, the health service, or another public or private organisation. What matters to users is having choice in how the service is delivered, and it is particularly important for them to have choice in personal social services.

26. We did not seek evidence of demand for the voluntary sector to provide more public services, nor did we seek evidence that voluntary sector provision is any more responsive to changing needs than other provision. However, a diverse supply base potentially offers commissioners a better chance of meeting the diverse needs in their local communities, which could be expected to lead to higher levels of satisfaction among service users.

27. Our study on innovation in local government, which is currently in progress and has not yet been published, shows that no sector or delivery mechanism has a monopoly on innovation. Innovation tends to come from those who are closest to the users of a service, and often emerges in partnerships. We found evidence of innovation among providers of all kinds, but no particular evidence of greater innovation in the voluntary sector, compared with other service providers.

28. During our voluntary sector study we found some unease among providers that they might find it more difficult to add value if they were to become more risk averse and less innovative; some felt that this risk was greater where commissioners were making more use of contractual arrangements.

29. A recent academic study⁷⁵ suggests that innovative capacity has fallen in the voluntary and community sector over the past decade, as a direct result of commissioning practice increasing the emphasis on service delivery and not explicitly seeking innovation.

30. However, we found that contractual arrangements do not necessarily stifle flexibility and innovative practice. Intelligent commissioning can create the conditions that encourage innovation. Public bodies can design competitive tendering processes to encourage smaller providers to compete. Service specifications can encourage flexibility and responsiveness to user preferences in areas such as social services, where responsiveness of service delivery matters greatly.

⁷⁵ Osborne, S [2007]: *The innovative capacity of voluntary organisations: survey evidence from a replication study*, ESRC Discussion Paper 0701.

Q3 *Does commissioning benefit the third sector?*

- (a) *Will contractual relationships with the state improve stability within the third sector?*
- (b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*
- (c) *Is there a risk that service providers will become increasingly bureaucratic?*
- (d) *Is there a risk that third sector organisations will lose their independence, their identity, or their distinctive ethos?*
- (e) *Might the third sector become polarized between large, service-providing organisations and more radical groups? If so, would this matter?*

31. Some voluntary sector organisations perceived a shift in local authority funding from grants to contracts in recent years, but it was not possible to substantiate any marked shift from the available data. We saw no evidence that overall grant levels had fallen in recent years. However, there was evidence that the use of arrangements similar to contracting was increasing and that local authorities were making use of more contract-like arrangements (such as Service Level Agreements) as conditions of grant funding.

32. Commissioners told us that service contracts gave authorities control over the services they bought and gave providers clarity on what the commissioning organisation required from them. Contracts also provided a better way of holding providers to account, regardless of whether the services are provided in house or by the private or voluntary sectors.

33. Many voluntary organisations saw improved stability of funding streams as an advantage of delivering services under contract, especially where contracts ran for more than one year. Some also told us that reporting performance against a contract specification could give them opportunities to demonstrate their value to a greater extent than had been possible under some previous grant funding arrangements. Commissioners and providers alike recognise a risk that, unless handled carefully, commissioning may impose a bureaucratic burden on smaller organisations, many of which have limited capacity to provide information or comply with other requirements and have limited experience of doing so.

34. Some voluntary organisations, particularly smaller ones, were worried about providing services under contract. These organisations feared that a contract regime might force them to compromise their mission and lose autonomy.

35. Most of the larger organisations we spoke to were less concerned about a potential loss of autonomy, and saw a clear distinction between their advocacy role and their service delivery role. Often these separate roles are conducted in different arms of the organisation. Some organisations did accept that there was a potential conflict of interest in advocating particular services where they were likely to go on to compete for the service contract. The Charity Commission has issued helpful guidance for charities that may be considering involvement in public service delivery. The Association of Chief Executives of Voluntary Organisations and the National Council of Voluntary Organisations have also produced material to help voluntary organisations understand what is involved.⁷⁶

36. Representatives of some small and medium-sized voluntary and community organisations perceived a risk of losing out to larger, sometimes out-of-area organisations, which they perceived as being better able to compete for contracts.

37. We have found little qualitative evidence to suggest that commissioning practice is actually exercising a polarising effect on the voluntary sector at present. However, voluntary organisations are faced with the choice of whether to participate in delivery of public services through contracting or not. Some, perhaps some smaller ones in particular, may choose not to do so if they feel they lack the capacity to engage with the contracting process or to deliver the service as specified or, as in some cases, simply do not want to deliver services under contract. Commissioners need to recognise the diverse nature of the sector and to be aware that small organisations may exclude themselves from delivery, which could represent a lost opportunity to broaden the range of delivery options, or a loss of the service to the local community.

⁷⁶ See for example *Before Signing on the Dotted Line: all you need to know about procuring public sector contracts* by NCVO, and *Mind the Gap: a funder's guide to full cost recovery* by ACEVO.

Q4 *Does commissioning services from the third sector have any benefits for the state?*

- (a) *Does the state risk losing control of service delivery in a way which might be damaging?*
- (b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*
- (c) *How is duplication of effort in order to monitor and manage contracts best avoided?*
- (d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

38. We found no evidence that commissioning services from the voluntary sector carried any greater risk of loss of control than any other form of commissioning.

39. Emerging findings from our competition and contestability study suggest that commissioners need specific skills and competencies in order to secure the best possible outcomes from commissioning. The major skills weaknesses identified were in risk management, contract negotiation and management, rather than technical areas such as regulation and knowledge of contract requirements. In particular, there is a distinction between managing a service and managing a contract to provide a service. Several interviewees referred to a lack of contract management skills and attributed that, at least partly, to resistance on the part of staff to changing from service provider to service commissioner. Commissioners need to be open-minded and willing to consider the full range of options available to them. There is plenty of guidance from the OGC and others on good commissioning practice already in existence, including specific guidance for the third sector.⁷⁷

40. Our studies on competition and contestability and on innovation found that many authorities doubt whether they have the skills or the capacity to commission effectively. We did not find evidence that the challenges of effective commissioning (for example, retaining sufficient technical and contract management expertise in-house to be able to manage the contract effectively) were any different in procuring services from the voluntary sector rather than the private sector.

41. We found examples of poor as well as good commissioning practice during our study of the voluntary sector. The most common complaints concerned over-complex and bureaucratic tendering and contract management processes, and a general sense that the procurement process focused on reducing costs at the expense of quality. There is no evidence that this poor practice affects third sector organisations disproportionately. However, it is clear that where current procurement practice is poor it does not encourage third sector organisations to enter the market for service delivery contracts.

42. We found some authorities providing help and advice, as well as actively seeking opportunities for smaller third sector organisations to enter sub-contracting or consortium arrangements.

Q5 *What are the financial implications of providing services through the third sector, compared with directly provided state services?*

- (a) *Are services cheaper to provide?*
- (b) *Are there “hidden costs” such as contract oversight?*
- (c) *Are the benefits of third sector participation in public service provision so great that it is appropriate to have financial rules, which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

Q6 *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

43. Both central government and voluntary sector organisations have emphasised the added value that the voluntary sector can bring to service delivery, and the potential for “transformation rather than transfer” of services. Some in local government share that view. But added value is easier to articulate than it is to enumerate or prove.

44. Commissioners and providers told us that focusing on the cost of services alone was too narrow an approach in assessing value for money. Service quality should also form part of that assessment. Public bodies should commission services from the provider that presents the best option for that particular service in those particular circumstances.

45. However, in the absence of any incentive to do so, local authorities do not account for contracts on a sector-by-sector basis, so it is impossible for them to assess the relative value for money delivered by

⁷⁷ See, for example: Department of Health [2006] *Report of the Third Sector Commissioning Task Force*.

providers from different sectors at a local level. In order to do so, authorities would need to change their approach and to maintain records in a way that identified providers from different sectors, their performance and costs, in a way that enabled comparison across sectors.

46. The emerging findings from our study of competition and contestability suggest that information about transaction costs, benchmarks, and wider market analysis is scarce. Local authorities recognise that there are transaction costs associated with competition or outsourcing, and some have taken them into account in assessments of the potential costs and benefits of competitively tendering or outsourcing services. But authorities' understanding of their cost base in general, and of transaction costs in particular, is often poor. And we have not found any who maintain separate records of transaction costs with different sectors in a way that would enable valid comparison.

47. Many commissioners perceived that commissioning services from the voluntary sector incurred greater transaction costs, simply because this often entailed letting a larger number of smaller contracts to smaller providers. If true, this would be an example of one of the commissioning challenges we identified in paragraph 14, and might apply more broadly than the voluntary sector (for example to any attempt to ensure that small and medium enterprises are engaged in the delivery of public services). However, no commissioners could produce any financial or other evidence to support this view.

48. The scarcity of sound, reliable data about service performance and cost makes it difficult for local authorities to assess value for money. In particular, the lack of data comparing in house and external providers makes it difficult to choose between competing service providers. And the lack of data on the transactional costs of outsourcing makes it difficult to make decisions about service delivery and to assess value for money comprehensively (which might, for example, include offsetting additional transaction costs associated with the use of one provider or contract structure against the added value it delivered). This issue has implications beyond local authorities' interactions with the voluntary sector and we will be investigating aspects of it further in our studies on competition and contestability and use of information.

49. The views on competitive neutrality of those we consulted in the course of our study on working with the voluntary sector varied. Larger voluntary organisations take the view that, where services are properly specified, competitive neutrality will ensure that voluntary sector providers will secure contracts through which they are best qualified to deliver value for money. Smaller voluntary organisations were more concerned that they would not have the capacity to compete with larger voluntary organisations, or with public and private sector providers. There was therefore a risk that their potential contribution could be lost in future without some form of special support.

50. Some commissioners faced situations where one sector or even one provider effectively held a monopoly position, and could see a case for some special treatment for organisations that might not otherwise secure business without it. We can envisage circumstances in which authorities might sensibly depart from strict competitive neutrality in the interests of building a broader or more diverse supply base, therefore improving the prospects of securing better value for money in the longer term.

March 2007

Memorandum from The Baring Foundation

SUMMARY

1. The Baring Foundation is an independent grant making trust. In 1996, the Foundation launched the Strengthening the Voluntary Sector (STVS) grants programme. This programme reflects the Foundation's belief in the value to society of an independent and effective voluntary sector.

2. William Beveridge argued that voluntary organisations can be allies with government, but not servants of government. The Baring Foundation believes that it is desirable and possible for the third sector to work with government. Government and the sector need to find ways of working together that allow the experience and resources of both to flourish.

3. In 2006, the Foundation launched the STVS—independence programme. This helps organisations to establish and manage productive relationships with government. It does this by supporting them to increase their legitimacy and their confidence. The programme was vastly oversubscribed. The evidence contained in the 515 applications forms the basis of this submission.

4. The growth in government funding to the sector is welcome. However, current mechanisms for transferring funding to the third sector, in particular commissioning, form a significant threat to the sector's independence. This threat is being felt across the sector.

5. Third sector organisations feel most under threat when shifts in government policy result in budget cuts or changes that jeopardise core services. 92% of applicants to STVS—independence said that their ability to provide core services was under threat. 69% said that their organisation or their project risked closure. The commissioning relationship creates a paradox: the third sector is viewed by government as an important partner, but organisations feel unable to influence government when they believe change will result in poorer services to the people they support.

6. There are practical measures that third sector organisations and government can take to make the commissioning relationship more productive. For sector organisations this is about strengthening their legitimacy and building their confidence. For government, this is about genuinely understanding and valuing the contributions made by those outside government. Third sector organisations are better placed than the public and private sectors to gather evidence from the front-line about changing needs and what works in meeting these needs.

SECTION 1—BACKGROUND

1.1 This submission consists of a statement of the Foundation’s position on commissioning and the third sector and concludes with direct responses to the questions listed in the Questions and Issues paper. These responses are restricted to areas for which we have direct evidence, rather than giving general opinions. We would be keen to elaborate on these answers in oral evidence, should the Committee wish.

1.2 The Baring Foundation is an independent grant making trust. Since 1969, the Foundation has given over £93 million in grants to voluntary organisations. The Foundation’s purpose is to improve the quality of life of people suffering disadvantage and discrimination. Its work is based on a belief in the fundamental value to society of an independent and effective voluntary sector.

1.3 Most relevant to the Committee’s inquiry is our experience of providing funding to organisations through our Strengthening the Voluntary Sector (STVS) grants programme. Since 1996, this programme has supported organisations to strengthen the core strategies, structures, systems and skills that all organisations need in order to operate efficiently and effectively.

1.4 In 2006 the Foundation added a focus to the STVS programme. The trustees had noted the increasing significance of funding relationships between third sector organisations and government, in particular through the “contract culture”. Of special interest was the impact of these relationships on the independence of third sector organisations. “Independence” does not mean existing in isolation. This is simplistic, unrealistic and undesirable. Rather, independence is about how, in the course of managing complex sets of relationships, organisations can establish and maintain a set of important freedoms. The freedom to:

- agree their own values;
- carry out work that delivers the stated purpose of the organisation;
- negotiate robustly; and
- challenge others and engage in public debate.

1.5 Whilst the increase in government funding has been welcomed by the third sector, the Foundation recognised that the ability of organisations to maintain these freedoms at the same time as receiving government funding varied considerably. Some organisations had used relationships successfully to attract funding for services at the same time as preserving, or even extending, these freedoms, for example by using the funding relationship to influence policy design and contribute to service review. Others had not and feared that their values, their distinctive methods, their relationships with the people they exist to support and their ability to challenge government had been eroded.

1.6 The Foundation was interested in understanding the circumstances under which organisations achieve a productive relationship with government, where the experience and resources of organisations and government combine to greatest effect. The Foundation decided to focus the STVS programme on exploring this question. Grant application guidelines were issued which listed a range of practical activities that could help to enhance independence. This is a new programme, but it has so far generated evidence through a number of means including:

- in-depth interviews on independence with 30 third sector organisations;
- 515 applications to the STVS—independence programme;
- visits by Foundation staff to 31 organisations to assess proposals; resulting in grants to 22 organisations;
- output from a network that brings these organisations together;

- an independent analysis of the applications to the programme carried out by Cathy Pharoah⁷⁸ and;
- external evaluation of the programme, currently establishing base-line positions.

SECTION 2—THE BARING FOUNDATION’S POSITION ON COMMISSIONING FROM THE THIRD SECTOR

Allies not Servants

2.1 The third sector has its roots in the spirit of voluntary action. This is the spirit that inspires individuals to seek to improve conditions for themselves and for others. This spirit is present in other sectors, but the fundamental characteristic of voluntary action is its independence from public control. It is action that has, in the words of William Beveridge, “a will and a life of its own”.⁷⁹ Like this, voluntary action can be an ally of government’s but not its servant.

2.2 The Foundation believes that it is possible and desirable for voluntary action to work with government to tackle society’s most intractable problems. Indeed many of society’s proudest achievements are the result of collaboration between voluntary action and the state. The third sector works at the front-line and government has the capacity to ensure universal provision and to coordinate services. Of prime importance is to manage the relationships between the sector and government in ways that maximise the contributions of both and allow the experience and resources of both to flourish. Preserving and nurturing the independence of the third sector is fundamental to achieving this.

2.3 The Government knows well the benefits that the third sector can contribute. HM Treasury recently listed the following attributes:

- a strong focus on the needs of services users;
- knowledge and expertise to meet complex personal needs and tackle difficult social issues;
- an ability to be flexible and offer joined-up service delivery;
- the capacity to build users’ trust;
- the experience and independence to innovate;
- an ability to involve local people to build community “ownership”;
- an approach that builds the skills and experience of volunteers; and
- an ability to increase trust within and across communities, thereby building social capital.⁸⁰

This is a good list, but it might also include:

- An ability to provide independent advocacy for services users engaging with statutory authorities.
- An ability to represent the needs of service users to government.
- The knowledge and local networks to engage people that government finds “hard to reach”.
- An ability to identify new and emerging needs more quickly than government.
- An ability to address people’s needs in a more holistic way.
- A commitment to support service users to become volunteers and workers and thereby deliver services that are non-stigmatising and appropriate.

2.4 One of the problems is that the terms used to describe the various mechanisms for transferring funding to the sector are often applied in a confused way: making grants (unrestricted and restricted), contracting, tendering, commissioning, procuring, agreeing service level agreements.

The Select Committee’s inquiry defines its focus as “commissioning”. A recent HM Treasury report which sought to provide guidance on improving financial relationships between government and the third sector used the word “procurement”. We take both terms to mean the process of “acquiring goods and services in line with the government’s policy of value for money, normally achieved through competition”.⁸¹

2.5 Some organisations are coping with these new arrangements. For example, Martin Narey, Chief Executive of Barnardo’s noted that at the same time as receiving large scale government funding, in recent months Barnardo’s has “criticised Asbos; highlighted the poor educational outcomes for children in care (criticising some of the local authorities for whom we provide services); highlighted the plight of young carers; and made a sustained attack on inhumane treatment of asylum seekers’ children; persuaded the government to introduce the use of polygraphs for child-sex offenders; continued to campaign against the introduction of any sort of ‘Sarah’s law’; (and) with other children’s charities, we have helped to reinvigorate the End Child Poverty campaign.”⁸²

⁷⁸ Former Head of Research at Charities Aid Foundation and an expert on third sector resource issues.

⁷⁹ Beveridge W (1948) *Voluntary Action: a report on methods of social advance*. George Allen and Unwin. London p 8.

⁸⁰ HM Treasury (2006) *Improving financial relationships with the third sector: guidance to funders and purchasers*. HM Treasury: London. p 14.

⁸¹ HM Treasury (2006) *ibid*. p 13.

⁸² Narey M (2007) “Our charities are not co-conspirators”. *The Guardian* 14 February 2007.

2.6 Many organisations that provide excellent services are not coping. This is captured in the following quotation from an application to the STVS—independence grants programme:

“We struggle to ‘justify’ full cost recovery to local funders, particularly if they think they can access a ‘free’ service elsewhere. We constantly have to justify our model and why we deliver (even though they really value the high quality of our work). We are under constant pressure to review and justify costs . . . instead of . . . allowing us to get on with the job and to deliver results. With a focus on the short term, this leads to our inability to plan and operate strategically. In this new climate, we are in fire-fighting and short-term crisis mode, hindering the organisation’s growth and development.”⁸³

2.7 Threats to independence are being felt by organisations from right across the sector, rather than certain focused areas. Just over one third of applicants to the STVS—independence programme were working at local or community level and an almost equal proportion was providing specialist care. 58% of applicants were direct service providers representing a wide range of needs including older people, children, the environment, and many specialised groups including mental health, prisoners, learning disabilities, drugs and alcohol and women. 20% of the applicants were umbrella bodies.⁸⁴

2.8 Third sector organisations feel most under threat when shifts in government policy result in budget cuts or changes that jeopardise core services. Organisations are not opposed to change, their problem is dealing with the paradox created by the commissioning relationship: on one hand the third sector is viewed by government as an important partner because organisations have unique insights into the nature of needs and how to meet them, at the same time organisations feel unable to influence government when they believe change will result in poorer services to the people they support. Applicants to the programme had a range of relationships—with central government departments and local authorities.

2.9 Whether change was inevitable, forewarned or even valuable, the crucial issue is that, in spite of partnership rhetoric and the implementation of the Compact, voluntary-sector change or organisational development is still being triggered by external threats. It is not planned or strategic, and does not leave organisations, many of whom are providing for a high level of client need, in control of the agenda.

2.10 As well as undermining core services, threats to independence undermine organisations’ growth and their effectiveness. 17% of applicants to the STVS independence programme said that the organisation was unable to develop its skills for influencing others, 15% said they were unable to improve internal systems.

2.11 There are things that sector organisations can do. In developing the grants programme, the Foundation looked at the characteristics of independent organisations and identified two: the ability to demonstrate legitimacy and the ability to act with confidence.

The practical activities which organisations can carry out to enhance these characteristics include:

Demonstrating legitimacy:

- involving users or beneficiaries in organisational review, planning and management for the first time or in a significantly better ways;
- developing or improving ways of collecting evidence of the needs of users and beneficiaries or potential users and beneficiaries;
- introducing appropriate ways of assessing the quality and impact of the organisation’s work;
- developing ways of listening to complaints and responding;
- introducing a new organisational or management structure;
- strengthening the governance of the organisation; and
- reviewing the values of the organisation.

Building confidence:

- developing skills, capacity and confidence in negotiation, campaigning and communication;
- diversifying sources of restricted funding;
- developing systems and expertise in calculating full costs recovery and the pricing of services delivered under contract;
- making use of the Compacts with central and local government and other statutory bodies;
- improving skills or knowledge about how to work with the media; and
- developing communicating with members, supporters, customers, the media or the wider public in significantly better ways.

2.12 Organisations have a responsibility to ensure these characteristics are in place. They can be helped, by independent funders and by government through initiatives such as Capacitybuilders, but, in the end, no-one else will do it for them. There is a cohort of groups that have grown in confidence under the new commissioning arrangements. Anthony Lawton, Chief Executive of Centrepoint describes this as “getting

⁸³ This has been edited to preserve the anonymity of the applicant.

⁸⁴ Pharoah C (2007) Sources of Strength: an analysis of applications to the STVS grants programme. Baring Foundation: London p 8.

on the front foot”—for example refuse to accept short term contracts, that do not provide full costs recovery. Other organisations need more legitimacy and confidence to argue like this. Being able to challenge government is good for the relationship. It is what government says it wants from the sector.

2.13 Government can also act to make commissioning a valuable and effective process. It has to build on the expertise of the sector and maximise its contribution. This has to start with a genuine belief that the sector has attributes that will enhance the quality of public services. This means involving the sector in design, planning, delivery and review.

2.14 In this way the relationship will be productive and the users of public services will benefit.

THE INQUIRY QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

1.1 A number of academic studies have shown clearly that the use of third sector organisations to deliver some public services can bring considerable advantages and benefits.⁸⁵ However, this is something that organisations find hard to prove on their own. 15% of applicants to the STVS—*independence programme* asked for support to help them compile better evidence of impact.⁸⁶

1.2 At local authority level it is difficult to get a clear picture of what happens when services are transferred. Government Accounting rules do not require local authorities to note whether a contract has been awarded to a third sector provider or a private sector provider.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

1.3 Loss of accountability to whom? Commissioning increases the accountability of third sector organisations to government, but potentially reduces accountability to service users. 28% of applicants to the STVS—*independence programme* said that their ability to define client / member needs was under threat.⁸⁷ The problem with this is that the priorities of government are not necessarily the same as people who need support. If commissioning does not begin with careful analysis of needs, with the necessary involvement of knowledgeable third sector organisations, then it reduces the capacity of government to be an effective commissioner. 62% of applicants to STVS—*independence* said that their ability to stay true to their values was under threat.⁸⁸

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

2.1 There is evidence that the third sector is more effective at reaching some priority groups that government finds it “hard-to-reach”.⁸⁹ But beyond the issue of “popularity”, there are services that are provided by the third sector that cannot be provided by the state eg independent advice or advocacy.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

2.2 Anecdotal evidence from all our applicants shows that demand for services is huge.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

2.3 The third sector has knowledge and local networks to reach and engage people that government cannot. It uses this closeness to identify new and emerging needs more quickly than government. For example voluntary sector providers were quick to identify and start to tackle the needs of refugees and asylum seekers who were “dispersed” to new areas of the country. Of concern is the finding that 28% of applicants to STVS—*independence* said that their ability to define their client/member needs was under threat in the current funding environment.⁹⁰

⁸⁵ HM Treasury (2006) *Improving financial relationships with the third sector: guidance to funders and purchasers*. HM Treasury: London. p 13.

⁸⁶ Pharoah C (2007) *ibid*.

⁸⁷ Pharoah C (2007) *ibid*.

⁸⁸ Pharoah C (2007) *ibid*.

⁸⁹ Buchanan A *et al* (2004) *The Impact of Government Policy on Children and Families age 0–13 at Risk of Social Exclusion*. London: Office of the Deputy Prime Minister.

⁹⁰ Pharoah C (2007) *ibid*.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

2.4 It depends. One good example is work done by the Partners in Reducing Reoffending (PiRR) network in collaboration with their local National Offender Management Service (NOMS) commissioner. The network, led by the Revolving Doors Agency, is designed to help small charities work together so that they are able to bid to run services in the new NOMS market. A big concern for the charities involved was that all contract specifications would include the requirement that the delivery agency would have to take a coercive approach, for instance, to report any user of the service that broke the terms of their offender agreement. The charities involved in PiRR felt this would compromise their ability to engage former prisoners. This ability is dependent on the organisations' place outside the system, and their ability to work with people based on their needs, not the terms of their sentence plan. PiRR took this argument to the Regional Offender Manager, explaining the value of non-coercive approaches. Following negotiations, NOMS in London agreed to recognise the value of non-coercive services in its delivery plan. This is a good example of new innovation being taken on by government. Both sides involved this negotiation deserve great credit—PiRR for speaking up, and NOMS for listening.⁹¹

2.5 This sort of good practice is unusual. We have seen this case study reported in several different places, suggesting it is perhaps unique! 21% of applicants to STVS—independence said that, because of the restrictive nature of their contract, their ability to be innovative is under threat.⁹²

2.6 Government has put great emphasis in its rhetoric on listening to communities using the language of “genuine partnership”. In order for this to be a useful process, government has to ask itself why it is involving those outside government. Is it because public services are a “product” which can be improved by market testing, or because there is a genuine attempt to give people more control over their lives and the institutions they use? The first “consumerist” approach invites ideas from outside but with no commitment to take suggestions up. The second more democratic approach ensures that participants have the opportunity to make change happen.

2.7 The danger with the commissioning model is that it perpetuates a view that people are passive consumers of public services. As such, government is at best unable to incorporate views from outside or, at worst, is unconvinced that third sector organisations genuinely have good ideas and a right to see them put into practice. Evidence from our grants programme suggests that we still need to put the “public” back into “public policy”.⁹³

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the sector?*

3.1 Generally the third sector has welcomed the significant increase in government funding but current contracting practice does not improve stability. 47% of applicants said that policy changes had resulted in budget cuts or budget switches. 37% said that contracts that are tied to specific performance targets exclude key activities. The exclusion of particular kinds of work, and a narrow vision of how clients and communities could best be helped was a huge source of frustration to organisations. Overall, 92% of applicants to STVS—independence said that their ability to provide core services was under threat. 69% said that the organisation or the project was at risk of closure.⁹⁴

3.2 Third sector organisations feel most under threat when shifts in policy result in changes in budgets or budget cuts that jeopardise core services. Organisations are not opposed to change, their problem is dealing with the paradox created by the commissioning relationship: on one hand the third sector is viewed by government as an important partner because organisations have unique insights into the nature of needs and how to meet them, at the same time organisations feel unable to influence government when they believe change will result in poorer services to the people they support.

3.3 It is important also to consider the role for umbrella bodies and infrastructure support. Their work on representing their members and communities, for example, work on identifying needs and services and for supporting local organisations to develop new skills such as impact measurement, can fall outside contractual provision.

3.4 Funding from government could provide stability if the following characteristics are met—funding is long term, there is mutual understanding between commissioner and supplier and if both make a real commitment to the relationship. The context of public spending levels needs to be taken into account. Stability will always be dependent on this context.

⁹¹ Case study reported in Blake *et al* (2006) *Living Values: a report encouraging boldness in third sector organisations*. London: Community Links.

⁹² Pharoah C (2007) *ibid*.

⁹³ These points are explored further in Smerdon M and Robinson D (2004) *Enduring Change: the experience of the Community Links Social Enterprise Zone*. Policy Press: Bristol.

⁹⁴ Pharoah C (2007) *ibid*.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

3.5 The STVS—independence received 515 applications. This astonishing level of demand (approximately 3 times the number we anticipated) suggests that the Foundation had touched a nerve. Some organisations are able to maintain the balance between receiving funding and speaking out, but many are not. 25% of applicants to the STVS—independence programme specifically said that their ability to “speak out” was under pressure. 92% of applicants said that their ability to provide core services was under threat.⁹⁵

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

3.6 Yes there is a risk, but in arguing for a better relationship, we believe the manner of the relationship could minimise the risk of this.

(d) *Is there a risk that third sector organisations will lose their independence, their identity of their distinctive ethos?*

3.7 Yes. As we have argued, some organisations are faring better than others. The vast majority are struggling.

3.8 The Compact has an important role. Interestingly, only 7% of applicants to STVS—independence requested support for work on making better use of the Compact.⁹⁶ We conclude that most are not aware of it or are currently unconvinced of its value. Work by the new Compact Commissioner and the Compact Advocacy Programme at NCVO has to disseminate case studies of successful challenges and increase people’s awareness of Compact, and their confidence in it.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

3.7 This question assumes that the size of an organisation is the most important variable in being radical. Some of the smallest voluntary organisations can be very conservative.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

4.1 Not inherently.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

4.2 Government has to get better at listening. Government has to be open to contributions from outside. It has to believe that these contributions are valid and useful. Third sector organisations can be helped to do this better through investment in improving skills and capacity in collecting evidence of what works.

4.3 Public policy must be designed in collaboration with, and based on evidence generated by, those with direct experience of the issue the policy is trying to tackle. Government at both central and local level can increase its capacity by making much greater use of secondments, short-term attachments and back-to-the-floor techniques in front-line public sector agencies and third sector organisations.

4.4 Policy budgets could contain an element which is designated for local managers with responsibility for delivery to allocate on the basis of local needs. This enables commissioning to take account of local distinctiveness and to respond to changing local conditions. 37% of applicants said that contracts that are tied to specific performance targets exclude key activities. The exclusion of particular kinds of work, and a narrow vision of how clients and communities could best be helped was a huge source frustration to organisations.⁹⁷ For example, an organisation working with asylum seekers and refugees, being told that from now on funding will only cover work with under 25 year olds. This is only one part of their client group.

4.4 There was evidence in application forms of difficulty in preserving adequate budgets for specialist care within mainstream services (for example caring services). This included instances where authorities were reluctant to work across local authority boundaries, and it was difficult to make the case for some specialised needs simply from potential client numbers in one geographical area.

⁹⁵ Pharoah C (2007) *ibid.*

⁹⁶ Pharoah C (2007) *ibid.*

⁹⁷ Pharoah C (2007) *ibid.*

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

5. *What are the financial implications of providing services through the third sector compared with directly provided by state services?*

(a) *Are services cheaper to provide?*

5.1 There is an assumption behind the commissioning model that competition will drive down costs. For example, Sir Peter Gershon's review of public sector efficiency explicitly examined scope for delivering savings in the 2004 spending review through strategies for greater use of public, private and voluntary sector intermediaries.⁹⁸ The best value framework provides scope for commissioners to take into account cost and quality, but substantial anecdotal evidence suggests that lowest cost is the primary criterion. For example, a local community transport provider that was told by the commissioning panel that their bid was excellent and met all the tests on quality and community benefit, but that the decision "would come down to cost". A national private sector provider was awarded the contract.⁹⁹

5.2 Cheapness should not be the only criteria. The third sector, because of the range of attributes it has, is often in a better position to provide "best value" services. Many of their services are also "preventative" in nature and secure savings to society in the long run.

5.3 Third sector organisations have to pay substantial sums every year in irrecoverable VAT unlike local authorities and commercial companies which can recover the VAT that they pay.

(b) *Are there "hidden costs" such as contract oversight?*

5.4 Research by the British Association of Settlements and Social Action Centres (bassac) highlights the costs of time spent by third sector organisations on making bids.¹⁰⁰

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?*

5.5 In section 2.3 above, we listed the particular abilities that third sector organisations have. If government values these attributes and believes they can help to bring about effective public services, then it has to ensure the third sector's ability to bid for and be awarded contracts. Some private sector companies have good values. Those bidding for public services should be required to demonstrate these.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

6.1 We believe in the benefits of commissioning with the third sector. There is sound evidence that the sector does a good job. It is different in character to the private sector, whose profit motive drives activity in a different direction.

THE AUTHORS

Tessa Baring CBE, Chairman of the Baring Foundation, former Charity Commissioner, former Chair of Barnardo's and a trustee of other voluntary organisations including Intermediate Technology Development Group and St. Michael's Fellowship.

Professor Ann Buchanan, trustee of the Baring Foundation, Professor of Social Work, University of Oxford and Director of the Centre for Research into Parenting and Children. Recently she completed a review of the impact of government policies on children age 0–13 at risk of social exclusion for the Office of the Deputy Prime Minister.

Professor Nicholas Deakin, CBE, trustee of the Baring Foundation and Chairman of the STVS Grants Committee, former Professor of Social Policy and Administration at the University of Birmingham and Chair of the 1996 Commission on the Future of the Voluntary Sector.

Matthew Smerdon, Deputy Director of the Baring Foundation. Matthew leads the STVS grants programme.

⁹⁸ Gershon P (2004) *Releasing Resources for the Front Line*; independent review of public sector efficiency. London: HM Treasury.

⁹⁹ This third sector organisation wished to remain anonymous.

¹⁰⁰ Bassac (2006) *New Servants of the Community or Agents of Government? The role of community-based organisations and their contribution to public service delivery and civil renewal*. London: bassac.

SUPPLEMENTARY MATERIAL—PUBLICATIONS BY THE BARING FOUNDATION ON THE RELATIONSHIPS BETWEEN THIRD SECTOR ORGANISATIONS AND GOVERNMENT

Smerdon, M (2006) *Allies not Servants: voluntary sector relations with government: a discussion of the thinking behind the new focus of the Baring Foundation's STVS grants programme.* STVS Working Paper No 1. London: Baring Foundation.

Pharoah C (2007) *Sources of Strength: an analysis of applications to the Baring Foundation's STVS— independence grants programme.* STVS Working Paper No.2. London: Baring Foundation.

March 2007

Memorandum from Brian Paul Tovey

The concerns I wish to put forward regarding the Third Sector and its probable increasing role in systems delivery of Mental Health services orientate around underlying issues of:

1. Effectiveness of service.
2. Transparency and Freedom of Information and the right of public challenge and account.
3. The diversion of money away from locally developed systems of real patient choice, delivery and representations, towards an increasingly large almost corporate-like sector with an undeniable self interest in its own corporate growth.
4. Cross Organisational self interest, and Charity representation on Advisory Boards or Panels at Government level.

INTRODUCTION

Because I have monitored mental health on and off for some years now I would like to confine all of my submission to the mental health MH sector. This is where I have observed mental health (MH) Charities and others in the Third Sector that have partly been delivering services and indeed influencing government in both advisory and also quasi civil service types of way without enough scrutiny. The Government-third sector boundaries are not altogether clear to an interested member of the public.

The danger is, some MH Charities might be driving their own agendas for credibilised survival and funding rounds, whilst having questionable effectiveness on certain publically funded issues.

THE “ANTI STIGMA” EXAMPLE AND POOR TRANSPARENCY

I followed the course of one MH Charity named Mental Health Media linked to others. MHM created a mental health anti-stigma “Open Up toolkit” in 2003–04 on the back of a tripartite grant. The Esme Fairburn Foundation and the Gatsby Foundation plus the Big Lottery Fund gave it money for that purpose amounting to 573k . . . The object of the anti Stigma “Open Up toolkit” was to challenge mental health discrimination and employer stances that are claimed by some in the MH community to create difficulties for MH Service Users . . .

My interest and the theme of my concerns was sharpened in Mental Health Media and its links to others which partnered it like Rethink in 2004 and 2005.

In a complex third sector weave, the Media Trust, itself another charity, ran a project which was funded by Culture Online (part of DCMS) combining all these charities. The Media Trust was funded by the Home Office Volunteering and Charitable giving unit. The project it started off was delivered through the Community Channel and it was called “Mad For Arts”. Mental Health Media and Rethink sub contracted work from the Community Channel. Mad For Arts as a project centred on a website creating a rolling message board of exchanges between posters, “studio’s” for mental health user-artists, some short films attempting to de-stigmatise mental health, and the awarding of prizes to MH users for choosing public arts—like museum exhibits and paintings.

After a short while of observing this Mad For Arts project it became evident that all was not what it seemed. Two of its advertised “advisory panel of Users” expressed by email that they had no interest in it. One of them protested his name was being used on MFA without his permission ! . . . I have retained information about this.

I wondered in 2005 who had set this “advisory panel” up and discovered it was the responsibility of Mental Health Media. I took an interest in their work from that period. In parts of 2005 I asked the CEO of MHM to give me further information about the work they had done in creating the tri-partitely funded “Open Up anti Stigma” toolkit. She volunteered a one page letter and told me in it there were some final “reports to funders”. I wrote to one of MHM’s Trustee’s who happened to be the CEO of Sainsbury’s Centre For Mental Health (SCMH) asking her for more information and those “reports to funders”. She made a promise to get back to me in December 2005, but never did.

I contacted the Esme Fairburn Foundation one of MHM's anti-stigma "Open Up toolkit" funders for access to the "reports to funders"—they answered in the negative too.

I contacted the Gatsby Foundation another such funder for access to the "reports to funders"—they answered in the negative too.

I reasoned there might be several such "reports to funders" so it was worth going to them.

I tried the Charity Commission (CC) by way of complaint I claimed that it was not reasonable to have no access to the "reports to funders" from MHM. They explained the MHM Trustee the CEO of SCMH concerned had exercised their discretion and the CC had nothing further to add. They closed the issue down in mid 2006 and used the term "final" to do so.

Later in 2006–07, I discovered the CC had not signposted further tiers of adjudication on these matters. I am still in the process in 2007 with the CC now of trying to access to "reports to funders" from the original MHM charity and the Trustee involved, and have had to use the CC's complaint process over their own CC case handling.

I have argued for Freedom of Information Act equivalence. Why? Because in principle there should be access to the "reports to funders" on the basis that Mental Health Media did in fact feed some of its work on the anti-stigma "Open Up toolkit" directly into the Dept of Health on a commissioned basis. MHM fed it into NIMHE (National Institute for Mental Health In England).

The evidence was given to me (but not by any of the MH Charities) and this is from a page of part of a report generated originally by Mental Health Media itself—I quote:

"Open Up [The anti-stigma 'toolkit'] was commissioned by the National Institute For Mental health in England (NIMHE) to co-produce a scoping review of effectiveness in anti discrimination and anti-stigma programmes".

That is the Government's linkage to the Mental Health Media charity's work. Where is the proof or work that demonstrates any effectiveness of the "Anti stigma toolkit" or its thinking? I have never seen it.

What I have tried to demonstrate here is a confusion of boundaries and a lack of will even by the Charity Commission to create simple transparencies so that work can be viewed, accounted for, validity of the exercises examined from the outside and value for money ascertained, after all the Big Lottery was involved in part funding the MHM anti-stigma "Open Up toolkit" and that is more directly public money.

What I further discovered about Mental Health Media's work was it was evaluated by staff from Sainsburys Centre For Mental Health (SCMH)—who themselves are funded by the Gatsby Foundation. A colleague discovered that SCMH had in fact purchased the registered website domain of NIMHE too in 2001! . . . The boundaries here are alarmingly overlapping and the question is are some charities pushing ideologies that may appeal to politicians but actually have questionable effectiveness and few current methods of independent transparency that can challenge them?

I will place that information about SCMH registering NIMHE inside this pdf file at the end of this submission.¹⁰¹

EFFECTIVENESS OF SERVICE (MAD FOR ARTS—WEBSITE) THE STATE AND THIRD SECTOR VERSUS PRIVATE ENTERPRISE

The effectiveness of Mad For Arts as a kind of service was also doubtful and it illustrated state and partly charity, third sector, ineptitude. The Minister of DCMS David Lammy submitted that it had 25000 "unique views" per month. Whilst the Media Trust reported in its own 2005 Report that MFA had 80,000 "unique views" overall.

DCMS claimed 5,000 active participants. This was simply not true the front end website—its main area of activity on average only had a community of at the most 20 active posters since I followed it throughout 2004 and 2005 up till its end.

The cost of MFA was initially publically announced in 2005 as 316k plus VAT (372k).

I pursued a Freedom of Information Act question through DCMS about this matter and the costs have now gone up to 424k and I am still pursuing further information as to the VAT.¹⁰²

I have asked about the costs of the prizes MFA was supposed to have awarded to users of the website. DCMS cannot find any such information.

MFA's website closed down officially in March 2005 but ran courtesy of Culture Online past its own contract date of closure up until Jan 2006. Most of the active posters from the MFA website went over to a USA arts/photo website named Flickr.com where I also form part of their community and where the cost for uploading pictures of arts and being a poster is free for the first 200 pics and £24 2gb upload per months for a "pro account".

¹⁰¹ Not Printed.

¹⁰² See Annexe 1 Mad for Art Costs.

MFA a state and Third Sector run venture by contrast, could not get any extra longevity because it was not viable. Viability came with the private sector—the State and its Third sector partners failed and the cost to the taxpayer may well have been close to 500k in reality. One of the points raised by some users was that money could have been used for many local websites more effectively rather than a national top-down corral. MFA also had no educational web usage policy for MH users rather it captured and monopolised them right to the end. Some of us in the MH Online community administered MFA users over to other web resources for free.

Transparency into the costs of MFA has been like looking through treacle and wading through FoIA tar over a very very long time.

Mental Health users complained at MFA that it treated them like second class citizens by not awarding any prizes for their arts but instead awarded prizes for museum pieces and “public arts”. That was not good anti-stigma logic by the state or the charities involved—yet it suited them as a Top Down project for a while.

Rethink itself an MFA partner, hot on the trail of the “anti-stigma” social engineering tendency wasted money with the Churchill statue fiasco which caused major protests when a statue of Winston Churchill was shown in a straitjacket. The BBC on March 13th 2006 announced on its news website:

“Charity removes Churchill statue—Statue of Sir Winston Churchill in a straightjacket—The statue has been condemned as ‘an ignorant gimmick’”. A charity’s controversial statue of Sir Winston Churchill in a straitjacket has been removed after it caused outcry. Rethink commissioned the sculpture, unveiled in The Forum building in Norwich at the weekend, to highlight the stigma of mental health problem.

In 2005 and 2006 both Rethink and SHIFT an arm of NIMHE were duplicating “anti-stigma” work. The driver of which has been MH theorists like Rethink and MHM that the mentally ill are the victims of mass discrimination that if combated will get them back into work. Yet who is forming the basis of this view? Mental Health media with its publically unavailable “reports to funders?” NIMHE/SHIFT who have originated out of matrix of Government and Charity?

Certainly Rethink are partly forming these views and I question their validity because funding is ultimately being diverted away from the patient consumer back into campaigns and costly top down theoretically credibilised attempts to socially engineer.

I question the validity of all of this MH third sector intrusion into the domain of the patient in mental health (the real consumer) because in an underlying and paradoxical stigmatic way it distracts from the patient being the actual consumer and democratic driver: the truer shaper of treatments that fit by Patient Choices.

The Third Sector have been backing Cognitive Behaviour Therapy CBT as a one size fits many answer to mild to moderate depressions and some cases of psychoses.

According to Lord Layard with his clarion call for 10,000 CBT therapists a maximum of 10 sessions should be able to fit people back to work. The distractive anti employer stance countenanced by the charities like Rethink has also given someone to neatly blame for further failures of assimilation back into the work economy.

Yet reality-creep is happening while the MH Third Sector blow the rather biased cheap trumpet of CBT and anti-stigma, because the Prime Ministers own e-petition website is as of tonight nearing 10000 signatures asking for more therapy choices other than CBT. At the last look at the time of writing this text, the petition was 9,720.

Quote:

“We the undersigned petition the Prime Minister to consider other psychotherapy approaches, not only CBT, in the proposed expansion of psychotherapeutic services within the NHS, instead of restricting choice for members of the public to one only model of therapy.”

The MH third sector I believe have helped the Government skew the vision away from the patient driving treatment choices and their own autonomous attempts to integrate into work. It’s a top down approach informed by an anti-stigma anti-employer ideology. It appears it may have been what the Government appears to have wanted. It is likely to fail and cost more in doing so because MH patients need recovery Choices that they own, and they need to become the drivers of their own recoveries with real options. The third sector have been only ritualistically verbal about this—meaning, not too loudly.

Importantly I believe the MH Charities were involved in setting up the cross organisational NIMHE which by 2006 had cost £65 million (DoH FoIA Answer).

That was £65 million deducted from patient chances of choices of recovery treatments other than the third sector pushed CBT coupled with a top down anti-stigma set of drives which has been percolating ineffectively through various third sector costly projects which have been partly used to re-inform Government, badly in my opinion.

CONCLUSIONS

There needs to be an enhanced Freedom of Information Act equivalence on the third sector so access into its functions and networking can be viewed properly.

There needs to be very independent publically open evaluations of Charity work when the third sector is being used to influence Government MH strategy and not a situation where a charity like Mental Health Media can be funded by the Gatsby Foundation and evaluated by a team at Sainsburys Centre For Mental Health which itself is funded by the Gatsby Foundation and whose CEO is also a Trustee of Mental Health Media and the “inheritor” of a registered website domain purchased for the Dept of Health’s National Institute For Mental Health In England who itself “commissioned” work from Mental Health Media.

Finally, the Government should learn to trust MH patients as drivers of their choices of recovery orientated treatments of which there might have been more if the third sector had not partly played out its own questionable distractive agendas.

Annexe 1

MAD FOR ARTS COSTS

Culture Online Ref: PR000107
Mad About Art
Community Channel

<i>Work Streams Description</i>	<i>Notes</i>	<i>To date actual savings £</i>	<i>under/over budget Variance £</i>	<i>under/over budget Variance %</i>
Project management	Staff and resource costs	80,257	– 5,727	– 7.7
Website costs	Staff and resource costs	101,091	116	0.1
Video production—12 films—5 to broadcast standard	Staff and resource costs	87,850	3,354	3.7
Mailer management	Staff and resource costs	11,520	0	0
Training for users	Staff and resource costs	24,420	– 420	– 1.8
PR/Marketing	Staff and resource costs	88,855	0	0
Travel		6,259	– 1,259	– 25.2
Insurance		23,894	2,939	11
Net total		424,145	– 996	– 0.2

March 2007

Memorandum from British Red Cross

SUMMARY

(i) The British Red Cross welcomes the opportunity to contribute to the Committee’s inquiry. We currently deliver services under a total of 300 contracts from government, as a part of our overall UK work. Our evidence draws from that experience, and is not intended to speak for the Voluntary and Community Sector (VCS) more widely.

(ii) We believe that the British Red Cross is able to provide support to people which is distinctive, and which is particularly valued by those we work with. Public sector commissioning offers a potential opportunity to extend the reach of these services for the benefit of those who need them.

(iii) Many of our services are delivered by volunteers, and derive particular benefit from the time, flexibility and quality of attention which volunteers are able to offer. However, a number of our services are delivered by paid staff, or a mixture of staff and volunteers, and we believe that the same ethos can and should extend to all our work. We discuss some examples of good practice in our submission.

(iv) Our experience suggests that to develop and maintain this distinctive approach to public service delivery it is vital that commissioners are clear just what capabilities they wish to procure from the sector, and ensure that contracts allow for these capabilities to be developed. This might entail, for instance, ensuring that contracts are not unduly prescriptive in setting out every aspect of what is to be delivered, that they allow time for staff or volunteers to speak with clients and perhaps identify additional needs, or that they give some flexibility to VCS organisations to determine who may use the service and open it up to others who need it.

(v) As a VCS provider we strive to develop services which are flexible yet professional and accountable. We believe that the contribution we can make is misconstrued, however, if it is considered simply as a cheaper, like-for-like replacement for state or private provision.

BACKGROUND ON THE BRITISH RED CROSS

1. The British Red Cross helps people in crisis, whoever and wherever they are. We are part of a global network that responds to conflicts, natural disasters and individual emergencies. We enable vulnerable people in the UK and abroad to prepare for and withstand emergencies in their own communities, and when the crisis is over we help them to recover and move on with their lives.

2. The British Red Cross is part of the International Red Cross and Red Crescent Movement, which comprises:

- 2.1 The International Committee of the Red Cross;
- 2.2 The International Federation of Red Cross and Red Crescent Societies; and
- 2.3 183 National Red Cross and Red Crescent Societies worldwide.

3. As a member of the Red Cross and Red Crescent Movement, the British Red Cross is committed to, and bound by, its Fundamental Principles. These are: humanity, impartiality, neutrality, independence, voluntary service, unity and universality.

4. In the UK, the British Red Cross provides a range of services to support people vulnerable to crisis:

- 4.1 Our care in the home service provides short-term care and support in the home for people after an accident or illness. This may be provided following a stay in hospital or to prevent unnecessary hospital admissions.
- 4.2 We provide door-to-door transport for people who cannot get about easily, restoring their freedom and independence.
- 4.3 Our skin camouflage service teaches people with disfiguring skin conditions and scars how to use prescribable cover creams, helping them regain confidence and independence.
- 4.4 Our therapeutic care service helps people in pain or suffering from stress to relax and regain their well-being through a gentle hand and shoulder massage.
- 4.5 We provide short-term loans of medical equipment, such as wheelchairs, for people with a disability or illness and larger-scale Community Equipment Services.
- 4.6 We currently operate four care homes in the UK.

5. As an auxiliary to the UK Government, we work in support of the emergency services at major incidents, and support people at fires and smaller emergencies. We provide first aid services at public events and first aid training. In addition, we deliver humanitarian education for young people, support for refugees in destitution or after major evacuations, and a global tracing and message service to reunite families in collaboration with the other Federation members. Our services are provided and supported by around 32,500 volunteers and approximately 3,000 staff across the UK.

6. Our work is funded from a variety of sources, including charitable donations, government grants and contracts, investments, shops and trading. Many of our services are funded entirely from charitable funds. Income from competitive government tenders mainly supports our care in the home services along with some of our Transport and Escort services, and also funds our Community Equipment Service. In 2006 we held 200 contracts, which generated an income of around £20 million, which formed approximately 10% of our total income for the year.

 RESPONSE OF THE BRITISH RED CROSS TO THE INQUIRY

What are the benefits of contestability to the users of public services?

7. *Have services which have been transferred to third sector organisations shown an improvement in quality?*

7.1 Our experience is that there are aspects of our services, including that delivered under contract, which are distinctive and highly valued by service users, and which differentiates our work from some public sector and private sector provision. Some of these benefits and the value our service users put upon them are illustrated below through an example from our care in the home services. Developing new services and new contractual relations with the public sector also raises new challenges, however, and some of the learning from these is discussed in relation to our Community Equipment Services.

Care in the Home

7.2 Research¹⁰³ has found that VCS care in the home services, including those provided by the British Red Cross, are effective in reducing the sense of social isolation, which was repeatedly raised by service users as their prime concern on leaving hospital. The quality of attention and time given by volunteers was found to be crucial to this. The social contact the service provides was valued as much as the practical assistance, and furthermore the relationship service users form with volunteers was seen as qualitatively different to that with professional staff from health and social care services, being more flexible and diverse in where it took place, and being based simply upon kindness.

“Staff do what’s needed but volunteers do a bit more. K spends time with me and explains things, its uplifting knowing she is going to come round and take me out . . . [I’m] miserable here on my own. Knowing someone’s coming gives me the incentive to wash my hair for example . . . I cared for both my parents before they died and also my brother so did not have time to make friends and the friends that I had have all died . . . SSD don’t do anything for me—just talk about meals on wheels which I don’t want”.¹⁰⁴

Community Equipment Service

7.3 The early experience of our developing Community Equipment Services has been more varied, encompassing both examples of good practice and some learning where problems have been encountered.

7.4 Our service in Leicester, for example, is very well established and had its tender renewed in 2004 after market testing, and our Nottingham service has received extensive praise from commissioners. Other services have experienced some difficulties in developing performance, which highlights a number of learning points. Firstly, setting up or taking over a service is a significant undertaking, and it is important that commissioners allow a reasonable period of time for a new provider to take over a contract, if that service is to make a strong start. Secondly, our experiences have highlighted the need for a strong, well managed and constructive relationship between commissioner and VCS contractor. In particular it is important that have a clear process for monitoring and decision making, including a consistent point of contact for the VCS. The relationship works best when both parties see it as a partnership and work together to ensure successful outcomes. For our part, the decision to enter this particular market has also challenged the British Red Cross in developing and recruiting a critical mass of quite specialist skills.

7.5 Our experience of operating Community Equipment Services has also suggested positive opportunities for ourselves as a VCS provider to develop the service, such as the possibility to develop low-level assessment programmes to appropriately manage demand, and the provision of staff who have had training in first aid and our humanitarian principles, and who consider their role as Red Cross personnel to extend beyond simply delivering equipment.

8. *Is loss of accountability a threat of commissioned services?*

8.1 The Red Cross is accountable to commissioners (and through them to the public) under the terms, conditions and reporting measures set out in the contract, in the same way as any other VCS or private sector provider.

8.2 For all its services the British Red Cross is accountable to the Charity Commission, and publishes annual reports and quarterly financial reports. Of course, the British Red Cross also has a direct moral responsibility to service users to deliver the best service we can, as well as meeting a range of legal obligations.¹⁰⁵ We monitor our services through our developing service evaluation and reporting procedures.

¹⁰³ *Making a Difference Through Volunteering: The impact of volunteers who support and care for people in the home.* CSV, Help the Aged & British Red Cross, 2006.

¹⁰⁴ *Making a Difference Through Volunteering* p 27.

¹⁰⁵ Such as Operations and Lifting Equipment Regulations (LOLER) and Portable Appliance Testing (PAT) standards for our community equipment and medical loan services, and statutory care standards for our care homes.

Is the third sector more likely to provide better public services than the state or the private sector?

9. *Is there evidence that where services are provided by the third sector, that they are popular with those who use them?*

9.1 In recent years we have developed our ability to monitor how our care in the home service and other health and social care services are regarded by those who use them, using service reporting indicators, focus groups and written feedback from service users.

9.2 The collated national indicators typically for our care in the home services, which make up the greatest number of contract-funded services we offer, show very high levels of satisfaction indeed: for January 2007, 97% of respondents asked for their overall satisfaction with the service rated it as excellent or good, of which 78% were excellent (of 4,136 respondents). In order to better understand the range of views and needs which underlie this very high figure we have conducted focus groups, to examine what is helpful about the services, what could be improved, and whether they are targeting those who need them most. Feedback from focus groups and written comments suggests that the popularity of these services is to a large extent grounded in the fact that volunteers typically treat service users with dignity and respect at a time when their morale and self-esteem is often low.

A woman who is a single parent had fallen and broken her knee, meaning a nine day stay in hospital. She was supported by British Red Cross (BRC) Home from Hospital volunteers following her discharge home: "BRC volunteers came and did my shopping for six weeks and also provided a wheelchair when I first came out. I felt very supported by them. Felt a spark between me and BRC team. We had a laugh. They are human. . . . treated me with dignity and respect. . . . Initially I felt they were there and gave me as much support as I needed. They understood that I'm independent and felt frustrated. Without pushing me they encouraged me to do things . . . I was so impressed [by BRC] that I want to become a volunteer myself".¹⁰⁶

10. *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

10.1 As suggested above, we have found that our care in the home services are popular with those who use them. This does not always translate straightforwardly into greater demand for VCS provision from commissioners. It is our experience that the onus initially falls upon Red Cross staff to develop relationships with commissioners and to market our services, against a background of low awareness and perhaps some caution about engaging the voluntary sector. Once relationships have been developed and a service is running, commissioners are typically keen to continue working with us. Similarly with our Community Equipment Services, where the relationship has worked well there has been the opportunity to take forward further work and to develop the service. However, cash shortages and disruption in Primary Care Trusts can sometimes lead to contracts being withdrawn even where relationships are established and benefits of the service are acknowledged.

11. *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

11.1 We believe that close partnership between government, the VCS and service users themselves has much to offer in the development of responsive user-focussed services. Examples of good practice within the British Red Cross include our Swansea Supported Discharge Scheme, in which our services are commissioned by the Welsh Assembly Government under the Supporting People programme. The service supports people with insecure tenancies on discharge from hospital, providing help not only with tenancy issues but with other concurrent problems which are often not otherwise picked up, such as the need for ongoing care or debt counselling perhaps, or other support on the basis of the user's needs, and in doing so unlocking resources which the client was not able to access at the point of crisis.

A Swansea Supported Discharge client was referred by Social Services on account of medical needs which required a period of intensive support. It was established after a short period of time that there were other issues which needed addressing and which had previously been hidden, all related to alcohol, and the client later confirmed that she was a functioning alcoholic. This admission [resulted from] the Red Cross Support Worker building up a huge amount of mutual respect and confidence: previously no-one had spent any time listening and supporting her. The client had been served an eviction notice due to the condition of her property which had deteriorated over a short space of time, and with the help and expertise of the support worker a flat was identified and agreed

¹⁰⁶ *Making a Difference Through Volunteering* p 50.

close to the city centre. [The client] recognised that she had an extremely chaotic lifestyle, which had resulted in her young son being housed with an ex-partner, as she was at the time incapable of providing a safe environment for him to live.

[Our staff were] amazed during the meeting how much difference our support had made to her life. She explained that just to have the crutch to lean on had given her the confidence and energy to change her destructive lifestyle. She is currently an active member of Alcoholics Anonymous self-help group amongst others, as well as showing an interest in volunteering with the British Red Cross. She is not drinking and has not relapsed since October 2006 and has initiated contact with her son and is extremely positive for the future.¹⁰⁷

11.2 It is significant that our Swansea staff were involved at the service design stage of this contract, and helped to identify unmet need in partnership with Swansea City Council as agents of the Welsh Assembly Government.

11.3 We are currently involved in a whole-system project across the British Red Cross, to embed innovative, participative approaches such as that shown in Swansea across our work more generally.

Does commissioning benefit the third sector?

12. *Will contractual relationships with the state improve stability within the third sector?*

12.1 The ability of the British Red Cross to meet the needs of its users as described above is dependent upon the stability of its income, of which funding from the government sector is one element.

12.2 In principle, contracts may provide a particularly stable basis for funding by setting out clear terms, conditions and payment arrangements. However, there is long-standing concern across the sector that government contracts do not typically provide the stability they might do. In particular, we are concerned about:

12.2.1 **Full cost recovery:** It is important that third sector providers identify and charge for the full cost of providing a service, and essential too that they are able to recover this cost from contractors. Whilst this principle is accepted by government,¹⁰⁸ in practice this has not always been the case, and many government funders remain reluctant to pay proportionate overhead costs within a contract, which presents a long-term challenge to the sustainability of those voluntary sector services.

12.2.2 **Multi-annual contracts:** It remains common for VCS providers to be offered only rolling annual contracts for their services. This hand-to-mouth approach damages the stability of the sector. It has been widely accepted that 3–5 year contracts must be standard across the sector, and it is vital that this consensus is translated into action. We welcome the recent commitment by the Office of the Third Sector to training commissioners, and its support for multi-year funding and implementing full cost recovery across government.¹⁰⁹

13. *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

13.1 Balancing a close relationship with government and a commitment to independence is not new to the British Red Cross: all Red Cross and Red Crescent national societies have a long history of close and effective collaboration with their national governments, and are auxiliary to their governments in matters of humanitarian assistance. At the same time, all are committed to the Movement's fundamental principles, which include maintaining independence and neutrality in order to carry out our work nationally and internationally.

14. *Is there a risk that the service providers will become increasingly bureaucratic?*

14.1 As a large, national charity, we wish to ensure that all our services are provided in a professional and accountable manner, and do not believe there is any prima facie reason why services under contract must be more bureaucratic than others. However, in practice it is widely acknowledged that different local funders such as Primary Care Trusts and Local Authorities often have varying administrative arrangements and different contractual requirements for similar services, or even (in the case of joint funding) for the same service. This significantly and unnecessarily increases the degree of bureaucracy involved. We have discussed this issue with the National Audit Office who we understand will report to relevant government departments including the Office of the Third Sector and HM Treasury.

¹⁰⁷ Debriefing from Swansea Supported Discharge Scheme, December 2006.

¹⁰⁸ "Funders should recognise that it is legitimate for providers to include the relevant element of overheads in their cost estimates for providing a given service under service agreement or contract". *The Role of the Voluntary and Community Sector in Service Delivery A Cross Cutting Review* HM Treasury, 2002, p 40.

¹⁰⁹ *Partnership in Public Services: An action plan for third sector involvement*, Office of the Third Sector, December 2006.

15. *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

15.1 The British Red Cross, like other charities, has always needed to ensure that it pursues its core aims, ethos and mission without undue influence from its funders—be they government, trusts, major donors or the public. Where the funder is a government body, contracts should in principle be a helpful tool in managing this relationship, as they provide a means to set out clearly what each party expects to gain and to deliver. As we have suggested above, ensuring that the ethos and particular contribution of the sector is harnessed and developed requires that government commissioners are clear what distinctive capabilities they wish to procure from the sector, and ensure that contracts allow for these capabilities to be developed. This might entail, for instance, ensuring that contracts are not unduly prescriptive in setting out every aspect of what is to be delivered, that they allow time for staff or volunteers to speak with clients and perhaps identify additional needs, or that they give some flexibility to VCS organisations to determine who may use the service and open it up to others who need it.

16. *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

16.1 Whilst we can only give evidence based on our own experience, we understand that many smaller charities are less able to take on substantial contracts, and understand the importance of a range of funding mechanisms, including grants, being available to support diversity within the sector.

What are the financial implications of providing services through the third sector compared with directly provided state services?

Are the costs and benefits to the state the same when commissioned from the third and private sectors?

17. We are not able to provide an across-the-board comparison with the cost and benefits of state run or privately run services, but it should not be assumed that third sector services will be either a direct equivalent nor a cheaper replacement for state or private provision.

18. We are committed to delivering services which are professional, accountable and fit for purpose, and these are not necessarily cheap to provide. Whilst Red Cross services are often (though by no means always) delivered by volunteers, for whose time we do not charge, there are considerable costs involved in recruiting, training and supporting volunteers, providing professional management, equipment and transport, as well as paying expenses and costing in overheads.

19. We believe these efforts are worthwhile and that we can provide something over and above what state and private sector organisations offer. On this basis we believe that fostering an environment that supports the sector can lead to tangible benefits to government, to the third sector and—most importantly—to the people who benefit from our work.

February 2007

Memorandum from Cambridge House

1. ORGANISATIONAL BACKGROUND

Cambridge House is a registered charity founded in 1889 in Camberwell as a philanthropic Settlement of Cambridge University. We have remained there ever since, and have evolved into a vibrant voluntary organisation that provides a range of services and resources to our local community. Some are Southwark wide; providing legal advice and advocacy services, and supporting people with Learning Disabilities and their families. Some are more local; acting as a provider of youth and community development work in the Camberwell and Walworth neighbourhoods

2. ORGANISATIONAL FUNDING

We have a turnover of £2 million and identify ourselves as a medium sized local voluntary organisation. Over 50% of our income is from statutory authorities such as the local authority, PCT and Legal Services Commission. We generate additional income from our own freehold premises, donations and charitable trusts. We are in the process of establishing a Trading Company wholly owned by the Charity to increase the unrestricted and independent income available to the Charity to protect its independence.

Many of our services and funding relationships have already moved from grants to contracts and on the whole we have a positive relationship with the local authority and other public bodies.

3. CURRENT COMMISSIONING ISSUES

Trustees took the strategic decision in the summer of 2006 to actively tender for advocacy services outside of Southwark. This was to build on our recent success of winning a tender with Department of Health to pilot Independent Mental Capacity Advocacy (IMCA) within Southwark.

Firstly, our experience of this pilot showed us that we needed more than one advocate to deliver IMCA successfully and Southwark alone would not be a big enough contract to warrant more than one advocate. Secondly, we could see the advocacy landscape changing to favour larger specialist providers operating over a wider geographical area, particularly for IMCA services. We felt that if we did not provide a larger IMCA service when our existing advocacy contracts were due for renewal over the next two years there was a danger that the specialist providers could potentially then try to win those contracts as well.

We have therefore submitted tenders for 17 London Boroughs, and as some have undertaken joint commissioning, submitted 8 different tenders. So far we have been successful in two, which will cover four London Boroughs including Southwark.

4. RESPONSE TO KEY QUESTIONS

As suggested we are responding to the particular issues that we have experience of either through our recent IMCA tendering or through other areas of our work which includes being a resource for smaller community organisations.

It should be noted that IMCA by its very nature cannot be provided by the public sector and has to be delivered within the third or possibly the private sector.

Q3 *Does commissioning benefit the third sector?*

(a) Will contractual relationships with the state improve stability within the third sector?

For some organisations it could as they tend to be 3 year contracts which enable better forward planning, increase retention of staff etc. It gives a strong basis to build on other areas of work.

However, for those organisations who do not have the contractual relationships it could be detrimental as they can be forgotten, not consulted etc. In our experience, the more work we do, the more we get offered. We get consulted and included because we are known because of the relationships we already have with the public sector.

There is a danger that larger third sector organisations will secure the more favorable contracts and the smaller organisations will be left with more difficult or not such lucrative contracts which would potentially destabilise the sector further.

(b) Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

For specialist organisations (which we are not) we would see this as being a particular issue as they could be directly lobbying against those who they have been commissioned to provide a service for. Being a multi purpose organisation delivering a variety of services we do see this as much as an issue.

However, we are keen to retain a balance of income source to ensure we do not get in a position of our independence being threatened by the fear of losing funding overshadowing our need to be critical of a public body.

(c) Is there a risk that the service providers will become increasingly bureaucratic?

Yes. This is one of our largest concerns. Undertaking the IMCA tenders has pushed us dramatically in terms of our knowledge and capacity and for a local voluntary organisation we are one of the largest. We can see that if we were to manage a number of contracts in different service areas we would have to grow our internal bureaucracy in a way that enables us to more effectively communicate with the bureaucracy of local government in particular. Our concern is that one of the major reasons public bodies would want to commission us is our local knowledge and contact with communities which could be lost if we become as bureaucratic as local government.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

Yes—Our Trustees have a concern that “we are not here to become the unpaid servants of the local authority—we are here to govern a Charity”.

We are actively trying to balance where our income comes from to ensure we do not become a mini local authority. We will not take on contracts for the sake of it- it has to be a clear benefit to our service users that we are best placed to deliver it and should not detract from, or compromise, our existing work.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

Yes we can see already the polarisation and have concern that the larger national charities will become distanced from their smaller particularly more local siblings. We would want to see that where local contracts go to national charities there is a requirement to use local third sector organisations where possible to deliver and to build their capacity to do so.

There is a danger that the large national charities will reduce overall choice by the demise of smaller and medium sized organisations and local needs and nuances will be overlooked.

Q4 *Does commissioning services from the third sector have any benefits for the state?*

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

The management of the bidding processes we have found with IMCA have varied and a number of issues that have particularly hindered us are:

- (i) Very short turn around of release of tender documents (one only gave a week) to submission.
- (ii) 80 page legal contracts that are irrevocable on signing just at the tendering stage.
- (iii) Said legal contract puts all the liability on the organisation. We are fortunate in that we have pro bono legal advice—most organisations would not have this. Our legal advisors have been horrified by the language and liability being presented for a £40,000 per year contract compared to what is usual in the private sector.
- (iv) In one instance having to pay over £800 to a credit checking agency just be able to submit a tender. We have achieved Gold status which means we have a certificate to say this and can get bumper stickers to confirm it as well. We have had to understandably question the use of charitable funds in paying for this credit check.
- (v) Having less than a week’s notice of being called to interview.

5. IMPACT ON SMALLER COMMUNITY ORGANISATIONS

As previously outlined we have struggled as a large local provider to submit tenders but feel we have learnt and equipped ourselves for the coming years when much of our existing work we will have to tender for.

However we have a huge concern as an organisation that houses and supports a number of other voluntary and community organisations as to how they will participate in such processes. The “level playing field approach” as outlined in the paper is only level if you are a large organisation or have the capacity to become large. This therefore does not include the majority of the third sector and government’s commitment to commission from the sector in the belief that it will provide better, more efficient and inclusive services could actually kill off the most efficient and inclusive services there are.

February 2007

Memorandum from the Charity Commission

ABOUT US

1. The Charity Commission is the independent regulator for charitable activity in England and Wales. Our aim is to provide the best possible regulation of charities in England and Wales, in order to increase charities’ effectiveness and public confidence and trust. We have recently conducted a major survey to which more than 3,800 registered charities responded, and which forms the basis of *Stand and Deliver*, a report into their experiences of delivering public services.

2. In presenting evidence to the Committee we have also drawn on our conference on the subject of public service delivery held in March 2006, and attended by 160 people, including representatives of charities, government departments and other organisations with an interest in the issue.¹¹⁰ We held subsequent follow-up discussions with a number of these representatives, as well as a broader range of charities, who also commented on our guidance *Charities and Public Service Delivery*¹¹¹ which we published alongside *Stand and Deliver*.¹¹²

SUMMARY OF THE MAIN POINTS OF OUR EVIDENCE

3. We recognise the many advantages charities can bring to public service delivery. We also recognise that for many charities, delivering public services represents a means of fulfilling their objectives, highlighting their beneficiaries' needs to government, and obtaining funding. As the independent regulator, it is not for the Commission either to encourage or to deter any charity undertaking or considering public service delivery; in this context our role is to highlight the legal requirements that charities must meet, examples of good practice to which they should aspire, and risks that they should take account of.

4. We would like to focus our evidence around Question 3 in the Committee's Issues and Questions paper, "Does commissioning benefit the third sector?" We also have some comments to make with regard to Question 5, "What are the financial implications of providing services through the third sector compared with directly provided state services?" and a brief but important point to contribute with regard to Question 2, "Is the third sector more likely to provide better public services than the state or the private sector?"

5. Our research shows that:

- public service delivery is concentrated amongst the larger charities—over 60% of charities with an income above £500,000 currently deliver public services;
- in contrast, the vast majority of smaller charities do not deliver public services—only 8% of charities responding to the survey with incomes below £10,000 reported that they delivered public services; charities in this income band make up two thirds of the Register of Charities;
- only 14% of charities that are not currently delivering public services are actively considering doing so in the next year;
- one third of charities that deliver public services obtain 80% or more of their income from that source; and
- there are important issues for charities to consider when thinking about whether or not to engage in public service delivery; including their
 - independence, governance and mission;
 - funding; and
 - sustainability.

OUR RESEARCH

6. A copy of our research report is submitted along with this memorandum.¹¹³ It contains a detailed explanation of our methodology. To summarise, during the summer of 2006 we invited all charities on our Register of Charities to take part in an online survey about their experiences of public service delivery. Our aim was to obtain some basic information about their involvement in public service delivery, its impact on their activities, funding and governance, and future scope for their involvement in this kind of activity. In total, over 3,800 charities completed the survey, representing a broad cross section of the Commission's Register of Charities by income and operational area. This is the largest survey on this subject to date. The Charity Commission designed the questions in the survey and analysed the results, and the logistics of the survey itself were carried out on our behalf by the Directory of Social Change.

Question 2: *Is the third sector more likely to provide better public services than the state or the private sector?*

7. Charities may have unique or distinctive qualities giving them the potential to provide enhanced services. Such qualities might include specialist knowledge or experience, the charity's ethos (for example, being user-led), or innovative approaches to service delivery. Many charities have an in-depth understanding of, and empathy with, the needs of beneficiaries, making them well-placed to deliver services based around those needs. These qualities are often described as "added value", and there are certainly many examples of charities making a real difference to the quality of public services.

¹¹⁰ A summary of the conference is submitted with this memorandum and is available on our website here: <http://ww2charity/spr/psdevent.asp>

¹¹¹ Our guidance (CC37) is submitted with this memorandum and is available on our website here: <http://ww2charity/publications/cc37.asp>

¹¹² The full report is submitted with this memorandum and is available on our website here: <http://ww2charity/Library/publications/pdfs/RS15text.pdf>

¹¹³ Not printed.

8. However, there are some misconceptions around the term which we would like to challenge. Added value does not mean the innate ability of charities to lever in additional funding, or to deliver more for less. Its potential is not present in every charity, waiting for a commissioner to come along and unlock it. Charities are not merely alternative vehicles for public service provision. The diversity and uniqueness of the sector are its strengths, and public service delivery is, and will remain, outside the scope and role that most charities will chose for themselves.

Question 3: *Does commissioning benefit the third sector?*

9. Our research shows that some of the current approaches to obtaining services from the charitable sector can compromise charities' independence, financial viability and mission. Furthermore our research raises important issues for charities to consider when thinking about their future direction, including their sustainability. It also suggests that the achievement of the Government's targets to increase the level of charities' participation in public service delivery will depend heavily on the achievement of commitments the Government has given to the sector.

10. We recognise the many advantages charities can bring to public service delivery. The way in which the voluntary sector works in communities is often a model of best practice and innovation in service delivery; charities have particular skills in reaching people with whom the state finds it hard to engage, and can design services which are genuinely based around the needs of users. We also recognise that for many charities, delivering public services represents a means of fulfilling their objectives, highlighting their beneficiaries' needs to government, and obtaining funding. Our guidance¹¹⁴ explains that there is no legal prohibition on charities delivering public services, makes clear to charity trustees that the decision to do so rests with them, and highlights legal requirements, examples of good practice, and issues of risk, which should inform the trustees' decision-making.

Funding and contractual relationships

11. At our conference on public service delivery, charities expressed dissatisfaction with progress in implementing full cost recovery and longer-term funding. There is perceived to be a gap between central government policy and the reality of the funding situation. These concerns were borne out by the findings of our survey.

12. Government guidance¹¹⁵ states that funding arrangements for public service delivery by charities ought to be appropriate to the intended outcome. The Charity Commission supports this principle. We believe that depending on the service being delivered, grant, contract or service level agreement arrangements may be appropriate. Similarly, multiple contracts ("spot" contracts) may better reflect the differing needs of individual users, or a "block" agreement may best serve an organisation which is delivering the same service to a changing group of users. In some cases shorter-term contracts may be appropriate, for example if the service delivered is a one-off with an agreed end-date, whilst in other situations longer-term funding may better enable the charity to plan its service provision over a number of years.

13. Our survey shows that the most common funding arrangement for charities delivering public services is a mixture of grants, contracts and service level agreements (37% of charities delivering public services said they are funded in this way). On the one hand, this diversity of funding streams is to be welcomed, for the reasons given above. On the other hand, it is unclear whether in practice the type of funding agreement is selected with any consideration of its appropriateness to the service involved. These survey findings suggest a lack of consistency in the way that public authorities are commissioning from charities which may make it difficult to identify and spread good practice amongst commissioners.

14. The use of non-contractual funding agreements also raises questions about the extent to which a public authority duty (for example under Human Rights or Equality legislation) can be applied to charities providing public services, which of course impacts upon the wider issues of accountability and risk management. Without clearly defined contractual arrangements, it is much more difficult to ascertain the extent of the responsibility which has been delegated to the provider. There is a consequent danger that service users will not be clear about who is accountable for the standard of service, and may not have adequate access to redress if the service fails to meet their needs.

15. Our survey also shows that over two thirds of all funding agreements for public service delivery, whether it be through grants, contracts or service level agreements, last one year or less. Appropriate duration is a key element of sustainable funding, so the short term nature of the majority of current funding agreements is a potential concern, particularly given that the majority of charities we spoke to were delivering health and social care services, where longer contracts might well be appropriate. However, 13% of charities already have a funding agreement that is longer than three years, which suggests that there is

¹¹⁴ CC37, *ibid*.

¹¹⁵ *Improving financial relationships with the third sector: guidance to funders and purchasers*, HM Treasury and others, May 2006. Available on the Treasury's website here: <http://www.hm-treasury.gov.uk/media/485/B9/guidncefunders1505061v1.pdf>

already some good practice in this area which can be developed and promoted. We strongly welcome the Office of the Third Sector's commitment in the Third Sector Action Plan to three-year funding agreements as the norm.¹¹⁶

16. Charities entering into multiple individual funding agreements also feature in the survey's results. Whilst the majority of charities appear to have between one and five funding agreements, the results showed that some charities had much higher numbers of agreements, particularly in cases where charities have separate agreements for each individual beneficiary. For example, one respondent had 4,000 individual one year contracts. This raises issues about the time and resources needed to manage these agreements and whether the resulting bureaucracy is always an effective use of the charity's time and resources. However, it would be a mistake to assume that multiple funding agreements are always detrimental to charities: some charities have commented to us that they find such an arrangement gives them greater flexibility in negotiating and pricing agreements around individual beneficiaries' requirements, enabling them to best meet complex or multiple needs. Again the key is that arrangements are appropriate to the intended outcome.

17. Something which our survey did not cover, but which can have a huge impact on the bureaucracy facing charities, and which was raised at our conference, is the monitoring regime to which they are subject in delivering public services. Under charity law, registered charities must already comply with a number of reporting requirements, including an annual report and accounts. Charities with an income above £500,000 must have their accounts audited by a qualified auditor and those with an income above £1 million must complete a Summary Information Return. We would suggest that in many cases commissioning authorities could make better use of this publicly available information, avoiding a certain degree of duplication in monitoring requirements.

18. Some charities attending our conference expressed concern about the inflexibility of public authorities when contracting with charities. For example, some authorities insisted on using their own standard contracts rather than Compact-compliant models, and some commissioning processes were seen as overly bureaucratic. Charities expressed concerns about certain approaches to commissioning, where contracts to charities operate more like grants, entailing administrative costs having to be justified and surpluses being subject to clawback. Our advice to charities is that the principles of the Compact (and local Compacts) should underpin any relationship between a charity and a public authority, and we therefore recommend that charities familiarise themselves with, and make use of, these documents. We welcome the establishment of the Compact Commissioner to champion the full implementation of the Compact at every level of government.

19. Whereas different types of funding agreements may be suitable for different circumstances, we are particularly concerned that of the charities responding to our survey, only 12% of those delivering public services reported that they obtain full cost recovery in all cases. A further 37% said they did so in some or most cases. Despite government support for the principle of full cost recovery, the survey results show that there is a long way to go before delivery of public services by charities is fully funded. Most charities at our conference expressed strong objections in principle to subsidising statutory services. In particular, grant giving charities wanted to fund additional provision, not the "basics" which they felt should be the responsibility of the state. Of course, this issue must be tackled by both sides: as well as good practice by funders, charities also need to accurately assess, and negotiate for, the true costs of providing a service. Charities have expressed concerns, supported by our own observations, that smaller charities may not have the skills to succeed in competitive tendering processes. Many charities may lack both a proper understanding of their cost bases and the capacity to adequately negotiate contracts. This highlights the need both for charities' capacity, and for commissioners' understanding of these issues, to be developed.

20. There are financial implications of this for commissioners as well, which are discussed under Question 5. There are also implications for the public perception of charities, which are considered along with the character of the sector later in this paper.

Independence

21. The results of our survey suggest that there may be some cause for concern regarding the impact of public service delivery upon the independence and governance of charities. For example, only 26% of charities that deliver public services agreed that they are free to make decisions without pressure to conform to the wishes of funders, in comparison to 58% of those charities that don't deliver public services. (A higher percentage, 69%, of charities that deliver public services agreed or mostly agreed that they are free to make decisions without pressure to conform to the wishes of funders, in comparison to 84% of charities that don't.) However, these figures do not prove that public service delivery is necessarily a barrier to exercising independence from government; merely that charities feel under pressure from funders. Indeed, the level of concern expressed by charities about this issue might suggest that they are keen to guard their independence and find ways to express their views regardless of their sources of funding.

¹¹⁶ *Partnership in public services: an action plan for third sector involvement*, December 2006. Available on the Office of the Third Sector's website here:
http://www.cabinetoffice.gov.uk/third-sector/documents/public_service_delivery/psd_action_plan.pdf

22. There are a range of views on this issue within the charitable sector. The Association of Chief Executives of Voluntary Organisations (ACEVO), for example, tells us that its members feel, that such a contractual relationship allows them to influence funders' policies. Shelter comments on the tension they feel between delivering public services and campaigning, particularly when they were in contractual relationships with the local authorities whose policies they wished to criticise. However, they believe that their voluntary income base and the strength of their campaigning brand mean that they are able to resist pressure when it was applied.

23. A greater proportion of larger charities are involved in, and earn a higher proportion of their income from, public service delivery: our survey showed that almost 67% of charities with an annual income above £10 million delivering public services obtain 80% or more of their income that way. In contrast, 46% of charities that deliver a public service with an annual income below £10,000 obtain less than 20% of their income that way.

24. The Commission would have to consider regulatory action in any case where:

- a charity carried out activities or services outside its objects or powers in order to gain funding;
- a public authority exercised control over a charity's decision-making processes in such a way that the trustees were prevented from acting solely in the charity's interests; or
- a charity's trustees were insufficiently involved in decisions about what activities the charity should undertake, by making these decisions themselves, or by setting clear parameters for delegation and reporting of such decisions.

25. There are consequent risks to services and funders which are set out in our response to Question 5.

Polarisation

26. The Committee and others have asked whether there is a risk that the charitable sector will become polarised between large service-providing organisations and smaller groups. Our survey suggests that this is already happening: only 8% of charities responding to the survey with incomes below £10,000 reported that they delivered public services; in contrast, 62% of charities with incomes above £500,000 reported that they delivered public services. Even amongst charities that deliver public services, the survey results showed a divergence between smaller and larger charities. As highlighted above, over two thirds of such charities with incomes above £10 million obtain 80% or more of their income from public service delivery in contrast to nearly half of such charities with incomes below £10,000 that obtain less than 20% of their income in this way.

27. However, our understanding of the size and shape of the charitable sector contradicts the assumption made in the Committee's Issues and Questions paper that the dichotomy is between large charities providing public services and small charities campaigning and being more "radical"—this is oversimplifying the situation. In reality, charities do many other things besides campaigning and service delivery (such as providing community facilities, medical research, grant-giving and so on), and of course there are examples of charities which manage both to campaign and to deliver services successfully. The Commission's view is that it is essential that charities which are delivering public services also continue to exercise any campaigning role they may have which is consistent with their objects and aids their beneficiaries.

28. Martin Narey, the Chief Executive of Barnardo's, for example, has recently written in the *Guardian* that "*In the last few months, Barnardo's has criticised Asbos; highlighted the poor educational outcomes for children in care (criticising some of the local authorities for whom we provide services); highlighted the plight of young carers; and made a sustained attack on inhumane treatment of asylum seekers' children. Last week we persuaded the Government to introduce the use of polygraphs for child-sex offenders.*"¹¹⁷ Clearly, in this case delivering services on behalf of the Government has been no barrier to the charity seeking to influence government policy and campaign on behalf of its beneficiaries.

Sustainability and future scope

29. The results of the survey raise further questions about charities' future capacity for, and the sustainability of, public service delivery. It suggests that larger, regionally-based charities predominate in public service delivery. This may be a result of market pressures or barriers to funding opportunities, rather than choice on the part of charities. Whatever the cause, there may be a risk of creating a restricted market where only those charities above a certain size and capacity can successfully compete for future delivery of public services.

30. The overall picture that emerges presents a key issue in relation to future public service delivery by charities:

- Roughly two thirds of the sector is made up of very small charities (with an income of £10,000 or less) that are not heavily engaged in public service delivery and, because of their size, seem unlikely to have significant capacity to take on substantial public service agreements.

¹¹⁷ "Our charities are not co-conspirators", *The Guardian*, 14 February 2007.

- The largest charities are already significantly engaged in public service delivery. Over 60% of charities with an income above £500,000 currently deliver public services. It is unclear how many more charities in this income band will want to take on public service delivery.
- The survey results also indicate that medium sized charities (particularly those with incomes of £10,000—£250,000) are struggling the most to obtain sustainable funding.

31. The Government has made numerous commitments to increase the capacity of the sector to deliver public services, to open up the market so that a wider range of organisations can participate, and to make sustainable funding the norm. From the findings above, the achievement of government’s targets to increase the level of charities’ participation in public service delivery will depend heavily on the successful implementation of these commitments.

The identity and distinctive ethos of the sector

32. Some charity sector commentators have expressed general concerns that an increasing focus on public service delivery is fundamentally altering the character of the charitable sector, with a deleterious effect on public trust and confidence in charities. It has also been suggested that in particular the failure to achieve full cost recovery, and the resulting charitable subsidy of public services, might lead the public to question how their charitable donations are being used. As the regulator, increasing public trust and confidence is at the heart of our remit, so we wish to ensure that increased service delivery by charities does not adversely impact upon levels of trust and confidence. A number of surveys have been carried out into the public’s perception of what is charitable activity, and on what drives public trust and confidence in charities, for example by the Directory of Social Change¹¹⁸ and also by the Charity Commission.¹¹⁹ In addition, nfpSynergy have carried out some research into public attitudes towards charities delivering public services.¹²⁰ Taken collectively, the results indicate that there is scope for further research and analysis, but public confidence may be based on a limited understanding of the role of charity and the breadth of charitable activity.

Question 5: *What are the financial implications of providing services through the third sector compared with directly provided state services?*

33. The funding and stability issues highlighted by our discussions with charities and the results of our survey have clear financial implications for commissioning authorities. The price paid by commissioners of services from charities may be cheaper in the short term, but our research suggests that this is not sustainable and may not represent true value for money in the long term. There will obviously be hidden costs if:

- charities lack the capacity to accurately calculate their costs in tenders to deliver public services or to negotiate effectively to cover those costs;
- charities regularly or substantially subsidise public service delivery out of their reserves;
- charities consequently lack the capacity to “add value” or deliver quality services because of underinvestment; or
- charities ultimately fail to deliver services to the required standards, or services fail altogether, because of under-funding.

RECOMMENDATIONS FOR THE COMMITTEE TO CONSIDER

34. A significant number of charities are already involved in public service delivery, and there is considerable appetite from government to see more services delivered in this way. In order for this to be successful, we would suggest the Committee recommends the following:

- Guidelines proposing that funding arrangements should be appropriate to the intended outcome, in terms of the type of arrangement, its duration and whether multiple agreements, must be fully implemented at all levels of government (see paragraph 12 above).
- Charities delivering public services must not face an unnecessary bureaucratic burden due to over-monitoring by funders. Monitoring should be effective yet proportionate.
- Risk must be clearly identified and fairly apportioned between the charity and the funder in funding agreements.

¹¹⁸ A recent DSC survey (reported in *The interplay between state, private sector and voluntary activity* (Directory of Social Change, 2007)) found that 68% of respondents do not think public service delivery is charitable at all.

¹¹⁹ Opinion Leader Research for the Charity Commission: Report of findings of a survey of public trust and confidence in charities (2005).

¹²⁰ nfpSynergy’s Charity Awareness Monitor, November 2006.

- It is vital that accountability is maintained when services are commissioned from organisations outside government, including charities. A recent Charity Commission report found that 40% of charities delivering services did not have a complaints procedure, which is clearly a cause for concern.¹²¹
- Commissioning authorities must interact with charities in a way which ensures that the charity's decisions are still made independently in the interests of their beneficiaries; that the charity retains the right to campaign publicly if it so chooses; and that the public trust and confidence in charity as a whole is not undermined. Charities can only act within their charitable purposes, ie. the stated aims of the organisation, which, along with their independence, necessarily limits the legal scope of their contribution to public service delivery.
- The Government's commitments in its Third Sector Action Plan and the Local Government White Paper to open up the market by improving commissioning and procurement processes and increasing the sustainability of funding are welcome and must be realised.¹²²
- There is clearly a need for increased support to locally based, lower-income charities that want to get involved in delivering public services but which currently lack the capacity to do so. The Government may wish to consider what can be done to ensure that smaller and more local organisations have access to appropriate capacity building opportunities.
- Charities undertaking public service delivery must achieve full cost recovery and the compact must be fully implemented at all levels. We welcome the appointment of the Compact Commissioner in ensuring this.
- There is also a need to build the capacity of parts of the public sector to work in true partnership with charities and the wider third sector. In this context we welcome the Government's commitment to "invest in the skills of the 2,000 most significant commissioners for the third sector through a National Programme for Third Sector Commissioning . . . [which] will provide targeted support across commissioning agencies to build the skills and knowledge necessary to involve the third sector".¹²³

March 2007

Memorandum from the Charity Finance Directors' Group

The Charity Finance Directors' Group welcomes the Public Administration Select Committee's inquiry into the role of the voluntary and community sector in public service delivery and has developed the enclosed submission as part of the consultation process.

The Charity Finance Directors' Group (CFDG) was set up in 1987 and is an umbrella charity that specialises in helping charities to manage their finance-related functions. Visit www.cfdg.org.uk for further information. CFDG's almost 1,300 plus members are responsible for the finances of charities with a wide variety of income levels. Between them our members manage some £11.3 billion in charity income per year. CFDG is working to promote public confidence and good management within charities.

EXECUTIVE SUMMARY

In consultation with our members we have identified the following barriers to a proper relationship between government as a commissioner of services and the voluntary sector as a service provider.

Funding

There is a need for real change in the funding relationship between government and the voluntary sector particularly at local government level. CFDG would like to see contracts between government and the voluntary sector that incorporate full cost recovery rather than imposed pricing budgets and which are more appropriate in length to the service being provided. In addition, there needs to be more adequate risk sharing in contracts between the government and voluntary sector. We look forward to the incoming independent Compact Commissioner implementing these principles in the Compact Plus and undertaking work to ensure that all statutory bodies adhere to them. We would hope to see the Compact Commissioner given real power to provide charities with a line of recourse where necessary. Much of the problem with the funding relationship between the voluntary sector and government lies in central government putting in place policies supportive of a balanced relationship which aren't being understood and implemented at a local

¹²¹ *Cause for Complaint?*, Charity Commission, May 2006. Available on our website here: <http://www2charity/publications/rs11.asp>

¹²² *Partnership in public services: an action plan for third sector involvement*, *ibid.*

¹²³ *Partnership in public services: an action plan for third sector involvement*, *ibid.*

level where much of the funding and contract awards are taking place. There is a need for understanding of charities and how they are structured at local level so funders understand the importance of full cost recovery, the need for timely payment of services delivered and an appropriate level of risk sharing.

Creating a level playing field

The voluntary sector is uniquely disadvantaged because it operates in an environment where there is no level playing field on issues such as pensions and VAT. Voluntary organisations find themselves competing against private sector and other government bodies for the same contracts but without the same terms and conditions. If government wants to see the voluntary sector take on more public service delivery then it must ensure that there is a level playing field and the voluntary, public and private sector are able to compete on equitable terms.

Regulation

For many charities the issue of regulation is a real concern and there is a need for action from government to address this point. There is a clear balance to be struck in requiring a charity to show that it is accountable and transparent and thereby building public confidence without being overly burdensome. Many charities are finding that they have to divert resources away from their charitable objectives in order to deal with the increasing amount of regulations imposed on them. CFDG would like to see a reduction in the number of regulatory returns giving duplicate information. Funders need to be persuaded of the effectiveness of regulation by the Charity Commission, and not require in a different form, information that is already in the Trustees Annual Report or other available statutory documents. Funders should consider what they really require rather than what they think they require; the extra work and resources required by charities to meet funders differing and often excessive requirements can be significant. A best practice for information requests and reporting standards should be agreed and implemented within the sector.

Recommendations

1. That the potential Compact Plus commitments for statutory bodies and charities recommended in Strengthening Partnerships: Next Steps For Compact are implemented and delivered with immediate effect.
2. That the role of the Compact Commissioner has real teeth and can provide charities with recourse when statutory bodies do not deliver their side of the compact.
3. That appropriate funding models are in place to enable local authorities and primary care trusts to deliver their obligations under the compact.
4. That the demands of the Charities' Tax Reform Group on unrecoverable VAT are implemented by the Government.
5. That government works with the sector to address the barriers in protecting the pension arrangements of staff transferring from statutory bodies to voluntary organisations taking on service provision.
6. That the recommendations of the Hampton review on regulatory inspections and enforcement are implemented and adhered to by statutory bodies in their dealings with the voluntary sector.
7. That a best practice model for information requests in the bidding process and performance reporting are developed by the sector and implemented by all funders.

CONTEXT

The sector consists of 168,115 primary charities in England and Wales (Charity Commission quarterly facts and figures September 2006) over half of which have an income under £10k. Based on the recently published survey results produced by the Charity Commission entitled *Stand and Deliver: the future for charities providing public services* circa 20% of all charities are engaged in delivering public services. However it is charities in the higher income bands that are more likely to deliver public services with 67% of charities with incomes over £10 million reporting that they delivered public services and obtained 80% of their income that way. In contrast 46% of charities that deliver a public service with an annual income below £10,000 obtain less than 20% of their income that way. Later on we discuss some of the reasons why smaller charities are less likely to be engaged in public service delivery.

The Government is committed to working in partnership with the voluntary sector and sees the sector as having a key role to play in the reform of public services. The HM Treasury document *The Role of the Voluntary and Community Sector in Service Delivery 2002—A Cross Cutting Review* identified the following conclusions: a need to commit and implement Compact, to get the funding relationship right and to build capacity in the sector. The document also provided a template for the Government and the sector to work together with a detailed action plan. Recommendations within the action plan included:

1. Funders should recognise that it is legitimate for providers to include the relevant element of overheads in their cost estimates for providing a given service under service agreement or contract.

2. HM Treasury should issue clear guidance to funders: (i) on the scope for making payments in advance of expenditure; (ii) ensuring the right balance between service providers and funders; and (iii) the potential use of profile funding.
3. HM Treasury guidance to funders should underline the opportunities for moving to more stable funding relationships and to include examples of where, subject to performance, this has been done.

It is clear that at least on full cost recovery there is still much to be done. The Government deadline that as of April last year all statutory funders should implement full cost recovery has largely gone un-noticed and a quick survey of our members showed that 60% don't expect to achieve full cost recovery on the services they provide.

Considerable concern has been raised in the sector about the Government's commitment to full cost recovery. The NAO released a report in June 2005 which highlighted that although many of the issues raised in the Cross Cutting review have been addressed, further steps are needed to improve the funding relationship between government and the sector which has so far showed little noticeable improvement. The NAO felt that there had been little progress on full cost recovery and in particular there was a lack of agreement on which costs should be funded with both the funders and voluntary organisations unclear on what costs should be included. In addition, there was inconsistency in practice at local level with NAO evidence suggesting that local authority funders are even less likely to allow full cost recovery than central government given that their main focus is to keep down costs and remain within budget.

CFDG in collaboration with the CIPFA Charities Panel undertook a quick survey of CFDG members last year to understand the challenges charities face in contracting with government to provide public services and to see what progress there had been on full cost recovery.

CFDG and CIPFA Charities Panel findings showed that over half of those charities surveyed recover only 85% or less of the cost (including overheads) of delivering the service to the funder. Charities are increasingly being seen as playing a key role in delivering public services and strengthening local communities through innovative ways of working yet it seems funders aren't prepared to pay for the high quality service they receive. In addition funders are requiring greater levels of financial detail such as office and staff costs rather than agreeing a price for a quality service that ensures best value for money. One of the main challenges charities have faced in building full cost recovery into their processes is equal risk sharing. Over 60% of charities believe they aren't adequately compensated for the risk they undertake in delivering the service. Reasons given for this are greater risk transference without additional payment, short-term contracts that cause difficulty in resource re-deployment when a contract ends, and funder/provider relationship weighed in favour of the funder. In addition, charities find that contract lengths are often inappropriate to the service they are providing and instead of long-term contracts that reflect the nature of the service they are providing they are engaging in "long term relationships with short term contracts".

It is clear that two types of charities are emerging; those that raise significant income through government funding (public sector service handover) and those operational charities that raise a majority of their income through voluntary donations. These two types of charities have differing needs and there is clearly a requirement for greater understanding of how these charities operate. In a society where public confidence and trust are becoming more important, two further issues are developing:

1. Independence v public service. Is the sector becoming an agent of the Government.
2. Public trust—charities v government.

The independent nature of a charity is a core part of its identity. Charities should not allow their independence to be compromised in pursuit of government funding and should only enter into contracts where there is a clear link to their charitable objectives. Reliance on one form of funding can hinder a charity's independence and their ability to speak out for change or be critical of a funding organisation's policy.

Trust in charities is currently linked to support for a particular charity or to an inherent belief that a charity will act wisely and for the benefit of the beneficiary using the funds available to deliver the best outcome at good value. However, most of the public have no evidence to back up this view and very few people have any real idea of how charities are run and the funds distributed. The public also have a narrow understanding of charities and the work they do and do not fully appreciate the benefits they receive. On the other hand trust in government is at a low ebb. Charities need to ensure that trust in them is maintained and not diluted by increased involvement in government activity, as this will severely diminish the sector's ability to help those in real need. Charities need to proactively protect and preserve public confidence and thereby maintain their brand.

Charities have reacted to this by increasing transparency and accountability through greater disclosures in accounts. A true judge of a charity's performance is the impact they make. Impact reporting is currently underdeveloped within the sector however progress is being made and there are good examples such as RNID and Help the Aged.

Larger charities are professionalising to respond in this environment whilst smaller charities struggle to do so as they cannot afford the resources. They are hit hardest by the current issues around government funding of contracts delivered by the sector.

The current funding situation for charities needs to improve and the voluntary sector wants to see more than lip service on issues such as full cost recovery. Government needs to work in partnership with the voluntary sector and engage in contracts that are supportive of an adult relationship between government and the third sector. At the minimum there needs to be better risk sharing, no imposed pricing budgets and timely payment for service delivery. These are all issues that have a direct impact on a charity's finances as is illustrated by the example a member gave where late payment for service delivery resulted in £7,000 in lost interest for the first quarter. The current funding arrangements do not generate trust and there are countless examples of an un-level playing field between the Third Sector and other organisations competing for the same contracts on issues such as pensions and VAT—which are developed later. Relationships should be outcome based and not require rafts of data to be processed; this does not increase control but instead makes compliance onerous and diverts valuable resources away from service delivery, which does little to build an atmosphere of trust and only causes public services to suffer.

However, there are some good examples of funding relationships between government and voluntary organisations and we are keen that these are recognised and promoted wider. One such example is Action for Blind People where the local authority has commissioned a clear service that is fully funded with a built in profit incentive for the organisation. Another example is WWF-UK (formerly known as the World Wildlife Fund), which has a partnership arrangement with the Department for International Development providing (a block grant) strategic funding based on outcomes, that is subject to review every three years.

The Home Office, in March of last year, published *Strengthening Partnerships: Next Steps for Compact*, which included ideas for a “Compact Plus” standard and potential commitments for public sector bodies which include the following:

- When seeking to deliver public services through the voluntary and community sector, use procurement rather than grants, do not seek information about management fees and overheads, and agree outcomes which capture the additional quality of services which may result from delivery by the voluntary and community sector.
- Implement multi-year funding models and make payments promptly, offering payments in advance of expenditure to organisations wherever appropriate.
- Share risks fairly between funder and provider, ensuring they fall on those best able to bear them.
- For projects funded by grants, give a legitimate proportion of funding for overhead costs.

CFDG would like to see these potential commitments verified by the Compact Commissioner as part of the “Compact Plus” and work is undertaken to ensure that all statutory bodies adhere to them thereby bringing stability to funding relationships with the voluntary and community sector.

OPERATIONAL ISSUES

Regulation

For many charities the issue of regulation is a real concern and there is a need for action from government to address this point. There is a clear balance to be struck in requiring a charity to show that is accountable and transparent and thereby building public confidence without being overly burdensome. Many charities are finding that they have to divert resources away from their charitable objectives in order to deal with the increasing amount of regulations imposed by government.

The first major report into regulator inspection and enforcement was the Hampton Review published in March 2005 that recommended a light touch approach to regulation. This included reducing the number of inspections, requests for information and form filling and instead made a shift towards risk based regulation. Building on this report, the Better Regulation Taskforce issued a publication on excessive red tape faced uniquely by the voluntary sector entitled *Better Regulation for Civil Society*. The report published, in November 2005, recognised that the current regulatory climate can stifle innovation within the voluntary sector through its desire to impose a one-size fits all approach. The report recommended that regulation of the sector was proportionate and targeted so that charitable organisations and particularly smaller ones aren't swamped with regulation but able to free up their time and money for those most in need.

CFDG members would like to see a reduction in the number of regulatory returns giving duplicate information. One clear example of this is the duplication of information requested by the Charity Commission in the Summary Information Return (SIR) most of which can be found in the Annual report and Accounts as prescribed by the Statement of Recommended Practice (SORP). The SIR was recommended first in the Cabinet Office report *Public Action, Private Benefit* in order to provide increased transparency on Charity affairs following a failure in the sector to fully implement the requirements of SORP2000. The majority of information required in the SIR duplicated that required by SORP2005.

Another type of regulation faced by charities is the hidden regulation involved with adopting best practice in areas such as procurement, health and safety, environmental concerns etc that is encouraged by government funders but is not recognised as needing additional funding. Whilst we would fully support the need to strive for excellence in all areas, the increased cost is a real issue for charities. One member explained that they have to employ and train a Health and Safety officer which costs in excess of £25k a year as well as the added costs of time spent by medical staff, shop personnel etc in liaising with the Health and Safety

officer, and ensuring compliance. Another example given by members is that more and more local authorities are expecting voluntary organizations to comply with and provide evidence of compliance for regulation which they aren't technically subject to. A recent example given by a member was with one of their local authorities who would only award an inflation uplift this year if, inter alia, the organisation could demonstrate to them what kind of Gershon/efficiency saving initiatives they were currently committed to, to ensure that as much of the fees as possible go to front line care, and aren't "wasted" on back office functions. As a charity and not a government body this member's organisation is not subject to the Gershon targets, but nevertheless had to invest a significant amount of management time and effort researching the subject and presenting back to them some of the initiatives they had underway to satisfy this point to their satisfaction, and to ultimately secure the fee uplift they needed, and which they are entitled to under full cost recovery principles, without having to jump through such hoops.

Commissioning Process

CFDG members have identified the standard of the commissioning process employed by the state as varying widely on a national, regional and local basis. A key point seems to be the lack of experienced staff with expertise in this area and the desire from funders to impose a one size fits all approach on all service providers that is inappropriate for charities and third sector bodies and is not in line with Compact. Other issues are the lack of clarity from the outset about the commissioning process and the contractual obligations for a charity, duplicating requirements and very short notice on bids ie the deadline is very shortly after the announcement. This can present real challenges for smaller charities that invest a significant amount of resource into the tender process and can often be overwhelmed with the paperwork required. In addition they may lack negotiation skills and the financial strength to say no to impossibly tight margins.

VAT

VAT maybe an effective form of taxation for the commercial world but is inappropriate to the core activities of charities: the provision of services to beneficiaries who may not be in a position to pay for the services they receive. A lot of the services provided by charities are either exempt (ie they cannot charge VAT and so cannot recover the VAT that they pay on their purchases) or they are non-business supplies (because the charity does not charge for the service or heavily subsidises it) and are outside the scope of VAT. In either case, the charity ends up with a substantial irrecoverable VAT bill. Charities are almost uniquely penalised by the VAT system. As Government officials have long acknowledged, they are exposed to the most complicated VAT regime facing any sector because they provide a mix of fully taxable business supplies, exempt business supplies and non-business supplies. The administration involved in calculating which bit of VAT relates to which type of service is complicated and onerous. Commercial organisations providing services do not have a problem recovering the VAT as they almost exclusively provide taxable services and local authorities receive an automatic refund of the VAT that they pay on providing services—many of which are identical to those provided by charities. This refund is permitted under section 33 of the 1994 VAT Act.

The Charities' Tax Reform Group (CTRG) estimates that irrecoverable VAT costs charities in excess of £400 million a year. This money could better be spent on providing charitable services, particularly as it widely accepted charities spend their money more cost-effectively than government. A MORI research study commissioned by the Charities' Tax Reform Group found low public awareness that charities paid tax and overwhelming support for a matching grant scheme to compensate charities for the irrecoverable VAT they incur. 8 in 10 people surveyed agreed that government should compensate charities in full for the 17.5% VAT which charities have to pay. CTRG have identified four priority areas where a matching grant scheme is needed. Those four areas are: VAT on social welfare services where charities are complementing or substituting for state provision, VAT on fundraising costs, joint ventures and shared services and repair, construction and maintenance of social welfare housing and all charitable buildings.

Pensions

Under TUPE, a receiving employer is required to provide a good quality pension provision where staffs coming to them have pre-existing pension rights—defined as being one where the employer contributes at least 6% (sections 257 and 258 of Pensions Act 2004). However best practice guidance issued by the ODPM (Circular 03/2003) requires organisations taking staff from the public sector to provide a pension scheme with the same level of benefits as are currently enjoyed and which is fully transferable.

This has a number of major consequences and charities (and those they contract with) are left with some pretty unpalatable options.

On the one hand charities can seek admitted body status which means they take on a corner of the pension scheme from where the staff are coming (paying contributions at whatever rate is determined by the local authority). When the charity subsequently loses the contract and therefore admitted body status, it is

required to make up any shortfall in funding in full, including any deficit built up prior to the staff members transferring across into the charity (which as one major charity at least has found can run into many £millions).

The alternative is that the charity sets up either a separate section within its own pension fund or with a third party provider such as the Prudential. The problem of the crystallisation of past service deficits remains and, in order to reduce risk, the contribution rates required to fund these scheme are typically around 28% or more per annum depending on the staff transferring.

In order to protect themselves charities will be forced to write contracts which require the transferring employer to pick up the full pension costs for future service accrual and to make good any past service deficits if the staff transfer across their accrued service (which could run into £100,000's even where only a few staff are involved). It is likely that it will become uneconomic for the statutory body to transfer staff to the voluntary sector on that basis and the Government's partnership plans will be frustrated.

A member recently gave an example of not entering into a contract with a statutory body because the contract would have meant a transfer of 60 staff from the statutory body to the charity. The charity could not afford to fund the pension contributions enjoyed by that statutory body and there was no additional funding in the contract to cover the additional costs so consequently the charity could not enter a contract that could potentially have benefited circa 250 beneficiaries.

One possible solution to this pensions issue would be to develop pass-through arrangements. The Department for Communities and Local Government is currently consulting private sector service providers on this subject. Pass-through would effectively remove pension risk from the equation. The contractor would pay contributions at a rate specified at the outset of the contracting process, with subsequent variations only for common factors (eg changes in mortality assumptions) or those within their control (eg abnormal pay movements), and the letting authority would retain and meet the actual cost of all the investment risk. Contractors would contribute only for membership accrued during the contract and would have no past service liabilities, nor ongoing liability at the end of the contract. The letting authority would effectively meet the actual cost of pensions rather than the cost inflated either by over-cautious risk assumptions or by the price of contractor failure in terms of quality delivery or financial performance. However, it would deprive authorities of the potential benefit of a lower bid, where the contractor has priced the pensions element at less than the true cost.

March 2007

Memorandum from The Children's Trust

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

Although it is hard to evidence whether third sector organisations always deliver higher quality services, plurality of choice has so far shown itself to be a good thing for the general public/ service users.

Compared to the public sector the third sector has experienced a greater degree of stability of purpose over past years and has been subject to much less reorganisation. This has meant that services have remained more stable for their client groups.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

The voluntary sector can play an important role in cutting across the structures of public sector provision and achieving an economy of scale. For example it would not be practical for every local authority to provide special education for children with profound and multiple difficulties within their area, because the number of children who would use the service would be too small. However a voluntary sector provider may well be in a better position to provide such a service. At The Children's Trust we work with over 80 local authorities to provide specialist services that would be unrealistic (and costly) to replicate in their own areas.

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Our own experience of providing services to children with multiple disabilities and their families is that the services themselves evaluate extremely well in that they meet the needs of the client group. Our services are provided in very few places in the UK, and the combination of services is unique. We are therefore able to fill the gaps that exist in current public sector provision, without inexperienced local authorities having to attempt to do the same.

Third sector organisations often have their roots in the local community and therefore may have more credibility from this known association with users, as opposed to providers within the state sector where the links may be more tenuous.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

The third sector is more able to adapt and change to meet the needs of its population. For example at The Children’s Trust we have been able to adapt our services to meet the ever-changing complexity of the needs of children who use our services. An example of this is the new service we have developed for children who are technology dependent. Because we were able to use voluntary income, we were able to set up a new service which helped to get children home from hospital within the space of just 12 months.

As small or medium-sized service delivery organisations charities such as ourselves are close to our service users and their families and are therefore able to change and adapt services to meet individual needs ensuring that we provide more of a personalised service. This ability to respond quickly to changing needs is something which is welcomed by our service users.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

We find that it is possible for us to use charitable funds to “pump prime” new services that can then be commissioned once they have proved that they work. The ability for the voluntary sector to fundraise for such innovative projects should not be underestimated.

The third sector, by providing such services, is often able to take away the “headache” of providing very specialist low incident high cost cases, which may be both time consuming and costly for the public sector to provide, and which usually result in poor satisfaction outcomes for service users. As well as service users getting a better service which accurately meets their needs, this also frees up time and expertise within the public sector to concentrate on more general services that they are well able to manage.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

A contractual relationship with the state can help stability within the third sector, but only if the contracts themselves are for longer than one year. If this is not the case a service can find itself spending a great proportion of its time pursuing future funding rather than being able to focus its efforts on the needs of the service users. In addition a contractual relationship will give third sector organisations confidence to plan for future and free resource to focus on developing better services rather than working hard simply to stay afloat.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

No. At The Children’s Trust we rely on the state to fund the placements of children in our care. As the providers often closest to service users it is vital that the third sector remains able to advocate on behalf of these groups. There is no reason for this to change unless the state sector chooses to put punitive measures in contracts to prevent organisations from speaking out.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

The systems for commissioning are already very bureaucratic and there is clearly a risk that unless it is monitored this situation may get worse. We have found that in order to meet the increasing need for regulation and bureaucracy surrounding contracts, our staffing has had to change accordingly—with extra staff employed to help meet the need. However stronger contractual relationships and more experience of commissioning by the public sector would allow third sector organisations and the public sector alike, to free up time which would help to redress this imbalance.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

We believe that one of the reasons many third sector providers win state contracts is because of, not despite, these very traits. As long as the third sector can demonstrate its growing professionalism there should be no risk to its independence, identity or distinctive ethos.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

Some might argue that there is already significant polarisation within the third sector. For example in the children's sector there are the "big boys" such as the NSPCC, NCH and Barnardos versus the smaller, often more specialist providers. The third sector itself needs to take responsibility, through initiatives such as VCS engage to ensure that these bigger organisations support a greater diversity of provision. The state sector in turn needs to ensure that it considers both small and large organisations when making commissioning decisions.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

Although handing over responsibility to the third sector will naturally result in the loss of some degree of control over the services themselves, the state plays a vital role in the inspection and regulation regime and therefore should not see itself as losing all control.

There is an argument that for some services, such as health, a loss of control from the state side is not necessarily a bad thing. Indeed it may allow clinicians and others to have more of a say in service development, resulting in a service that is both wanted and needed.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

Commissioners need to become familiar with the services that they are commissioning and those that are available to them. Without this expertise it will be impossible for them to make informed purchasing and commissioning decisions.

The state should ensure that there are specialist commissioners at a higher level, or covering wider geographical areas to ensure that this expertise is used wisely and is affordable.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

National contracts and quality standards would help to reduce duplication of effort. These contracts may also result in greater stability for third sector providers. Ensuring that contracts are commissioned on a national or even regional level would also mean that the commissioners themselves would become more expert in the services they would be commissioning. An example of this in practice is the current system of SEN Regional Partnerships whereby local authorities work together to share best practice.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

No. In theory, with full cost recovery, services should cost the state the same as from other providers.

One way costs could be brought down would be through strategic alliances of charities, allowing them to pool services such as HR. These consortium arrangements could be encouraged by incentives such as such organisations not attracting VAT when using such initiatives.

(b) *Are there "hidden costs" such as contract oversight?*

For the third sector, inspection and regulation are already huge burdens, both in terms of extra staff and the employee time required to manage the contract arrangements. For the state, the bureaucratic burdens will be there whether contracting through outside providers in the third (or even private) sectors or from within the state machine itself.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

Competitive neutrality is an admirable goal but for it to become a reality there would need to be an “amnesty” whilst infrastructure is put into place to allow all organisations to “compete” in the same way. The state would also have to be careful to ensure that there is a level playing field and not allow large, private organisations to enter the market by offering special prices at entry level which then rise at a later date. This would require a high degree of sophistication and expertise on the part of commissioners.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

The costs to the state should be the same whether they use services commissioned from either third sector or private sectors. The difference comes from the attitude and ethos of the third sector which is much closer to its user group and does not have to answer to shareholders. This can allow the third sector to deliver many, perhaps less tangible, benefits to its service users.

March 2007

Memorandum from CIPFA

INTRODUCTION

CIPFA welcomes the decision of the Public Administration Select Committee to look into this key area of the provision of public services through the third sector. The Institute is pleased to comment on the following questions from the Select Committee’s Issues and Questions Paper where the experience of our members is particularly relevant. We would welcome the opportunity to discuss our responses further with the Select Committee in oral evidence if the Select Committee wishes.

KEY QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

A clear contracting framework can strengthen rather than diminish accountability. When commissioning a service, the public body concerned must have the appropriate processes in place to be satisfied that it is making the best decision in the interests of the public when commissioning services from any other organisation, regardless of the sector the other organisation belongs to. Similarly, during the agreement period, the ultimate accountability for the service’s quality remains with the commissioning body, as its members will ultimately be held responsible for this by the public. Adequate reporting and service quality inspection mechanisms should therefore be built into the conditions of any commissioning agreement by the public body.

Providing the appropriate controls are in place, there is no intrinsically greater threat of a loss of accountability from a public body commissioning services from the third sector, than there is when commissioning services from the private sector.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

This is an area where we see both benefits and risks.

An appropriate contracting framework can definitely strengthen the stability of third sector organisations but only if they have the skills and capacity to put in realistic tenders. Tendering processes can use a lot of resource and therefore need to be streamlined and proportionate to the scale of the contract being let. For example, a two stage bidding process for a small respite or advocacy service would not be appropriate. There will be additional costs associated with taking part in contracting processes and potentially in contract management and providing performance data.

Contractual relationships with the third sector will also give the state a strong interest in its stability. Measures which public bodies can take to support stability include:

- Payment mechanisms which protect contractors against steep and arbitrary changes in the volume of orders.
- The least possible prescriptiveness as to methods.

- Abstinence from driving unduly hard bargains.

In particular, longer term contracts offer the stability required by third sector organisations and their staff to focus on doing the job well, while reducing the pressures on them to allocate undue attention to renewing or replacing short term funding, or face ending the service in question. This is particularly important for smaller bodies.

The risks in this area stem from the idea that the voluntary sector can act as an alternative form of public service contractor, particularly when there is an underdeveloped private sector supply chain. We believe that this approach can create two areas of difficulty:

- First, undermining the genuine delivery of public services either by public sector bodies, or by private sector contractors, as it can be seen to be relying on the element of voluntarism as providing a below cost solution to immediate financial difficulties. For example, in the social care sector of public services, the idea of “co-production” can be used to disguise an attempt to deal with the difficulties created by under funding and rationing of services.
- Second, by acting to “professionalise” what should be a level of voluntary activity. Because, naturally, the Government as a contractor insists on a quality of standard of provision, increasingly it is calling upon third sector organisations to train and qualify their staff to professional service delivery standards. The voluntary sector is therefore finding itself drawn into increasing levels of complexity over training, qualifications, and quality checks that mean that instead of there being voluntary sector effort effectively the voluntary sector becomes another commissioner of fully employed staff, who are the only ones who are capable of delivering the service to the standards now demanded. This undermines both the element of voluntarism, and, the delivery of service in some cases. We understand that a number of community organisations are no longer able to cope with the increasing level professionalisation and as a result are curtailing their activities to the overall loss to the community.

(b) Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

There is no inherent reason why this concern should materialise in practice. The increasing recognition by government and the opposition parties that the state needs to work with and through partnership or commissioning to achieve public service improvements, makes it unlikely the government will simply cut off funding to an organisation which voices criticism. Such a move would risk bad publicity if government were seen to be “bullying” organisations providing public services which exercised their right to hold an opinion on government policy. Our experience from the public sector is that organisations within local government, health and other arms of the public sector will voice critical opinions on government as they see the need to, and we see no reason why the third sector should feel the need to refrain from such a healthy dialogue in order to help inform public debate on services.

If the fact that a wider view is to be taken of third sector delivery then this must take into account the fact that voluntary sector organisations are both advocates for their service as well as deliverers of that service on many occasions. This advocacy role cannot be ignored. However, it does raise issues around community governance. The Committee has rightly drawn attention to the concerns that widespread use of third sector deliverers of public services can mean that there is no proper democratic control of their activities. In part this is true, although if the Government considers them only as contractors, then there is no need for governance arrangements above contractual terms. They are in effect just another form of contractor and we would not expect a private sector contractor to undergo an element of democratic control.

However, if the aspirations of the White Paper are taken as a guide for the future then there is an argument for the engagement of the third sector not only in the delivery of service, but also in the design of that service through a form of community governance. The democratic interface will then have to be addressed. However, this is not an insuperable problem, and indeed if the third sector were enabled by the acquisition of assets and budgets they might provide a significantly locally focused and locally sensitive delivery of a key service. Appropriate controls would need to be put in place such as the independent audit of an organisation’s activities, the establishment of a “Charter Mark” or quality standard before assets and funds are delivered, perhaps combined with regular authorisation of the group’s activities through the democratic process at parish or community level.

(c) Is there a risk that service providers will become increasingly bureaucratic?

Whilst any service-providing organisation runs the risk of focussing too much on processes and not enough on outcomes, this risk is no greater in the third sector than elsewhere. Given that public sector commissioning of third sector organisations to deliver services is an area with great potential to grow in the future, this risk can be addressed by reminding public bodies in guidance from central government to assist service providers by keeping reporting and monitoring requirements at levels appropriate to the funding, service and provider in question, rather than adopting a “one size fits all” or overly bureaucratic set of requirements.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

There are clearly risks in this area, particularly where a contractual relationship with the state is significant in relation to a third sector organisation's other activities. However, there are a number of measures that can be taken, including:

- matching their specifications, and their selection and evaluation criteria, as closely as they can to the abilities sought from the third sector bodies which they want to attract to the service under consideration. The more sensitively and effectively that clients do this, the more likely that contracts will reinforce the ethos of third sector bodies, rather than erode it; and
- avoiding imposing on small third sector tenderers the same insurance requirements and financial standing criteria that they impose on large private sector contractors.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

Giving significant contracts to any sector must be expected to have the effect of making some of its members bigger. However, we see no correlation between small size and radicalism. Some of the biggest and longest-standing voluntary organisations have always been forceful and intrepid campaigners.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

One of the strengths of voluntary organisations which work with vulnerable and disadvantaged people is that they do not normally perceive third sector staff or volunteers as being "officials". Therefore any perceived loss of control is likely to be more than offset by the advantages of using the third sector.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

All stages in commissioning call for the same range of expertise and knowledge of contract law and practice. This suggests that it would be unconstructive to force the pace at which third sector services are taken up.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

Some duplication is unavoidable whenever any work or services are contracted out, for the reasons given in answer to question 1(b). It can however be reduced by:

- Rationalising all the different data needed for making contract payments, supervising output, updating personal records, and ordering essential support services. The more often that one piece of data can serve several such purposes, the better.
- Eliminating the number of different client personnel who have to visit the same end users, or the same sites. This means rationalising their duties in the same way as for data.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(b) *Are there "hidden costs" such as contract oversight?*

Contract oversight needs to be considered and costed at the commissioning stage by the public body, with this being an important point for central government guidance to the public sector.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?*

For contestability to work in an efficient manner, there needs to be a level playing field between different types of providers. The objective ought to be to enable decision making to take place based on value for money, ie taking into account both quality and cost.

If, instead of a level playing field, it is decided centrally that the benefits of the third sector participation in public services provision are so great that it is appropriate to have financial rules which encourage it, this

would skew the vfm decisions made by the individual procurers of services. Such skewing of decisions at a local level interfere with those decisions and lead to lower vfm overall, with consequential waste to public funds. It could moreover be seen as anti-competitive.

In order to achieve a level playing field it is important that the purchase of public services, whether from the private, public or third sector, should be done on a full cost recovery basis. The calculations of full cost should be done in a manner that is consistent with sound accounting practice and principles. CIPFA has undertaken considerable work on this subject, particularly for the local government sector, where our accounting codes are recognised in legislation as proper practice. This work could have a wider read-over within the public sector and to the third sector.

We would welcome the opportunity to discuss this further with the Select Committee in oral evidence if the Select Committee wishes.

Often, when costings are done in the public sector they are still done on a marginal rather than a full cost basis. This is unsustainable, in monetary terms, in the medium to long term. There are several issues here. Many apply to both the public and the third sectors. The issues may be summarised as:

- The apportionment of overheads—CIPFA’s Best Value Accounting Code of Practice offers guidance on the principles that should be used in the apportionment of overhead costs. The guidance is specific to local government but could have wider applicability.
- Depreciation—The full costs of services must include depreciation (the accounting term for the cost of the using up of assets—thus generating sufficient cash over time to enable the repurchase/replacement of fixed assets without “lumpy” demands on taxation/profit). However, it is important to note that government general (and most specific) grant to local authorities does not currently include depreciation. We have made representation to government that this should be addressed, and it will be an important matter to address if real attempts are to be made to attempt a “level playing field” between sectors.
- Return on capital—We note that the CBI’s work on a fair field¹²⁴ recommends that full costs should include rates of return on capital at least sufficient to justify long term retention of assets in the business. In the public sector, including within central government departments, a rate of return based on the value of assets and the Treasury rate is commonly used for this.
- Cost of borrowing—We note that the CBI’s work on a fair field also recommends that there should be debt neutrality for cost comparisons between sectors, ie to factor an amount in so that the cost of borrowing appears the same. This is questionable, since the difference in borrowing costs is a real one that for public services falls on the public purse.
- Volunteer input—One factor that is unique to the third sector is the use of volunteers within the sector. This is a complex matter that needs to be sensitively addressed where public services are commissioned from the third sector. How, if at all, should voluntary labour be costed when doing cost comparisons? It is, after all, a real cost difference. More fundamentally, however, is it appropriate that commissioned public services should rely on voluntary labour? This goes beyond the calculation of costs into such matters as the possible effects of paid carers etc being put out of work on the acceptance of a tender from a third sector organisation that is using volunteer input and therefore has lower costs. The issue of volunteers is a complex one, but if the third sector is to be a significant provider of public services, it is one that needs to be addressed.

Where a third sector entity receives money from a public body, it needs to be clear whether it is receiving money on a commissioned (through purchase) or supported (through grant) basis.

February 2007

Memorandum from the Commission for Rural Communities

1. INTRODUCTION

The Commission for Rural Communities (CRC) welcomes the opportunity to respond to this issues and questions paper. We are responding in our role as the Government’s rural advocate, watchdog and expert adviser.

This response addresses some of the key points specifically relevant to this inquiry and provides a broad picture of rural issues relating to the areas covered. Of the individual questions, we confine ourselves to answering only those questions for which we can make a useful contribution.

¹²⁴ www.cbi.org.uk/pdf/fairfield0106.pdf

2. COMMISSION FOR RURAL COMMUNITIES—ROLE AND PURPOSE

The Commission for Rural Communities is the independent statutory agency acting as a voice for England’s rural people, businesses and communities, providing well-informed, independent advice to government and monitoring and reporting on whether policies reflect the real needs of people living and working in rural England. The CRC has a particular focus on rural disadvantage. Its key functions are to act as:

- Rural advocate—the voice for rural people, businesses and communities.
- Expert adviser—giving evidence-based, objective advice to government (central, regional and local) in taking account of rural needs.
- Independent watchdog—monitoring and reporting on the delivery of policies nationally, regionally and locally.

The Commission believes that England’s rural communities should be diverse, thriving and sustainable, where everyone is able to play a full part in society and where no-one is disadvantaged. It will speak up for rural people and communities, especially those experiencing disadvantage, and ensure that policies take full account of rural needs and circumstances, holding government and others to account for their delivery.

One key aspect of the Commission’s work is the identification and dissemination of best practice in relation to meeting the needs of rural communities. This includes benchmarking, evaluating and monitoring good practice and innovation, sharing lessons and disseminating information from across England and beyond.

3. RESPONSES TO SPECIFIC QUESTIONS

What are the benefits of contestability to the users of public services?

The Commission for Rural Communities is undertaking a study “Public Service Reform—Choice and Voice in Rural England” which is due to report in the summer. The overall study is looking at: the context of “choice” for rural communities within Government’s agenda for public service reform; looking at an approach to rural proof the mechanisms of public service reform (choice and voice); exploring the issues around elective surgery, secondary education and choice based lettings; and exploring the scope for rural markets (particularly health and education) to respond to choice through competition.

We would welcome the opportunity to send you a copy of our report when the work is complete and to discuss this study with PASC in the context of this debate.

Is the third sector more likely to provide better public services than the state or the private sector?

The Prime Minister has highlighted¹²⁵ his view that public services should be framed around minimum standards; should be accountable; should, wherever possible, be devolved to the front line; should allow for local creativity and reflect local needs; and should respect and meet the needs of diverse communities. In an often-quoted statement in October 2001, he said: “*In developing greater choice of provider, the private and voluntary sectors can play a role. Contrary to myth no one has ever suggested they are the answer, or that they should replace public services, but, where they can improve public services, nothing should stand in their way*”.

Rural areas have the additionality of “geodemographic factors”—a complex set of variables relating to distance, settlement pattern and population density. Rural third sector organisations already have experience of working with these variables.

Research carried out by NCVO on behalf of the CRC predecessor, The Countryside Agency¹²⁶ highlights the challenges rural voluntary organisations have of delivering public services in areas where users are far more dispersed. The organisations operating in rural areas have to make decisions about where and how to deliver services. The research highlights two ways in which this challenge was addressed:

- mobile services; and
- providing services in one (or more) centre but also providing transport to that centre for users.

Does commissioning benefit the third sector?

Research by NCVO, “*Contracting for Services: a rural analysis*” (highlighted in question 2), found that the contract process from start to finish does not work for many third sector organisations. In many cases, the contracting process put the organisations at a distinct disadvantage in negotiating situations. The following areas are suggested as crucial to achieving fair contracting practices:

- Recognising, and factoring into the contracting process, the rural premium, the additional costs that can exist when providing services in rural areas.
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¹²⁵ The Reform of public services: the role of the voluntary sector, NCVO, 2005.

¹²⁶ Contracting for Services: a rural analysis.

- Contractors should recognise full cost recovery and third sector organisations should price their tenders on full cost recovery basis.
- Third sector organisations should ensure that they promote and explain the added value that they offer. Contractors should recognise this added value.
- Short-term, annual contracts are time consuming, inefficient and create uncertainty. Longer-term contracts should be offered, but be properly monitored.
- Where good relations exist, through previous work or acknowledgement of organisations, these should be built on, but should become more formalised.
- The contracting process should be Compact compliant (Compact Code of Good Practice on Funding and Procurement, published in March 2005).
- Private sector and statutory agencies should be flexible in the monitoring and evaluation processes. They should be negotiated with the third sector organisations and where possible existing systems should be used.

Does commissioning services from the third sector have any benefits for the state?

The third sector plays an important and valuable role at the local level—through providing both publicly funded services and a wide range of services for local communities eg, advocacy/advice work, activities, clubs; and provides communities with a voice.

The rural third sector is in a position to identify and address local needs and priorities; particularly the disadvantaged and where there are needs cutting across traditional service boundaries. As highlighted in NCVO’s publication *How voluntary and community organisations can help Transform the local relationship*, “the sector can provide a channel through which statutory organisations are able to access those who are often the most marginalised in society, and by working closely with VCOs local government might also give a greater opportunity for bottom up pressures to be heard, which can highlight issues or problems and act as a catalyst for change”.

What are the financial implications of providing services through the third sector compared with directly provided state services?

Rural areas have greater numbers of smaller voluntary organisations and their resources and capacity is limited. Issues include availability and suitability of training and support, a small pool of trustees, penetration of national organisations and critical mass of population, and the wide geographic areas to cover. These challenges present significant barriers to effective delivery, particularly when competing for grant funding or contracts with budget holders.

It is widely recognised that the unit cost of delivering services is frequently higher in a rural context. This is largely a consequence of the “geodemographic factors” (highlighted under question 2), a complex set of variables relating to distance, settlement pattern and population density. In order to reach people in rural areas, services are often required to provide outreach, mobile units or transport solutions that all increase complexity and add to the time and cost of provision. Providing for scattered populations dispersed over large areas also limits opportunities for economies of scale. These sparsity factors and the resulting “rural premium” must be taken into account when considering the nature and funding of rural services.

See bullet point above on the Compact. The Compact is the key genuine partnership work as opposed to contractual relationships.

Are the costs and benefits to the state the same when commissioned from the third sector and private sectors?

Although not a direct answer to this question we would like to highlight the importance of rural proofing. As the Government’s independent rural watchdog, we are keen to ensure that policy makers in central government identify the implications for and impact of their proposals on rural areas and, where relevant, adjust their policy or adopt specific measures to address any issues arising from them.

March 2007

Memorandum from Community Links

EXECUTIVE SUMMARY

1. This paper argues that:
 - 1.1 clearer, more discriminating, thinking about “commissioning” is required if the role of third sector organisations in the provision of public services is to be understood fully;

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- 1.2 in many contexts, a principal objective of commissioning is to ensure and develop responsiveness to the needs of service-users;
 - 1.3 the case for involving third sector organisations in the provision of public services flows similarly (a) from the need to ensure responsiveness to—often local—need and (b) from third sector organisations’ accessibility as sources of help that are outwith “the state”;
 - 1.4 many—but not all—services are best defined with a strong local involvement; and
 - 1.5 multi-functional third sector organisations with strong local roots can be especially useful in informing commissioners’ decisions and ensuring responsiveness to local need.
2. It provides an analysis of the elements of “responsive commissioning” and compares it with tendering (or “pre-determined commissioning”) and unconditional grants.
 3. It does not argue that third sector organisations have a monopoly of understanding of service-users’ needs. Rather, it argues that there are many circumstances—especially locally—in which third sector organisations are able to make a crucial contribution to that understanding.
 4. The paper concludes by addressing some of the specific questions that the Select Committee included in its consultation paper.

INTRODUCTION—“LOOSE TALK”

*“When I use a word,” Humpty Dumpty said, in a rather scornful tone, “it means just what I choose it to mean, neither more nor less”.*¹²⁷

1. Whilst Humpty Dumpty’s self-centred ideal is unattainable, looseness in the use of terms is likely to cause confusion and certainly has done so in the cluster of terms that surrounds the commissioning of public services.
2. Useful distinctions are lost. Thus “grants” are contrasted commonly with “contracts”, obscuring from view the useful distinction between:
 - 2.1 the majority of “grants” that are “conditional” (ie the grantee must meet the grantor’s conditions if the grant is to be payable); and
 - 2.2 the diminishing number of “grants” that are “unconditional”.
3. Distinctions without differences are also made. For example, the “service level agreement” has emerged as “a thing in itself” and thus purports to be distinct from a “contract”. However, except where “service level agreement” is used in its original sense (ie to give precision to obligations within a pre-existing legal relationship), it is indistinguishable from a “contract” in which services are exchanged for money or other consideration.
4. Nevertheless, we have purposes in mind when we use words and these purposes affect our usage. Hence we might next look briefly at some of the purposes that lie behind the various uses of the term “commissioning”.

WHY “COMMISSION”?

Strategic commissioning

5. Whilst it might seem impressive, to describe commissioning as “strategic” is neutral—and sometimes vacuous—in terms of its substantive values. Just as a contract can be fair or oppressive, so a strategy can be benign or malign. The value comes from the particular strategic objective—“getting services on the cheap” might be less laudable than “seeking to respond to the interests of (actual and potential) service-users”.

Outcome-based commissioning

6. The potential of commissioning to move away from the “provider perspective” is emphasised in “outcome-based commissioning”. In this model, the concern is not with “inputs” but with the “outcomes”. Where these “outcomes” focus on the actual and potential users (or beneficiaries) of the service, the approach is to be welcomed greatly. By contrast, where the outcomes are the achievement of top-down targets—set without sufficient regard for the needs and preferences of service-users—“outcome-based commissioning” can be regressive.
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¹²⁷ Lewis Carroll, *Through the Looking Glass—and what Alice found there*, Macmillan (1871, post dated 1872).

The creation of quasi markets

7. “Commissioning” can also be used to introduce competition, which can be based on: quality (best determined at the level of the service user); reliability; and/or price. The danger is that commissioners’ legitimate concerns with price will distract them too much from their concern to represent or respond to the interests of service-users and to ensure a quality of service that meets service-users’ needs. This danger is particularly acute where commissioners are under significant pressure to reduce or constrain expenditure. It is difficult to ride two horses at once.

A proxy for service-users

8. A key reason for “commissioning”—from the value perspective of the third sector, the principal or overriding one—is to ensure that the services commissioned really do meet the needs of service-users. The trends towards “personalisation” and the provision of “choice” make this a challenging task. There are two models.

8.1 *Commissioner as proxy*: The commissioner is in the position of “proxy for the service-users”. In this model, commissioners are to cast off any “provider perspective” and to concentrate instead on the articulation of service-users’ various needs. Consultation¹²⁸ and research processes are often needed in order to ensure that the commissioner-proxy can make the necessary empathetic leap. This model predominates in health and social care.

8.2 *Third sector organisation as proxy*: In this model, a third sector organisation is involved in the identification of need and the development and delivery of the service because the third sector organisation is closer to the needs of (actual and potential) service-users than the commissioner can be. For a range of reasons, the empathetic leap is often much smaller for the third sector organisation.

8.2.1 The third sector organisation might draw some of its staff and volunteers from service-users.

8.2.2 It might be seen as part of the “community” rather than as part of the “state” and thus be more “accessible”.

8.2.3 It might be seen as less bureaucratic and thus be more likely to be offered information.

These possibilities are likely to be strongest where the third sector organisation has deep roots in a particular locality and where it is seen to be multi-functional.

WHY INVOLVE THE THIRD SECTOR IN PUBLIC SERVICES DELIVERY?

9. In policy terms, the fundamental¹²⁹ purpose of public service delivery through the third sector is taken in this paper to be to provide services that—as a consequence of third sector organisations’ distinctive values and structures¹³⁰—are:

9.1 more flexible;

9.2 more responsive to local communities; and

9.3 more innovative;

than might be provided by a public sector organisation directly.

10. Whilst “best value” for public expenditure is a guiding principle, third sector organisations’ advantages in terms of flexibility, responsiveness and innovation are themselves a form of “value”.

11. Most importantly—and again because of their distinctive values and structures—third sector organisations are not “the state” and are not perceived as such by the people who seek their help. If third sector organisations came to be regarded as “arms” or “agents” of the state, their perceived accessibility would suffer greatly and the reach and responsiveness of their services would be diminished profoundly.

¹²⁸ Where the commissioner is a local authority, “community forums” and Local Strategic Partnerships supplement the more traditional political processes.

¹²⁹ This view differs from that in paragraph G8 of *Strong and prosperous communities—The Local Government White Paper*, (2006), which provides that, “Some parts of the [third] sector will wish to play a greater role in the delivery of public services. This should be embraced, not only because it will better meet the diverse needs of individuals and communities, but because it also has the potential to deliver value for money and efficiency.” This paper argues that better meeting “the diverse needs of individuals and communities” must be the priority if efficiency and effectiveness are to have strategic focus.

See <http://www.communities.gov.uk/index.asp?id=1503999> for Volume 2, which includes Section G.

¹³⁰ See *Blake, Robinson & Smerdon, Living Values—A report encouraging boldness in third sector organisations* (2006). http://www.community-links.org/ourwrk/livingvalues_page153.aspx and *Values in Action* (September 2006), which is Community Links’ submission to the Treasury Review of the Third Sector.

 INAPPROPRIATE REASONS FOR THIRD SECTOR INVOLVEMENT

12. There are also some reasons for involving third sector organisations in public service delivery that, in the light of the main policy drivers set out above, are wholly inappropriate.

- 12.1 That their costs are lower because they can pay staff markedly less than comparable public sector workers are paid and can provide fewer benefits for their staff.
- 12.2 That risk can be exported easily from the public sector to third sector organisations without ensuring that the third sector organisation is in a position to bear the particular risk.
- 12.3 That independent funders can be expected to make up shortfalls in the funding of the full costs of the work, which costs include a due proportion of the organisational overheads.
- 12.4 That “outsourcing” is a “good in itself” rather than the means of securing “best value” in terms that are not simply financial.

BEST PROXY—HORSES FOR COURSES

13. The third sector is not a monolith, neither are all public services so similar that a “one size” procurement process will fit all.

14. The third sector’s heterogeneity¹³¹ flows from four principal variables.

- 14.1 *Range of functions*, from single purpose, through a cluster of related purposes, to multi-purpose organisations. The advantages of specialism are in tension with the advantages of breadth of vision, flexibility and responsiveness.
- 14.2 *Size*, from multi-million pound businesses, with huge assets and employing thousands, to one or two devoted volunteers, who give or borrow the resources that are needed to sustain their tiny organisations. Economies of scale are in tension with immediacy, flexibility and responsiveness.
- 14.3 *Asset rich or asset poor*. An asset base lends stability and confidence and opens up opportunities for the constructive use of credit. Whilst financial security can lead to complacency and can mask inefficiency, the programmatic development of public-third sector partnerships is a hopeless enterprise without some stability in the third sector.
- 14.4 *Geographical scope*. The comprehensiveness and simplicity of national coverage is in tension with the sense of identity and involvement of the local organisation.

15. In respect of the public sector, the key variables would seem to be:

- 15.1 *The nature of the service in question*. There is no reason to assume that, for example, advice on benefit eligibility and acute health care services are best procured in the same way.
- 15.2 *The ability of the service-users to articulate their own needs and preferences*. Some actual and potential service-users are able to represent their own interests, perhaps through well-established representative organisations. However, as the Victoria Climbié case illustrates so powerfully, others are far more vulnerable. In the former case, the commissioner has only to listen and question open-mindedly. In the latter case, the commissioner must either ensure that another body is able to represent the service-users’ interests or itself move to do so. On this spectrum of ability to make the case, there will of course be middle cases.
- 15.3 *National or local provision?* The two principal arguments for local provision would seem to be that:
 - 15.3.4 conditions vary significantly with locality; and
 - 15.3.5 a genuine sense of involvement is needed and is best secured by local arrangements.

16. Bringing these two sets of variables together is too complex a task for this brief paper. However, it does seem reasonable to conclude that, where:

- 16.1 local responsiveness and inter-connections are valued highly; and
 - 16.2 the technical issues involved are not such that central investment in research, development and/or provision is required for reasons of effectiveness and efficiency,
- there is a strong case to look locally for the best representatives of—and/or proxies for—the interests of service-users.

¹³¹ *Strong and prosperous communities—The Local Government White Paper, 2006*, paragraph G6 provides, “This White Paper recognises the diverse nature of the third sector and the different roles that it plays—shaping and designing effective services, representation and advocacy, lobbying and influencing policy”.

17. Whilst local government has a strategic and leading role in such cases, it is also clear that participation rates in local authority elections are low presently and that a single vote cannot give an opinion on the myriad issues that will arise locally. Hence, to ensure responsiveness to local needs, there is a clear requirement for a range of appropriate partnerships, including the well-developed Local Strategic Partnerships that the recent Local Government White Paper seeks to ensure.¹³²

18. In paragraph 5.69, the White Paper identifies—as a condition for successful commissioning—the requirement for “a thorough understanding of what local people need and want . . .”¹³³

19. The question that arises is, “How best—on a case by case basis—to ensure ‘a thorough understanding of what local people need and want?’” Substantial multi-functional third sector organisations, with strong local roots¹³⁴, have an important role to play. If, for example, their advice workers come from the local communities, they are likely to be sensitive antennae for local needs—the more so if, as is often the case, the workers first became involved as service-users.

THE “LEVEL PLAYING FIELD” CHIMERA

20. Such local, multi-purpose third sector organisations make the claim that their wholes are greater than the sum of their respective parts. For example, if a third sector organisation’s child-care workers spot that parents need advice that is more user-friendly than that which “state agencies” provide and make successful referrals to another part of the organisation, they are adding value in a way that has few comparators with the specialist services that might be provided by private contractor providers of child-care.

21. A genuinely “level-playing field” is only possible where the commissioner does not need the inputs of the local voluntary sector in order to identify local needs and to specify the work to be tendered and/or where interconnectedness and a sense of involvement are not considered to be significant. The fundamental reasons for involving third sector organisations at a local level are to ensure local responsiveness and interconnectedness.

22. Third sector organisations are often challenged to demonstrate that they do in fact add the distinctive value that they claim to add. Social audit methods are developing and might become cost effective instruments.¹³⁵ There is however a case for more research on interconnectedness and on service-user satisfaction.

Table 1

FORMS OF PROCUREMENT

<i>Key Issues and Options</i>	<i>Grants</i>	<i>Tendering</i>	<i>Commissioning</i>
Results of the process	A grant that is not contingent on any specific action by the grantee	A contract or conditional grant These are legally and economically indistinguishable. In both cases, the payments are contingent upon the third sector organisation’s performance of the terms of the contract or of the conditions of the grant.	
Relevant legal considerations	Grants totalling more than €100,000 over three years might be “state aid”—but there are some exceptions	The resulting contracts (or conditional grants) are subject to the Public Contract Regulations 2006 if the sums involved exceed the threshold of (in most relevant cases) €211,000. These Regulations prescribe the form of procedural “fairness” in procurement.	

¹³² See *Strong and prosperous communities—The Local Government White Paper*, 2006, paragraphs 5.16 to 5.30. Paragraph 5.20 provides that Government “will also work with national third sector umbrella bodies to establish a standard by which local third sector bodies should organise themselves to be effectively represented on [Local Strategic Partnerships]”.

http://www.communities.gov.uk/pub/98/StrongandProsperousCommunitiestheLocalGovernmentWhitePaperVol1_id1504098.pdf Volume 1

In Volume 2, in paragraph G9 it is stated unambiguously that, “A core principle of this White Paper is responsiveness. In order to identify priorities, meet needs and secure agreement, local authorities need to listen to citizens, services users, local businesses and community groups.” Community forums and other such methods also have a role to play. It would be as unreasonable for third sector organisations to claim exclusivity as for commissioners to disregard its contribution.

¹³³ The paragraph continues, “. . . as well as a knowledge of supply markets and the range of providers and potential providers who might be engaged in delivery, with local authorities playing a variety of roles—broker, facilitator, procurer, market regulator and provider”.

¹³⁴ Of which Community Links provides a good example: see www.community-links.org.

¹³⁵ See http://www.neweconomics.org/gen/newways_socialaudit.aspx

<i>Key Issues and Options</i>	<i>Grants</i>	<i>Tendering</i>	<i>Commissioning</i>
Invitations to be considered can be open or invited	Open or invited	Open or invited Public Contract Regulations require openness above the threshold.	
Funders' intentions can be: — “pre-specified” by the funder at time of invitation or — “responsive” to third sector organisations' inputs	Very likely to be “responsive” but can be “pre-specified”	Likely to be “pre-specified” but can be “responsive”	Likely to be “responsive”, but can be “pre-specified”
Nature of selection criteria	Open-textured , requiring “apples and pears” comparisons	Relatively mechanistic : price, quality and reliability “Quality” and “reliability” are less mechanistic than “price”	Open-textured , requiring “apples and pears” comparisons
Guarantees of fairness	Openness and impartiality Clear criteria signalled in advance	Openness and impartiality Clear criteria signalled in advance	Openness and impartiality Funders' objectives signalled clearly in advance
Final specification can be determined by funder/third sector/jointly	Third sector	Funder	Third sector or jointly
Scope to adjust responsively during the funded period	High Flows from the nature of a grant	Low Set at tender stage by the funder	High or medium Precise balance will depend on negotiation during commissioning
Length of contract		A matter of spreading the fixed cost of set-up	Longer contracts reflect the depth of the relationship

COMMISSIONING IN THE CONTEXT OF OTHER FORMS OF PROCUREMENT AND FUNDING

23. Table 1 brings together several important practical and formal dimensions of procurement that have implications for the implementation of policy.

24. “Grants” have been included in Table 1 as an illuminating comparator—and because they remain an available and useful option in the implementation of policy in relation to the third sector.¹³⁶

25. Whilst Table 1 sets out analytical models, some of the commentary in Table 1 itself and later in this paper indicates how hybrid variants can—and inevitably will—emerge in the real world of politics, budgets, opportunities and exigencies.

26. Along with “tendering”, “commissioning” is a particular form of procurement of what are ultimately “contracts”. Both are, in essence, processes—means to more substantive, policy-driven ends.

¹³⁶ For example, the Treasury’s document, *Improving financial relationships with the third sector: Guidance to funders and purchasers* was published in May 2006 and includes numerous sections that discuss grants in some detail.

“RESPONSIVE COMMISSIONING” FITS BEST WITH THE POLICY DRIVERS

27. Current government policy clearly implies that public funders should be more responsive and flexible—and less proactive or prescriptive—when involving the third sector in the delivery of publicly-funded services. In the context of public partnerships with the third sector, “responsive commissioning” is likely to be far more “responsive” to those local needs that are reflected through third sector organisations. Using “responsive commissioning”, a funder can indicate its willingness to fund projects of a broad character and then seek proposals—either from an invited group of organisations or by open invitation—for projects of that broad character.

28. To maximise the advantages of third sector delivery (flexibility, responsiveness, innovation and perceived independence from the state) of publicly-funded services, public funders should:

- 28.1 make as much use as they can of invitations that are “responsive” (ie where the detailed outcomes etc are not pre-specified); and
- 28.2 be prepared in their contracts to specify the outputs in terms that allow third sector organisations to be flexible, responsive and innovative during the course of delivery.

29. Because of their legal status, third sector organisations that have charitable status cannot be merely the agents of the public sector funder. Consequently, the publicly-funded services that charities deliver must further charities’ own objectives. This is better facilitated by genuinely “responsive commissioning” than by “pre-specified commissioning” or by “tendering”.

The heart of the matter

30. In “responsive commissioning”, the shared ground between:

- 30.1 the public funder’s policy objectives—some of which are locally determined and some of which are passed down from central government as conditions of grant or performance standards—and powers; and
- 30.2 the third sector organisation’s powers, duties and charitable objects and the objectives of the strategic plan that its governing body has determined as the means of furthering the charitable objects

becomes the arena for negotiation and innovation, building partnerships on shared objectives—and not on control.

“RESPONSIVE COMMISSIONING” IN OPERATION

31. If “responsive commissioning” is to become the dominant model in placing public funding with third sector organisations, there are significant implications for:

- 31.1 the drafting of invitations;
- 31.2 selection processes; and
- 31.3 the terms in which contracts are drawn.

Invitations

32. Whilst the distinction between open and restricted invitations can be taken to be crudely binary, the distinction between “pre-specified” and “responsive” commissioning is a question of degree. If the funder indicates a willingness to fund “work with children”, one might regard that as “responsive”. A willingness to fund “an after school club for primary age children in a specified area” is clearly “pre-specified”. Between these poles there might be case in which a funder indicates a willingness to fund “innovative developments in after school work”. It is suggested that invitations that are cast in terms that are broad enough to result in “apples versus pears” judgements are those that are essentially “responsive”.

33. Unlike commissioning, tendering is inherently “pre-specified”. In the case of tendering, the funder pre-determines the services or the specific results that it requires and seeks offers from potential contractors (sometimes invited specifically, sometimes open to all comers) to provide the services or to produce the particular results at a price and at a standard of quality and reliability. It is price, quality and reliability that will drive the choice of contractor.

34. Commissioning can be similarly “pre-specified”. However, if a very high proportion of the elements are pre-specified by the funder and there are no significant elements of flexibility, the use of the term “commissioning” is rhetorical and confusing and “tendering” would seem to be the more appropriate approach—and the more accurate description.

Selection

35. The selection of partners and projects in “responsive commissioning” will be less mechanistic and more judgemental—and consequently more expensive to administer—than selection in pre-specified tendering. The required selection processes are significantly different.

35.1 In “tendering” and “pre-specified commissioning” there are relatively few “apples versus pears” choices. Application of the price criterion depends on arithmetic and reliability is largely a matter of track record. Quality criteria can be less mechanistic. For, example, a national specialist might be competing with a locally-based organisation. The comparison can be accommodated within quality criteria but the element of evaluative judgement might be substantial as the funder seeks to determine whether it values the particular quality of “local responsiveness” more than the quality of “specialist system”. Where a funder has anticipated such issues, the quality criteria might address them expressly and the judgemental element in the decision might thereby be reduced.

35.2 By contrast, in “responsive commissioning” the funder, having indicated its willingness to fund projects that will produce more “fruit”, will very often be choosing between proposals that will produce “apples” and proposals that will produce “pears”—or “plums”.

Table 2

	<i>Pre-specified</i>	<i>Responsive</i>
Invited	The funder has invited a restricted group to tender for contracts—or to be considered for commissioning—to produce outputs or results that the funder has pre-specified	The funder has invited a restricted group to propose projects but has not determined the specific outputs
	Selection can be on price, quality and reliability only	Selection cannot be on price, quality and reliability only and involves more judgemental elements
Open	The funder has issued a general and open invitation to tender for contracts—or to be considered for commissioning—to produce outputs or results that the funder has pre-specified	The funder has issued a general and open invitation to submit proposals for projects but has not determined the specific outputs
	Selection can be on price, quality and reliability only	Selection cannot be on price, quality and reliability only and involves more judgemental elements

Responsiveness during delivery

36. Another key variable—identified in the penultimate row of Table 1—is the tightness with which outputs etc. are specified in final contracts. This affects the potential for responsiveness during the delivery period. Flexibility to make changes during delivery is more consistent with the overall policy drivers—especially where projects break new ground.

THE SELECT COMMITTEE’S CONSULTATION QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

In some cases, but there is a dearth of systematic evidence.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

The extent of realistic accountability for the provision of public services by the public sector is often questionable. It seems unlikely that third sector organisations are inherently less attentive and responsive to criticism.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Experience on the ground gives a very strong impression that many service-users value the friendliness of service and its separation from “the state”. Some third sector providers (eg Barnardo’s, Macmillan Cancer Relief) have enviable reputations.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

Please see 2(a). By way of example, Community Links’ “Education Otherwise” provision and its work with children and young people with special needs is clearly sought after by schools, and parents.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

The closeness to the service-user has undoubtedly led to creative development in services.

Through its department, LinksUK, Community Links has trained and used community researchers and citizens’ juries. The methods used by its “Everyday Innovators” section are open-textured and have identified many issues that would otherwise have remained submerged.¹³⁷

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

From Community Links’ experience, we would cite again the work that is captured by LinksUK and the work conducted in the provision of New Deal into employment services. In the latter, innovative methods and a community-based staff have consistently produced higher than average levels of performance.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

All depends on the terms of the contracts. Contracts that are over-elaborate, too short and make an insufficient contribution to overheads will not assist stability.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

There is a risk but it is a manageable one. Third sector organisations must remain true to their charitable objects and must emphasise these—and the values that they embody—at every opportunity. Public sector bureaucrats—and politicians—are often too remote from such organisations and need constant reminders.

In addition, reliance on a reasonable range of funders enhances a third sector organisation’s ability to take a robust approach.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

Again, the risk is there to be managed. Appropriate monitoring requirements and reasonable flexibility in contractual terms would seem to be the principal means of managing the risk.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

Please see 3(b) and 3(c).

¹³⁷ See http://www.community-links.org/ourwork/whatif_page20.aspx and http://www.community-links.org/ourwork/evidencepapers_page25.aspx

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

This is a real risk. To manage it, commissioners need to become clearer about the different kinds of value that can be secured. Responsiveness, interconnectedness, accessibility and local involvement all matter. If the commissioner values these highly it will ensure that it does not simply transfer services from a public bureaucracy to a third sector—or private sector—bureaucracy. The conditions for this kind of risk management are more favourable locally than on regional and national scales.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

It is questionable how effective control of service delivery is within the public sector. The baseline for comparison with third sector provision is very patchy. Well-drawn contracts and well-informed and trained commissioners are the ways to manage this risk. Commissioners tend to have an administrative mindset and need much more experience at the sharp end of service delivery in both the third and public sectors.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

Please see 4(a).

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

There is a strong case for a study of standard form contracts. A comparison with the construction industry might be instructive. That industry has developed a range of standard forms from which contracting parties can select—and adapt where necessary—the most appropriate. Again, training and experience for commissioner will also assist.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

The main thrust of this paper suggests that this particular question is simply too broad to be addressed. A case by case examination of the activities of central government departments and agencies and local government, dealing with a huge range of services, would be needed.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

They often are cheaper because staff are less well paid and because charitable funds are often diverted, sometimes wholly inappropriately, to subsidising the state. Third sector organisation will tend to have lower overheads—in some cases these are too low for organisational health.

Whilst the third sector is able to reach high levels of efficiency, the principal reasons for third sector involvement are not cost-price related.

(b) *Are there “hidden costs” such as contract oversight?*

Yes, including redundancies when contracts are not renewed. However, public funders vary greatly in their realism about recoverable overhead levels.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

“Competitive neutrality” is probably practicably unattainable currently if the various kinds of value that the third sector can provide are to be recognised fully in the process. This paper argues that these different forms of value are well worth taking in to account in many cases—especially where provision is determined locally.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

Clearly not in all circumstances. Large scale national provision of highly technical services might not vary as greatly between third sector and private sector providers as would be the case with local lower tech services.

February 2007

Memorandum from Crime Reduction Initiatives

INTRODUCTION

Crime Reduction Initiatives (CRI) is a national charity that provides a range of services to support individuals, families and communities whose lives are adversely affected by crime, substance misuse, homelessness, anti-social behaviour, domestic violence, social deprivation and lack of opportunity.

We are commissioned by public sector bodies to provide front-end, outreach and treatment services and our core expertise lies in our ability to engage with difficult and hard to reach groups. Typically our service users have entrenched drug habits, mental health problems, chaotic lives and frequent encounters with treatment agencies. We have the skills and vocational drive to provide superior outcomes and effective services for these people. However, since their behaviour and life styles evince little public sympathy, commissioning is essential to fund our work.

Our goal is to reduce offending. We do this by engaging and keeping people in treatment services long enough for them to benefit and to change. Our high quality services are tailored to meet the individual needs and our staff are tenacious in their efforts to combat the resistance of those with entrenched drug use and offending behaviour.

COMPETITION AND PARTNERSHIP

The majority of our contracts are secured in competitive tenders against other third sector providers, but we have also been successful in winning contracts from public sector organisations such as the NHS. However, we see working in partnership with other providers (state and third sector) as an essential component of effective service delivery. For example, referring service users to agencies providing housing, benefits, education, employment and training, is a key part of our rehabilitative approach.

However, in taking over contracts from former public sector providers, we have been able to drive up performance and produce substantial improvements in quality, innovation, cost-effectiveness and accessibility.

Quality and innovation

CRI is able to respond swiftly and flexibly to the changing requirements of commissioners and service users. We do not have the cumbersome bureaucracy and systems of the public sector and our managers have the autonomy to innovate and refocus service delivery within tight timeframes in response to changing needs.

Cost effectiveness

CRI has low central costs and achieves high levels of engagement from service users, which is reflected in our relatively low unit costs. We also undertake rigorous monitoring and measurement of our performance against spending to ensure value for money.

Accessibility

Our services are popular with service users who frequently mistrust the state and perceive state services as bureaucratic, slow and authoritarian. The third sector, having largely grown out of the efforts of citizen's to improve their environment, is rooted in community action and this active, vocational culture helps the third sector win the confidence and co-operation of those we work with.

DEMONSTRATING EFFECTIVENESS

The following are examples of services we provide that were previously run by public sector organisations.

Haringey DIP

CRI was commissioned to deliver the Drug Interventions Programme (DIP) in Haringey, North London towards the end of 2006. The service includes a core DIP team, structured day programme, specialist prescribing and aftercare service, that was formerly provided by the NHS and Local Authority.

It can be difficult to assess comparative performance on new contracts in part due to variations in the quality of the data left by outgoing providers. However, despite the relatively short period of time that has elapsed, since CRI took over the contract, performance measured against Home Office KPI compact data has clearly improved in respect of all targets.

For example, CRI is working with 45% more service users than the outgoing provider and getting 50% more people into treatment, care and aftercare. This improvement has been achieved through: the introduction of a rigorous performance management framework for managers, team leaders and workers; raised awareness and close monitoring of targets; enhanced staff training; supervision and appraisal and detailed data analysis.

BARNESLEY PRESCRIBING SERVICE

CRI was commissioned by Barnsley Drug and Alcohol Action Team to take over the delivery of a rapid prescribing service for people going through the criminal justice system. The service was formerly provided by the Substance Misuse Team at Barnsley PCT. Since taking over the service CRI has reduced waiting times for treatment from three-months to two days, and offers access to prescribing within 72 hours of first assessment. This has been achieved through a strong customer focus, streamlined processes and lack of bureaucracy. For example, the service was formerly led by a consultant but is now safely delivered by a GP and a nurse, who can see more people sooner. The service has also been located alongside the rest of the DIP team, which makes it easier for service users to access treatment and to stay focused on their goals.

LEEDS ENHANCED ARREST REFERRAL SERVICE

Since taking over this service from the former NHS provider in April 2005, CRI has succeeded in substantially improving performance. Statistics produced by the Safer Leeds Partnership show that CRI has increased the caseload and exceeded the target for getting people into treatment.

CARDIFF DRUG REHABILITATION REQUIREMENT (DRR)

The Cardiff DRR provides structured treatment for drug using offenders on court orders. We provide a prescribing service within the project using an automated methadone prescribing system that has reduced costs from £7.80 per prescription to 45 pence per dose. The service is safe and offers a better level of care for service users who do not have to make daily visits to local pharmacies for their methadone prescription. Offering prescribing within the project also provides more opportunities for staff to engage service users in other treatment options.

CONCLUSION

CRI strongly believes that it is in the interests of the state and its citizens that contestability should occur. We feel there is clear evidence that opening up the provision of some public sector services to a wider range of providers has clear benefits for both individual service users and the communities in which they live.

February 2007

Memorandum from Doncaster Supporting People Provider Forum

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

Supporting People services “grew up” in the third sector rather than being transferred from the public sector. The Quality Assurance Framework (QAF) against which providers are assessed should ensure improvement in quality.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

This is not our experience. We would certainly argue that services are as, or more, accountable to “stakeholders”, often statutory services, than the statutory services themselves. The level of scrutiny of some elements of the contract, particularly regarding finance, is much more akin to monitoring of grant aid rather than what one may expect from a contract. We would certainly argue that the third sector is more accountable to its users than many statutory services.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

We collect feedback from clients that suggest that the services we offer are popular with those that use them. Users are also consulted by commissioners as part of the service review process so it is possible to independently verify this.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

Referrals to Supporting People services outstrip service provision. Demand comes from a number of statutory services, housing, health, probation—as well as potential service users who in some services have a “direct route” in to services.

Because there is no statutory definition of who is eligible for a service (which we consider undesirable given complex needs of our service users), voluntary organisations are often in the position of “gatekeepers” regarding who has access to their services.

There can often be conflict between the priorities of statutory services and needs of potential service users which will generally manifest itself to service providers in the first instance.

There is a danger that, in contracting with the statutory sector for services, that the commissioning requirements are skewed towards the dominant statutory culture, in how the contract is specified, and in how it will be monitored and judged. This would be a shame, as some of the unique aspects of the voluntary sector culture would then be lost, and we need to avoid becoming “shadow” statutory sector providers.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

We would contend that in the sphere of supported housing and related services our sector has been responsive and innovative in responding to the changing needs of service users—hence the adoption of the Supporting People programme by government.

The biggest danger in third sector commissioning, is that the process has the potential for us to lose our major advantage of flexibility and responsiveness to need, and our ability to be accountable to, and often act as advocates for, service users.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

It is difficult to innovate in a contract culture that has a tendency to micro—manage service delivery. We would contend this has largely been a fact in supported housing for the last 3–4 years.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

It is our hope that having contracts in place will improve stability. Certainly the recent experience with DMBC saw a situation where those organisations perceived as receiving grants were seen as easy targets for the withdrawal of funding. Organisations with contracts were in a more secure position when that happened. We have operated for too long on short term funding which leaves insufficient time for services to establish their viability in the eyes of the commissioners, and which leaves clients high and dry at the end of the funding period.

It needs to be recognised that often the commissioning (and contractual payment) will only be for part of an integrated service. Thus in supported housing with allied care services an organisation may be providing “housing”, “housing related support”, and “care” to a service user. To the user this is a seamless service. To the provider this may mean commissioners/contracts for “housing related support” and “care”, access to benefits for “housing”, regulation by the Housing Corporation and inspection by the Audit Commission for the “housing” element if the provider is a Registered Social Landlord, CSCI regulation/inspection for the “care” element, and service review by the Administering Authority for the supported housing element.

There can often be a “mismatch” of funding between the different income streams, and increasingly third sector providers are either cross subsidising services or, more often, using reserves / donations to fund deficits from contracts.

The state needs to recognise the comparative lack of infrastructure within the third sector to manage the demands of a contract culture when compared to statutory services and the general unwillingness of commissioners to fund what they would see as “overhead” costs.

(b) Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

At a national level this should not be a problem. At local level, from experience this can often depend on individual commissioners. Some will accept constructive criticism as a sign of a robust and healthy dialogue, others may take a more negative view.

(c) Is there a risk that the service providers will become increasingly bureaucratic?

To quote a manager of a Doncaster service:

“Good grief yes! We are finding that the paperwork requirements of the systems that we work in impact on the level of service we can provide. They are tedious beyond belief. Contracting, tendering and monitoring to external contract conditions has certainly impacted on the time I have available to spend with staff in discussing the quality of the work they are doing”.

Please see also the response to 3(a) with regard to the plethora of different and divergent regulation of the sector.

(d) Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

We do not want to become quasi statutory sector providers, we want to provide complementary services to the statutory sector that increases the range of what can be offered to clients. We hope that our values are shared by commissioners. Many of us entered the “third sector” —a real risk in terms of pay, conditions of service (especially pensions)—in order to try to make a qualitative difference for service users rather than a career for ourselves.

(e) Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

Within the supported housing sector we would argue that the needs of service users are paramount and that providers should be capable of managing this and not providing a “one size fits all service”. The sector, in order to be an effective advocate for service users, must always be allowed to offer robust, constructive criticism to commissioners/regulators/inspectors.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) Does the state risk losing control of service delivery in a way which might be damaging?

We would say a resounding no! It highlights the fundamental issue of trust between service commissioner and provider. There is an issue of increasing the time spent in liaison where different elements of a service are spread over several service providers, but this is not insuperable, and it should not be assumed that where all service provision is within the statutory sector there is automatically easier or better liaison between different departments.

As previously stated we would contend our sector is closer and more responsive to needs of service users than most statutory services.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

Surely the state is a commissioner rather than a customer?

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

From our experience of the Supporting People programme, greater passporting of accreditation systems would be useful. We have seen in Supporting People that different authorities are unwilling to accept each other's systems, and we are not convinced that this is always about believing other people's systems have inadequacies. There seems to be an element of protectionism towards one's own systems. It is time consuming when different contracts within our services are monitored using different quality systems, so that we are operating several different systems within the organisation.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

From the experience of our sector, a steep learning curve for the state is required, similar to the one we've experienced as providers. The "market" is still very immature and there appears to be an increasing tendency from commissioners to follow procurement routes more suitable for the purchase of office equipment rather than a service that puts users at the core.

To quote from the experience of a service manager in Doncaster:

"There is tremendous variability in the statutory sector's ability to manage the contracting process. Some contracts are very clear and tight, others are practically meaningless. I have seen instances where the contractor's lack of knowledge of the sector has meant that the contract is ambiguous about what is to be delivered, how it is to be monitored, or how the contract activity should be defined. Constant changes in staffing within the statutory sector means that there is very little continuity in terms of commissioners having solid knowledge of the third sector, and the services that we are providing. This means that we are constantly in a situation where we are spending time explaining how we work, and the services we provide, to those who are tasked with commissioning them. This is not a comment on the competence of those commissioning services, but on the time they have available to get to grips with the workings of what is a diverse sector. I don't suppose this only applies to the alcohol field, either".

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

We would contend that the third sector adds value to services it provides rather than simply providing "cheaper" services—that is not our role. From experience we are subject to the same value for money regime as local government and often subject to a mindset that deems we are more capable of absorbing cost pressures than statutory services (who are our commissioners!).

(b) *Are there "hidden costs" such as contract oversight?*

Please see response to question 3, paragraphs 2 and 3.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?*

The third sector is still in its infancy regarding its role as providing state commissioned services and as such is still in need of nurturing and developing. The capacity and infrastructure of the third sector is in need of building/developing eg access to legal services to scrutinise contracts.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

This is virtually impossible to answer. The third sector and the private sector cannot be considered as discrete entities. Both sectors are large, diverse, and there is considerable overlap making it difficult to generalise about their respective costs and benefits. You would have to look at individual organisations in each sector.

February 2007

Memorandum from Fairbridge

1. FAIRBRIDGE

1(i) Fairbridge is submitting this response from the perspective of a medium sized national charity (turnover around £10 million) which receives approximately 60% of its income from statutory sources, mainly local authorities. In the past much of this income has been in the form of statutory grants, but we are now generating a growing proportion of this income through commissioned service provision.

1(ii) Every year we win the trust and commitment of over 3,500 young people that most other organisations have found it impossible to engage. All are outside education, training or employment or at risk of dropping out and face multiple problems. We offer a combination of challenging learning experiences and personal support through which young people can build the self-belief and personal social and life-skills they need to succeed in life.

1(iii) Our objectives have synergy with the government's agenda to tackle social exclusion. Our personal development programmes are designed to support young people to achieve many of the outcomes set out in the Every Child Matters framework and our work contributes to a wide range of PSA targets including NEET reduction, improvement in school attendance, reduction in teenage pregnancies and reduction of re-offending rates.

2. OUR GENERAL RESPONSE TO THIS ENQUIRY MAY BE SUMMARISED AS FOLLOWS

Fairbridge believes that the concept of commissioning services to the Third Sector has great potential to benefit both users and the state and should be extended. Developments are, however, needed in the design and practice of the commissioning process to ensure that it does not, perversely, destroy those aspects of the Third Sector which cause it to be more effective.

3. EVIDENCE SUPPORTING OUR VIEW THAT THIRD SECTOR PROVIDERS ARE LIKELY TO PROVIDE BETTER PUBLIC SERVICES WITHIN OUR AREA OF WORK

3(i) Fairbridge has historically provided its services to 'difficult to reach' 13—25 year olds outside education, training and employment. However over the past two years we have introduced a separate programme targeting under 16s which includes those at risk of exclusion or whom have excluded themselves through non attendance, although they may still be on the school role.

3(ii) Results from our under 16 pilots show that young people who have been unwilling to participate in mainstream education have committed to Fairbridge. Although they have often failed to achieve at school, whilst with Fairbridge many have worked towards accredited ASDAN awards. Schools have been keen to work with us because we have specialist expertise in tackling behaviour, are able to accommodate different learning styles and can provide more intensive support for those who need it outside the classroom setting. Some of our teams now have waiting lists for referrals from teachers.

- A report by OFSTED on our provision graded young people's achievement as excellent in 25% of sessions, very good in 50% of sessions and good in 25%. There were no unsatisfactory sessions, which the report concluded "is impressive for this client group". The report also concluded that "Fairbridge provides very good value for money".

3(iii) In terms of over 16s, we have focused on engaging challenging NEETS (young people not in education employment or training) with multiple needs and earned a reputation for engaging the most difficult to reach.

- We have examples of working with statutory services, such as Connexions, who have needed our help to access our clients. Recently we have been approached by agencies piloting Activity Agreements aimed at persistent NEETS because they know that we are more able to reach those whom they are trying to help, but have found difficult to engage.

3(iv) There are a number of important reasons why Fairbridge is able to win the trust and commitment of those statutory services often find it difficult to engage. Whilst some of these are to do with the expertise held within such a specialist service, others are a result of an ethos which must be recognised if we are to continue to provide services.

- A three-year longitudinal research project conducted by Charities Evaluation Services provides hard, statistical evidence that for young people at risk engagement in Fairbridge improves long-term prospects in education, training and employment. The research identifies a number of factors as being significantly responsible for this outcome, the most important of which are staff and ethos. Our ethos is all about providing a highly personalised client focused approach. The fostering of this culture requires the freedom and flexibility to meet individual needs. This is often not available within statutory services and must not be stifled by an overly restricted commissioning process. Accommodating the personalisation of public services within an accountable commissioning process is possibly one of the greatest challenges facing the delivery of public services.

- We recognise small achievements that are relevant to the needs of our clients. We focus on developing the behaviour, attitudes and stability in lifestyle that enable a young person to engage with education and training. This means that our programmes focus on personal and social development. Too often programmes targeting our client group fail because providers are chasing formal qualifications inappropriate to the real needs of young people. This means that those commissioning services need an informed understanding of user needs in order to set appropriate outcomes (see para 5(iii) below).

3(v) We believe that commissioning can result in higher quality provision, particularly if it means that service provision requires specialist expertise and skills which do not exist within existing mainstream services. Whilst this is recognised by the process of grant making, the move to commissioning has, in our experience, resulted in closer co-operation with mainstream statutory services.

- For example, the commissioning of services to Fairbridge in London by CAMHS in Southwark has led to an improvement in quality of delivery of a tiers 1 and 2 service for youngpeople. One of the main reasons for this has been the way that the service has provided a missing “joined up-ness” within the borough that wasn’t there before. This is partly due to Fairbridge’s work, and partly due to the commissioning process which meant that rather than giving a grant and letting the delivery organisation get on with it, the commissioners have stayed involved in terms of managing and monitoring the grant and helping Fairbridge to make links where needed with other Statutory services. We have also been called on as a great example of project management by the VCS to support another VCS organisation, commissioned under the same round, as they were struggling.

4. VIEWS ON THE IMPACT OF COMMISSIONING ON THIRD SECTOR PROVIDERS

4(i) Fairbridge managers who responded to this consultation were generally in support of an increased move towards commissioning, despite the work involved. They welcomed the respect which has come with greater accountability and openness. Increased transparency has also tended to encourage a move towards full-cost recovery. Our experience has been that the commissioning process has resulted in increased professionalism and respect with increased application of the principles enshrined within the Compact. Given the level of work involved contracts have sometimes been for more than 12 months, which means that we are more able to effectively plan service provision.

4(ii) Despite these advantages, our managers have some concerns arising from their experiences of the commissioning process and its potential negative impact on our service provision.

4(iii) The commissioning process often demands the submission of highly detailed specifications which demand a high level of resource input. Third Sector organisations often have limited business development resources because they need to be able to demonstrate that a large proportion of their costs are spent on direct service delivery in order to attract private sector funding. As a result, the commissioning process risks drawing resource away from operations with the possible threat to service quality. Fairbridge has resisted this by investing in a new business development management tier, but this may pose a threat to voluntary donations.

- An example of the resource wasted in the commissioning process is provided by the recent commissioning of provision by the Children and Young People’s Fund. We were on this occasion unsuccessful in gaining funding and received a letter explaining the reasons why with some detailed bullet points. We wanted to take these into account to learn for the future, but felt that they did not reflect our submission. We subsequently found out that other organisations received the same letter. The opportunity to apply to provide services was widely promoted and over 600 organisations applied, 97 were short-listed and under a third of them were eventually awarded a grant. This is not a good use of our time—30 grants from 600 applicants gives a 5% chance of success. All 600 of us must have spent a fair proportion of £3million chasing this relatively small pot of funding.

4(iv) Our greatest concern is the potential loss of innovation, which has historically been one of the greatest strengths of the Third Sector. Despite the above our example, much of our experience of local commissioning has been that specifications are extremely detailed and deadlines are often utterly unrealistic. This means that we start the process with the mindset of having to complete forms and a preoccupation with budgets and management. We have no problem with this level of detail which is often necessary for public accountability, but the process means we have to by pass a the blue sky thinking of initial creative development. This can be avoided (see para 6(ii) below).

4(v) Our experience is that local authorities often need much greater understanding of the services and organisations they are seeking to engage if they are to manage the process more effectively.

- An example is provided by our experience of Hackney’s Children’s and Young People’s Services (CYPS) commissioning the Positive Activities for Young People (PAYP) provision for term time. The tender was announced to Team Hackney (the LSP) but not to anyone else, and the LSP did not publicise the opportunity themselves. One member of the LSP is a VCS rep from the local support service, so notified the VCS. This gave us a two week turnaround to complete a 25 page

Pre-Qualification Questionnaire and five page explanation of services. Of 106 submitted, only 22 were eligible for a full application, this is not surprising given the timescales involved. The Voluntary and Community sector community launched appeals and following investigation the conclusion was that the forms used were the same ones used for procurement of waste disposal, stationary orders and cleaning services. These forms could not be completed to reflect the needs of and services for young people.

5. RECOMMENDATIONS FOR IMPROVING THE COMMISSIONING PROCESS

5(i) In many cases contracts are available to levels of provision which are beyond many smaller third sector organisations. Fairbridge would often like to be part of a consortium, rather than a lead partner and thus sub-contract, but it is often very time consuming or impossible to find out who is applying to be a lead partner. This can be avoided.

- For example the Lottery recently invited “expression of interest” from organisations wishing to be either a lead partner or a subcontractor for its Wellbeing grants. This list was then circulated to all those who registered which enabled us to identify those we could approach to develop joint submissions. It also meant that we could assess the competition and make an informed judgment about how much time we should spend on the application process. It may well be that this process is followed in some cases in the commissioning of public services, but this has not been our experience.

5(ii) In order to continue to encourage innovation, we would like to see a number of additional stages in the commissioning process. Expressions of interest should be followed by a request for an outline idea to achieve simple goals. Commissioners should then short list from those submitted before asking for more detailed tenders. This will ensure that resource in the earlier stages is focused on service design rather than the process of “form filling”.

5(iii) The Third Sector has an extremely good grasp of the needs of its clients and should therefore be consulted in the design of the prospectus for services to be tendered, particularly regarding the setting of appropriate outcomes. It is possible to do this without conflict of interest provided this is done in an open manner.

- An example of good practice is provided by recent development of the prospectus to deliver a support programme to meet the needs of adults facing chronic exclusion by the Social Exclusion Task Force (based within the Cabinet Office). The prospectus was informed by two specially commissioned pieces of university research, a series of visits to Third Sector service providers undertaken by the programme team and discussion and consultation with a range of agencies involved in supporting the identified client group. The resulting prospectus will be publicised in the national press.

February 2007

Memorandum from fpa

fpa welcomes the Public Administration Select Committee’s inquiry into the role of the third sector in providing services directly to the public on behalf of the Government. We provide a comprehensive information service to the public and to professionals that is funded by the Department of Health. We also provide community-based services, some of which are funded by local authorities. We have drawn on our experience of providing these services to inform the comments below. A full overview of **fpa**’s information service is provided at the end of this submission.

1. PROVISION OF SERVICES AT A NATIONAL LEVEL

1.1 The Government agenda has increasingly moved towards devolving powers of commissioning and funding to a more local level, either through local authorities or individual Primary Care Trusts. While in many cases allowing greater local flexibility is to be welcomed, there are some services which are better provided on a national basis.

1.2 In particular cases, provision of services at a national level has clear benefits. The **sexual health direct** national helpline, provided by **fpa**, answers around 60,000 enquiries a year. The helpline is staffed by highly trained advisors who use their own expertise to respond to queries, rather than depending on scripts. In addition, the information provided is accurate, up to date and confidential. If commissioning was devolved to a local level, very few local authorities would be willing to support a national helpline. However, the expertise would not be available to provide a local service to replace it, so the service would be lost completely.

1.3 Provision of services at a national level avoids duplication of effort. For example, the current portfolio of **sexual health direct** leaflets, provided through **fpa**’s information service comprises almost 30 different leaflets available free of charge from Health Promotion Units throughout England. If the system

were to be localised, some authorities would choose to continue to purchase these leaflets but others would decide to produce their own. This would result in the loss of the rigorous quality assurance processes that are currently in place. In some areas leaflets would not be made available at all, effectively cutting people off from a crucial source of information about sexual health.

1.4 Economies of scale are also created through the provision of national services. This is the case for example with the printing and distribution of the portfolio of **sexual health direct** leaflets. More local commissioning of services such as these would be likely to increase costs for local authorities and ultimately for tax payers. The quality assurance mechanisms and rigorous consumer testing that **fpa** uses would also be lost.

1.5 When funding is devolved to a local level, it is vital that mechanisms are in place to ensure that it is allocated to its intended purposes. It is important that there is accountability for how public money is spent at a local level to ensure that service provision is adequate.

1.6 Increasing devolution of funding could also create difficulties if the size of grants available is reduced. Funders may face a choice between offering a small number of large grants or a larger number of small grants. This will have a significant impact on the scope of the funding as well as on the sustainability of the projects that can be provided through the voluntary sector.

2. INVESTMENT IN SERVICES FROM THE VOLUNTARY AND COMMUNITY SECTOR

2.1 Many voluntary and community sector organisations have years of experience of working in a specialist field and have created a large body of knowledge and expertise and in many cases services are provided by specialist staff. This expertise would be lost if services were transferred to other providers or commissioning arrangements were fragmented. Once this intellectual capital has been lost, it is unlikely to be developed again.

2.2 In many cases, the involvement of a voluntary organisation in the provision of a service is seen as a mark of authority, because of the expertise and independence the organisation is known to have. The quality of services often depends on the reputation of these organisations, which has been built up over many years.

2.3 Many services provided by voluntary and community sector organisations are focused on specialised areas, where the organisations have developed expertise. Local commissioners of services may not have the level of understanding necessary to commission services effectively. There is a risk that, if such services were to be put to open tender, the bid with the lowest price would not have adequate levels of expertise to service the contract fully. This would damage the quality of the service provided to members of the public as well as risking the expertise that voluntary organisations have developed.

2.4 The way that the voluntary sector is funded to provide services can have an impact on its sustainability. Short-term funding for projects can lead to staff with particular expertise leaving to find a job with more security or mean that the expertise is lost if a project cannot secure longer term ongoing funding.

2.5 There is also a risk that organisations alter their priorities in order to secure funding. In some cases the criteria that must be met to receive funding mean that it may not be possible to access funding for a need that has been identified by the organisation. The voluntary sector is faced with a choice between securing funding or sticking to the priorities they have identified.

3. THE NATURE OF THE SERVICES PROVIDED

3.1 Voluntary organisations often work in areas that are considered to be difficult or sensitive and are able to provide a point of view that is not always represented through mainstream processes. For example, the stigma and embarrassment that still surrounds issues around sex, contraception, sexually transmitted infections and abortion means that it is difficult to get a service user perspective on the provision of these services. Through the **sexual health direct** national helpline, **fpa** has daily contact with service users, which provides us with an overview of consumer concerns about sexual health issues, which we are able to share with professionals and policy makers and which informs the content of the information resources we produce.

3.2 Voluntary and community organisations are well-placed to provide comprehensive services with a highly experienced and dedicated staff. Altering the arrangements for the provision of services could lead to fragmentation which would reduce the efficiency of service provision and result in a loss of consistency.

3.3 Some of the services provided by the voluntary sector have a specific preventative focus, which is not provided by other services. These preventative services help to save money that would be spent later by public services such as the National Health Service or the prison service. For example, some of **fpa**'s community based sex and relationships programmes are specifically aimed at supporting vulnerable young people to make informed choices about their sexual health, which supports wider efforts to reduce rates of under-18 conceptions, unintended pregnancies and sexually transmitted infections.

4. CONCLUSION

4.1 The voluntary and community sector has a vital role to play in providing services directly to the public on behalf of the Government, often in areas that are considered to be difficult or sensitive. Organisations have developed in-depth knowledge and expertise over many years, which they use to inform and support the services they provide.

4.2 Changes to commissioning arrangements, particularly the move towards increased local decision-making, could put this expertise and the future of these organisations in danger.

4.3 There is also a risk that members of the public will be offered reduced services and that the quality of services will be diminished if the expertise of the national specialist voluntary sector is lost.

4.4 The knowledge and intellectual capital that voluntary organisations have invested in service provision in a variety of sectors should not be put at risk for short term financial gains.

4.5 In addition, it is vital that the funding mechanisms for the voluntary sector do not compromise organisations' priorities. Criteria for funding applications should not divert organisations from tackling the issues they have identified through their work.

5. FPA INFORMATION SERVICE

fpa provides a comprehensive national information service, sexual health direct, which is funded by the Department of Health. This service has a number of components:

- An expert helpline.
- Leaflets on contraception, abortion and sexually transmitted infections.
- Work with the consumer and professional press to ensure that articles about sexual health are accurate.
- Information for professionals.
- A website.
- Advice to professionals about consumer needs.

5.1 *Helpline*

The helpline is a specialist service that complements more generalist resources such as NHS Direct and Sexwise. It is used by both the public and professionals and answers about 60,000 enquiries a year. It is staffed by highly trained advisors, many of whom have a background in sexual health services, who are able to use their own knowledge and expertise to respond to enquiries rather than relying on scripts.

5.2 *Leaflets*

Good practice guidance specifies that people seeking professional advice on sexual health should be provided with written information to which they can refer in the future. The **sexual health direct** portfolio currently comprises almost 30 different leaflets and further titles will be added during 2007. In total, we distribute 8 million of these leaflets each year. The contents of the leaflets are informed by the questions commonly asked by callers to the helpline and they are all checked by key professionals in the field. In addition, their style, format and content have been consumer tested.

5.3 *Consumer and professional press*

On a daily basis, **fpa** talks to journalists who are writing feature articles for newspapers and magazines about sexual health topics. These articles are a major source of information for the public and it is vital that the information they contain is correct. Journalists contact us because they know that we are able to provide a speedy, accurate and clear response to their questions.

We undertake similar work for journals for professionals, such as general practitioners, nurses and pharmacists, who are not sexual health specialists, but who provide information and advice about sexual health.

5.4 *Information for professionals*

We produce a quarterly briefing on the latest developments in sexual health which is distributed to a range of professionals. Professionals can also obtain information from our Library service.

5.5 *Website*

fpa's website has details of clinics providing sexual health services and this part of the website receives in excess of 650,000 queries a year. The website also provides information about all aspects of sexual health, which is used extensively by the public, professionals and the media.

5.6 *Advice to professionals about consumer needs*

Our extensive contact with service users provides us with an overview of consumer concerns about sexual health issues. This enables us to represent consumer views to professional bodies and other organisations in a field where it is often difficult to obtain a user perspective.

Without central funding it would be impossible to sustain this service, because although some local areas would continue to purchase leaflets, very few would be willing to support a national helpline or the other aspects of the national programme. It is probable that some areas would decide to produce or commission their own leaflets. Economies of scale would be lost as would our rigorous quality assurance processes.

February 2007

Memorandum from Headway Dorset

Is the third sector more likely to provide better public services than the state or the private sector?

Is there evidence that where services are provided by the third sector, that they are popular with those that use them?

Headway offers rehabilitation and support for brain injured people and their carers in the community. We conduct annual evaluations of our service from the perspective of our clients.

Please see Headway's evaluation for 2006. As you can see from the evaluation Headway clients rated Headway at an average of 4.29 Rating scale 1 (very poor) -5 (excellent) demonstrating that Headway clients are happy with Headway services.

Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

Please see recent evaluation carried out with our Dorchester clients in order to identify their rehabilitation needs. The results of this questionnaire will be used to adapt services and offer clients a wider range of activities in order to meet their rehabilitation needs.

Additionally clients reported that a more vocationally based rehabilitation was preferred. Subsequently Headway Dorset has altered their business plan in accordance with their clients needs and places much emphasis on vocational rehabilitation. Clients also reported that they wished to go off the site when in their gardening and conservation groups which now occurs.

Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

Yes Headway Dorset's evaluations and programmes demonstrate this. Rehabilitation is client led, is in the community (swimming, circuit training at sports centres), work rehabilitation in the community, doing real work.

Supplementary memorandum from a Headway Client

Is the third sector more likely to provide better public services than the state or the private sector?

Absolutely, for they provide the narrower specialist care/treatment to suit specific areas of need but this should only be when working closely with the state and private sector to identify need and possibly share under-used possibly better facilities/premises and thus avoid expensive duplication/wasted funding.

Is there evidence that where services are provided by the third sector, that they are popular with those that use them?

Absolutely, for those using them can relate 100% to the others using these specialised facilities and can therefore offer support/advice/understanding/shared information and experiences thus greatly alleviating some of the isolation and problems hitherto experienced unnecessarily by “clients” prior to properly targeted moral/and physical support.

Is there evidence of demand for more services to be provided by the third sector? If so, who from?

Absolutely, there are a great many areas of social need currently under-funded or not funded at all such as youth centres in every town/village properly funded hospices and off-shoot areas of health care currently overused under-funded certainly completely undervalued by both the state and private sector.

Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

Absolutely, for these often smaller more personalised units are better placed to monitor the needs of those using the facilities and are therefore better placed to adjust the care and facilities to meet any changes that may occur.

Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

Absolutely, for the work done and results monitored by those working in these smaller specialised units can be “picked up” and used in the larger state and private sectors to the benefit of all knowledge being a great power for good if the big state departments are aware of the work being done in the third sector they can better direct patients towards the appropriate specialised care and support often needed and free their own specialists to diagnose and treat more patients more quickly.

March 2007

Memorandum from Help the Hospices

1. ABOUT HELP THE HOSPICES

1.1 Help the Hospices is the national charity for the hospice movement. Its vision is of a world in which the best possible care is available to all people at the end of life, whatever their circumstances. As well as supporting hospices to fulfil their role in caring for people at the end of life, Help the Hospices gives a national voice to the views and concerns of around 200 local charities, which provide the vast majority of hospice care in the UK.

1.2 Hospice care improves the quality of life of people living with life-threatening illness, and supports their families and carers. It is tailored to individuals’ needs and can be provided as a day service, in a person’s home, or as an inpatient service.

2. ABOUT THIS MEMORANDUM

2.1 This evidence was generated through information submitted by independent charitable hospices, discussions at a meeting of a subgroup of the Independent Hospice Representative Committee, conversations with individuals from within local hospices and information submitted through previous consultations with hospices in particular through the end of life care strategy. This was supplemented by reference to peer reviewed studies and other pieces of research conducted by Help the Hospices, the BBC and the National Council for Palliative Care. The response focus on the unique experience of hospices in relation to accessing funding from their local PCTs. Hospices experience commissioning in a different way from many providers as their service predates the provision and duty to provide care by the state. This situation has created particular tensions between the state and these third sector organisations.

3. ABOUT THE HOSPICE MOVEMENT

3.1 The Committee’s questions, in general, presuppose that the public services under discussion originated in, and are primarily funded and provided by, the state. This is not the case for hospice and palliative care. These services grew from the concern and commitment of organisations and individuals outside of the NHS who believed there was a gap in provision that needed to be filled. Today, despite the

creation of palliative care as a branch of medicine, NICE guidelines and commitments from various governments over the provision and importance of care at the end of life, there continues to be a gap between what the state funds and what is provided on its behalf by the third sector.

3.2 The independent charitable hospice sector provides over two thirds of the specialist inpatient palliative care in the UK.¹³⁸ Alongside this is a host of other innovative services focused on enabling people to live at the end of life. These include wide spread “hospice at home” services—which aim to provide the integrated holistic treatment of a hospice in a person’s home—day care services, lymphoedema services, complementary therapies, bereavement care and social work support. Such a range of care has been developed in the sector to address perceived local needs and is often innovative and ahead of work within the NHS.

3.3 The challenge for the future of end of life care is how to address the lack of broad strategic overview. Hospices are local, independent organisations, and the provision of services across the whole country is therefore beyond their remit. Marrying the benefits of local charitable provision with the necessity for a “bigger picture” is something that needs to be provided from within the NHS structure. For the hospice movement the current issue is how to work with the state sector to improve the quality of services across all sectors, less by transferring service provision out of the NHS but by exploring ways in which the state provision can be enhanced and improved in its relationship with the hospice movement. This relationship may well and should have contractual elements but in order to have the necessary effect on end of life care it must be something broader and deeper.

4. *What are the benefits of contestability to the users of public services?*

4.1 *Have services which have been transferred to third sector organisations shown improvements in quality?*

4.1.1 As stated above addressing this question in relation to hospice services is problematic as service provision is less about transference to the third sector and more about maintaining the current provision levels of services already provided by the sector. There is evidence that the quality of care provided by specialist palliative care providers produces better outcomes than provision within generalist services.¹³⁹ As the majority of specialist care in the UK is provided within the third sector there would be a strong argument for maintaining and extending this provision—that is where the expertise is.

4.1.2 The voluntary ethos of the hospice movement has also been cited as a contributing factor in the quality of services provided (as will be illustrated later). Much of the care provided to patients that is valued so highly are the non-medical elements and the aspects of support¹⁴⁰ which can be provided by the environments created by volunteers within hospices and those volunteers who raise the funds that maintain the hospice. Without these external inputs the quality of provision provided by the hospice would not be as high and the unique atmosphere would be much diminished.

4.2 *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

4.2.1 The current gap in government funding has implications for the control and accountability which can be demanded by commissioners which is perhaps why commissioning arrangements rarely take the form that would be considered best practice according to government guidelines. Recent research by Help the Hospices¹⁴¹ found that a majority of respondents did not have service level agreements which detailed provision of specific services or levels of service. Most funding arrangements could be better described as block grants distributed on an annual basis.

4.2.2 Arguably, the NHS would improve the accountability of their funding and commissioning relationships were they to comply with government standards and increase their funding to the level of services they are actually receiving. Such a change would enable the hospice movement to continue to expand and innovate services in the manner which historically they always have. In the context of the hospice movement there is currently little likelihood of contestability becoming a viable service delivery mechanism as funding is so low that there is rarely room for more than one provider. Service users are much more likely to benefit from strong relationships between the state and third sector that would serve to distribute knowledge and finances more evenly.

¹³⁸ Hospice Information, *Hospice and Palliative Care Directory*, 2007.

¹³⁹ J Hearn, I J Higginson, Do specialist palliative care teams improve outcomes for cancer patients? A systematic literature review, *Palliative Medicine*, 1998.

¹⁴⁰ Aspinal, F, Hughes, R, Dunckley, M and Addington-Hall, J (2006) What is important to measure in the last months and weeks of life?: A modified nominal group study. *International Journal of Nursing Studies*, 43, (4), 393–403.

¹⁴¹ Unpublished, 2007.

5. *Is the third sector more likely to provide better public services than the state or the private sector?*

5.1 *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

5.1.1 There is an acknowledged deficit in research on hospice and palliative care which is currently being addressed through various routes.¹⁴² Of the evidence which is currently available there is much which points towards the preferences of individuals to be treated in a hospice setting, for example a BBC survey¹⁴³ found that there was a 97% satisfaction rate among people whose loved ones had received hospice care. Evidence from such surveys as Catt et al (2005)¹⁴⁴ demonstrate that people would prefer to be treated in a hospice at the end of life rather than a hospital. This preference increased with age. Similar evidence was established through a recent Help the Hospices survey.¹⁴⁵ However, few distinguish between an NHS hospice and a charitable hospice and it is difficult to assess whether this preference is informed by the charitable status of hospice services or by the value of the specialist palliative care provided.

5.1.2 It is clear that hospice care is very often preferable and also popular with the general public. Yet the lack of an accurate comparison within the NHS makes it difficult to quantify whether services are more popular inside or outside of state provision. However, there are many qualities within the hospice which are particularly strong because of its charitable nature. For example the role that volunteers play, which has been estimated economically as contributing £112 million a year to the operation of hospices¹⁴⁶, can be seen as correlating with some of the qualitative value which users highlight as important eg supportive environments. Such environments can be difficult to replicate within the NHS.

5.2 *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

5.2.1 There is evidence of greater need for hospice type care. Many hospices have waiting lists for their services while others are actively engaged in partnership activities to spread their expertise and knowledge to places such as care homes and hospitals. The type of care that is provided within the voluntary sector is often the type of care which people most value.¹⁴⁷ Therefore, there would be a strong argument for expanding or transferring this model of care so that a greater number of people can access it.

5.2.2 Currently there are some significant inequalities in access to hospice care.¹⁴⁸ This tends to be drawn down the lines of disease (most hospice care is still provided to cancer patients) age (there is evidence that older people do not access hospice care) and certain ethnic groups where the barriers to entry seem to be higher than others. Addressing these issues and providing more equitable access to the highest standard of palliative care should be a high government priority.

5.3 *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

5.3.1 There are some specific challenges in formal application of user involvement techniques in palliative care.¹⁴⁹ Hospices and their staff have been anxious about burdening people with such obligations at a time when they are likely to be under great stress and physically quite weak. However, much has been done in recent years to promote the possibilities of user involvement in palliative care, not least through national initiatives instigated by Help the Hospices.

5.3.2 While formal user involvement may still be in relatively early stages within palliative care there has long been a tradition in the hospice movement of responding to the specific needs of patients:

“Palliative care, particularly as reflected in the hospice movement, has always emphasised the centrality of the patient or service user and its own ‘holistic’ approach to provision and practice . . . It has traditionally placed an emphasis on ‘voice and choice’, ideas which have subsequently gained a key place in health and care more generally”.¹⁵⁰

¹⁴² Christopher Bailey, Roger Wilson, Julia Addington-Hall, Shelia Payne, David Clark, Mari Lloyd-Williams, Alex Molassiotis, Jane Seymour, The Cancer Experiences Research Collaborative (CECo): building research capacity in supportive and palliative care, *Progress in Palliative Care*, 13:6, 2006.

¹⁴³ ICM-BBC poll, http://www.bbc.co.uk/health/tv_and_radio/how_to_have_a_good_death/surveyresults_index.shtml, 1–16 July 2005

¹⁴⁴ S Catt, M Blanchard, J Addington-Hall, M Zis, R Blizard, M King Older adults’ attitudes to death, palliative treatment and hospice care, *Palliative Medicine*, 2005.

¹⁴⁵ Help the Hospices (HtH). *Public Perceptions of Hospices Care*. London: HtH; 2006.

¹⁴⁶ Help the Hospices, *Volunteer value: a pilot survey in UK hospices*, HTH:2006.

¹⁴⁷ Aspinall, F, Hughes, R, Dunckley, M and Addington-Hall, J (2006) What is important to measure in the last months and weeks of life?: A modified nominal group study. *International Journal of Nursing Studies*, 43, (4), 393–403.

¹⁴⁸ Help the Hospices, *Hospice and Palliative Care for All*, 2006.

¹⁴⁹ Adshead L, Beresford P, Croft S, *Palliative Care, Social Work and Service Users*, 2007, Jessica Kingsley Publishers.

¹⁵⁰ Adshead L, Beresford P, Croft S, *Palliative Care, Social Work and Service Users*, 2007, Jessica Kingsley Publishers.

This tradition of patient centred care is very important to the value which users experience and is enabled by the presence of volunteers and higher staff-to-patient ratios than inside the NHS. Furthermore, the retention of staff within hospices helps to enable needs to be more easily identified over time and change adopted where appropriate than in an NHS system which may rely more heavily on formal process to identify need and enact change.

5.4 *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

5.4.1 One of the strengths of the hospice movement as a collection of voluntary sector organisations is their ability to innovate with greater ease than the NHS. When ideas emerge the relative flexibility of hospice budgets, (they may be able to call on reserves or access one off grants for new work) the commitment of staff and volunteers, and their place within local communities often means that they are able to create and deliver innovate services which could not emerge as easily within the NHS. Such flexibility though can be significantly compromised when income streams are uncertain. The current environment where government funding lacks stability (English hospices on average receive 33%¹⁵¹ of their funding from government but this contribution varies, sometimes is not agreed until well into the financial year and has a great level instability associated with it)¹⁵² has an effect on a hospice's potential to innovate. Innovation is likely to occur more often where stable funding can be found outside of government sources. Where this is not possible, innovation can be compromised as a result of the unwillingness of commissioners to assure funding for the recommended three year period. However, the hospice movement has always seen its role as being one of innovation to meet the gaps in need that exist within their communities.

5.4.2 One such example is Grove House in Watford. The hospice has developed a Volunteer Befriending, Home Sitting and Complementary Therapy service for patients with cancer or other progressive illnesses. The service offers support to both patients and their carers to enable them to maintain their independence at home or to support their wish to die at home. The service was initially developed via a pilot scheme to ascertain the needs of the local population. There was already a statutory service providing a sitting service, but they were deemed less responsive and were not specifically trained in palliative care issues. The service is now available seven days a week, 8.00 am to 8.00 pm with 35 volunteers and a further eight joining the service in April. The service has completed over 600 visits and receives referrals received from adult care services, GP's, Macmillan nurses, district nurses and a variety of health care professionals.

5.4.3 The service could not have been provided without initial funding from Macmillan and the support of the hospice's board of trustees. It would not be sustainable without the support provided by the volunteers. The hospice believes that it is down to its charitable status and the reputation of the charity within the local community locally that has created such a strong commitment from their volunteers.

6. *Does commissioning benefit the third sector?*

6.1 *Will contractual relationships with the state improve stability within the third sector?*

6.1.1 Contractual relationships which truly reflected the activity hospices carried out on behalf of the NHS would make an enormous difference to stability. Currently funding can fluctuate from year to year, with hospices having very limited notice that they may need to make up a shortfall in government funding if they are to keep services open. Commissioning is not done on the basis of what services the hospice actually provides for local PCTs but instead the most common relationship is the equivalent of a block grant, often awarded with little or no consultation with hospices. Many hospices would welcome formal three-year contracts based on activity with service levels relating to the provision they actually deliver. Such contracts would mean they could effectively plan reducing the risk of investing in new ideas and services.

6.2 *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

6.2.1 There are a range of approaches and views within the movement regarding the ability and desirability of hospices being critical of the Government. This diversity can be attributed to a number of factors although it would appear that there are no hard and fast rules. Hospices in general feel more comfortable in their capacity to criticise central government but there is far less appetite to criticise locally. Hospices perceive the need to maintain good relations with those from whom they have a direct funding stream and direct criticism is likely only to occur where relations have significantly broken down.

6.2.2 Those hospices with strong finances and few concerns about generating charitable income streams would seem to feel more comfortable adopting a critical role of government than those heavily dependant on government contributions.

¹⁵¹ Help the Hospices, *Hospice Accounts*, 2006.

¹⁵² National Council for Palliative Care, *The Funding Reality for 2006-07*, 2006.

6.2.3 Distinctions have also been drawn between the types of criticism that it might be possible for local hospices to engage in. While some would consider their criticism to be significantly constructive offering to take over services they believe they could provide better, sharing knowledge and educating government providers. This is contrasted against criticism which, while not exclusive from the role of imparting knowledge and education, campaigns more explicitly for the Government to ensure their provision is improved, be that through better in-house services or better funding of existing hospice services. These different approaches may be seen to reflect the variety of engagement which different hospices would believe is appropriate. While some wish to stand quite distinct from government others believe their charitable aims are better served by working more closely with the state.

6.2.4 All hospices have an important role to play in the policy process as outside experts. The very need for their existence is a criticism of government and their continuing work and independence serves as a contrast and a source of knowledge and innovation for government services.

6.3 Is there a risk that the service providers will become increasingly bureaucratic?

6.3.1 A distinction should be drawn between the proximity of hospices to government subjects them to greater bureaucracy, or whether the proximity will make them more bureaucratic organisations. While it seems unlikely that hospices would increase their own levels of bureaucracy what they are subject to could pose risks. These risks depend on the role which regulation plays in the relationship between the state and third sector organisations.

6.3.2 Hospices, in providing the types of services regulated by the state, have found the burden of regulatory bureaucracy increase in recent years to a level many feel is inappropriate. The regulatory burden on hospices includes those standards applied to the NHS, those necessary under law as independent providers of healthcare, those in their role as service providers to local PCTs and requirements under charity law. This level of bureaucracy is not within the control of hospices and would, to a large extent, exist whether they received significant NHS funding or not.

6.4 Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

6.4.1 Closer engagement with the state always poses risks for the sector. However, the erosion of the distinctive hospice culture would take a considerable amount of time. Many aspects of a hospice's operations distinguish it from similar care provided within the NHS, for example, the number of volunteers, the specialist and holistic nature of the work, the role of the trustees and the links developed with the local community through fundraising and education. Such elements make it less likely that closer financial relationships will compromise the distinctive identity of hospices.

6.5 Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

6.5.1 There is a genuine risk of polarisation within the hospice movement when it comes to government engagement. The burden of regulation alone has had an impact on the different ways in which hospices operate. Some are able to employ individuals to collate the required reporting and regulatory information while others find that their chief executive or senior clinician has to do the work. Such situations could be seen as likely to intensify if the government was to require hospices to "professionalise" in certain ways to win government funding.

7. Does commissioning services from the third sector have any benefits for the state?

7.1 Does the state risk losing control of service delivery in a way which might be damaging?

7.1.1 Currently commissioners have very little control over the use of the money invested in hospice care. From information generated by Help the Hospices¹⁵³ it would seem that funding is rarely based on services and far less frequently based on activity levels. There are some instances where specific requirements at a local level have been addressed through joint ventures, yet similarly local need is sometimes addressed by hospices acting alone, taking the financial burden and risk and delivering the kind of care they deem appropriate. Several examples exist of hospices acting to open new beds where local demand has increased or needs identified by a local PCT. However, where this has happened the PCT may have little say over how those beds are used as they do not have contractual relationships and have not specifically commissioned the service.

7.1.2 Formalising contractual relationships far from reducing the lines accountability could enhance or even, in some instances, create them.

¹⁵³ Unpublished 2007.

7.2 *What capacity will the state need to ensure that it can be an intelligent customer of services?*

7.2.1 It is difficult to describe current commissioners as customers of hospice services. They rarely directly fund specific activity although they may specify the hospice services they are contributing towards. They could better be described as donors in their relationship to hospices. To become more “intelligent” customers they would first have to truly become customers of the services they are receiving.

7.2.2 The commissioning process for hospices, as stated, does not, in reality, result in clearly commissioned services. In this context questions regarding the monitoring process or the bureaucratic burden become difficult to answer. In a context where services were being commissioned in an appropriate manner a more thorough monitoring process might need to be developed—although to minimise bureaucratic burden this should fall in line with other monitoring and reporting requirements—but in the current environment, contractual relationships tend to be kept to a minimum with some hospices finding they see PCT commissioners only for a brief annual meeting to award funding for the coming year.

8. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

8.1 *Are services cheaper to provide?*

8.1.1 The services currently provided by hospices on behalf of the state are much cheaper than if the services had to be provided by the NHS because the NHS is not paying the full cost of those services.

8.1.2 There is evidence that suggests that integrated holistic interventions in palliative care have the net effect of reducing costs¹⁵⁴ (through fewer acute admissions and the resilience people gain from high quality bereavement services) although this evidence is by no means conclusive. However, there is little to compare it to within the NHS and therefore it is difficult to assess whether the same service provided within the NHS would produce similar outcomes.

8.1.3 If instead comparisons are drawn between defined services, for example a NICE compliant palliative care inpatient bed, it is still difficult to determine which service is cheaper. While hospices have a clear understanding of what a service costs them and the break down of the costs within that total, the NHS rarely seems to be able to provide comparable data when asked. Hospices are left to make comparisons via proxies. For example, one hospice, when asking to compare the price of their inpatient bed with that in their local PCT, was told the cost of a specialist head injury bed. Not only was the hospice bed cheaper, the NHS bed did not take into account a proportion of capital costs. However, such comparisons are no substitute for considering like with like.

8.2 *Are there “hidden costs” such as contract oversight?*

8.2.1 The costs, hidden or otherwise, of hospices engagement with the state has been highlighted above. One of the most significant costs which may not have been explicitly stated is the time and effort which it costs hospices to determine or access funding from their local PCTs. Although such work and activity may vary from hospice to hospice there is a sentiment that the effort required to access funds reduces the value of the income to the hospice.

February 2007

Memorandum from The Hospital Management Trust

INTRODUCTION AND SUMMARY

The Hospital Management Trust (HMT) is a registered charity and a company limited by guarantee formed in 1985. HMT was founded with the specific aim of retaining the founding ethos of charitable and religious hospitals and care homes while ensuring ongoing development of the services needed to keep pace with modern medical and nursing practice. An essential part of the ethos is the view that in a country firmly committed to a health system providing care for the majority without charge, the charitable sector forms an important bridging link between the motives of a publicly run National Health Service and a commercially oriented private sector.

HMT owns three acute surgical hospitals in Sheffield, Grimsby and Swansea and runs four nursing care homes around Britain in association with religious Orders. Additionally HMT undertakes significant amounts of consultancy work and works closely also with some major medical representative bodies concerned with acute healthcare. More detail is available on HMT’s website at www.hmt-uk.org.

¹⁵⁴ J Hearn, I J Higginson, Do specialist palliative care teams improve outcomes for cancer patients? A systematic literature review, *Palliative Medicine*, 1998.

As a not-for-profit organisation which is nonetheless reliant on generating income from charging for its services, the Trust seeks to work as closely as possible to NHS tariffs and Local Authority fee structures whilst ensuring that sufficient surplus is generated to cover necessary capital expenditure and prudent reserves.

When government policy shifted some five years ago towards a greater recognition of the independent voluntary sector, HMT was optimistic about the possibility of being able to contribute to a greater diversity and public choice of treatment and care. Regrettably, the encouragement by government of major international companies and the growth of commercial organisations in Britain has mitigated against the ability of relatively small organisations like HMT even to tender. An immense bureaucracy is required and major expenditure has to be incurred in even bidding for contracts designed for national coverage.

It is ironic that what appeared to be a genuine embracing of the voluntary and non-profit organisations which for generations have provided much valued treatment and care in their localities has turned out to cause the demise of many small organisations and has placed many others—including The Hospital Management Trust—in positions of very marginal viability for the future.

1. *What are the benefits of contestability to the users of public services?*

In the provision of healthcare in the UK the third sector long pre-dates both the public and private sectors. Voluntary and charitable hospitals have existed for centuries, compared with the NHS which is 60 years old and the commercial private sector which is only about 30 years old. This long tradition of service is reflected in the quality of care provided. Regrettably the not-for-profit sector has, by its very nature, proved vulnerable to both the predatory nature of the private sector and the organisational (and often political) inflexibility of the NHS which still tends to a “public good—private bad” mentality and often fails to differentiate not-for-profit and commercial organisations, thus limiting and often denying the opportunity for patients to benefit. At a time when the NHS can no longer be sustained in its 1940’s guise, and the private sector is increasingly in the hands of private investors with no knowledge of healthcare per se, true contestability should provide the kind of level playing field which allows the third sector to demonstrate the value of a genuinely patient-centred approach.

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

At this stage, the volume of transferred services is so small that it is extremely difficult to measure improvement. However, the early evidence of patient choice for independent hospitals based on issues such as MRSA prevalence in the NHS plus the availability of private rooms, etc, indicate a public perception of improved quality. Key performance indicators are not sufficiently developed on a national basis for valid comparison but HMT’s own evidence is for high-quality outcomes of surgery and very favourable public responses based on patient opinion questionnaires.

In the long-term sector, the evidence of quality is implicit in the very high occupancy of care homes—HMT runs at 98% average—and waiting lists for admission from publicly funded patients.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

The separation of purchaser and provider roles creates clearer accountability by reducing the “old boy network” of protecting interests between the various parts of the NHS. Clarity of accountability is relatively easily assured in the construction of contractual terms and outcomes and in the assurance of cost by a fixed-price tendering or negotiating position.

It is relevant also that both the Healthcare Commission and CSCI processes increasingly are able to assure public accountability through the regulatory and inspection processes.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

Yes, it is more likely to, for the reasons given in answer to (1) above, since it has neither the political pressures of the NHS nor the financial requirements of the private sector. Whether or not it actually does so may be harder to prove—and will depend on a number of factors (eg the pressures which HMT is currently experiencing). However, the current development of KPIs, outcome measures and star ratings increasingly will demonstrate where benefits do or do not exist.

It needs also to be remembered that the sheer scale of the public sector mitigates against feelings of “ownership” and identity amongst staff whereas loyalty and commitment to charitably structured organisations are commonly observed.

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

As said before it is early days but results from patient questionnaires, praise and complaints studies and published market research by a variety of organisations indicate general popularity.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

With the advent of patient choice for acute services and more acceptance of Choose and Book by GPs, there is a rapidly growing demand for use of the independent sector by patients and doctors alike. HMT's evidence is that the fact that it is a not-for-profit organisation creates greater acceptability amongst both groups compared with commercial organisations.

It is even more evident in the long-term care sector that the charitable structure—and the presence of religious Sisters providing pastoral care—is a significant factor in choice of homes by elderly people and their relatives.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

Almost certainly Yes—but evidence, again, is difficult to demonstrate. However, the mere fact that provision has shifted dramatically in long-term care from publicly provided to independently provided services in itself indicates a level of dissatisfaction with the nature of public provision hitherto.

Increasingly, such evidence is being gained in the acute sector as a result of NHS patients receiving levels of care and treatment which would have been completely out of their reach until recent changes in contracting methods.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

HMT had experience for 10 years of running and developing a community services hospital in Suffolk. During that time, when NHS and Local Authority services were moribund, HMT was able to develop innovative rehabilitation delivery, day care services, home care services, night sitting and a range of practices which would have been quite impossible to deliver through the bureaucratic systems within the public sector.

Although not quite the same, discussions between HMT and NHS Foundation Trusts has indicated the possibility of services within NHS hospitals being provided by an independent contractor. It is giving rise to the opportunity for innovative care pathways and treatment protocols which would take years to develop in the NHS.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

Yes, insofar as they prove certainty for planning and investment purposes. But not if they can be reneged on with impunity and HMT's experience so far is that both local NHS Authorities and central government have no hesitation in so doing. Caution is needed, also, on some of the contractual terms which Authorities seek to unreasonably impose, including undue interference with the patient selection process and over zealous emphasis on detail rather than focussing upon the quality of outcome.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

It should not but this has proved a tricky issue for third sector organisations in the past (eg humanitarian NGOs that are heavily dependent on DFID funding). The risk to third sector organisations in terms of potential loss of credibility is significant but manageable. The more likely risk is that government is over-sensitive to their criticism. The onus is on the third sector organisations to be fair and constructive in their criticisms and on the government to acknowledge (and value) their right and responsibility to do so.

Unfortunately, HMT's experience is that many other organisations (not HMT) are fearful of being critical because of the risk of losing contracts.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

Yes. The ECN contract provides a wealth of evidence of this. Moreover, third sector organisations, by their nature (and especially if, like HMT, they are small), have less capacity for this and are likely to buckle under the weight of it. This burden could be greatly eased if commissioners actually knew what they wanted in the first place—see (4) below.

It is important to note that the current reliance by DH and others on European-type tendering procedures places enormous pressures upon relatively small organisations like HMT. Current evidence—which is still ongoing—is that the amount of effort and man time having to be put into meeting all the criteria to satisfy the ECN contracting process is identical for a small organisation like HMT as it is for the major hospital groups turning over hundreds of million pounds a year. Tying up the equivalent of five full-time people for three months plus the use of expensive external IT and security consultancy is a cost and resource use which may just be sustainable once but cannot forever be repeated every time new contracting protocols are introduced. Quality assurance obviously is important but a good deal of current practice is beyond the realms of reason.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

See 3(b) above. Yes, there is a risk but it would be an “own goal” to allow this to happen since these characteristics provide the USP of the third sector. Again, it is up to the individual organisations to manage this—and up to government to understand the issue.

Part of the resolution of this issue lies in the public sector setting contractual terms which are sensible without being over-prescriptive.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

This distinction is less valid for the healthcare sector as for some others. It is not clear what these “more radical groups” might be. The reality is more prosaic: there is a very real and immediate risk that a concentration of public service contracts with the larger organisations (in part due to designing the tendering arrangements in ways which only the larger ones can cope with—see 3(c) above) will almost certainly hasten the demise of the smaller—and arguably most—“third sector” ones.

4. *Does commissioning services from the third sector have any benefits for the state?*

This should be a “no brainer”. Obvious benefits of using the independent sector include:

- additional capacity;
- the ability to concentrate limited NHS resources more strategically;
- the opportunity to resolve much of the purchaser/provider conflict;
- guaranteed known cost of service provision; and
- nil cost capital investment.

Additional benefits of using the third sector include:

- shared ideology;
- likelihood of better value-for-money; and
- willingness to take on less profitable services.

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

If the commissioning is done properly there is no reason to lose control, and arguably (see 1(b) above) accountability should be stronger where services are delivered under contract. Much depends upon the quality of NHS staff monitoring the delivery process.

It needs to be remembered also that an essential part of flexibility of service delivery is the ability to shift contracting arrangements from one supplier to another—ie, there has to be a degree of excess capacity in the system in order to provide the incentives for assuring standards without losing supply.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

There is no reason why the state should be different from any other sector of society in being able to be “an intelligent customer”. It is worth considering the framework used by the Office of Fair Trading in relationship to competitive environments and thereby the maintenance of standards and protection of the public interest. Anything over 40% of available capacity owned by one organisation (including the state) constitutes a monopoly which should be regarded as unacceptable and probably the trigger point of 25% which is used to define dominance would be a preferable indicator of choice.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

By being absolutely clear from the outset on the terms and conditions of any contractual arrangements entered into.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

At present, the processes are immensely bureaucratic, often ill-informed and usually inconsistent—not least because of constant changes of people dealing with the processes, most of them frightened of their own shadows. Probably a good deal of the poor quality is due to inexperience within all government services of dealing with these sorts of issues plus pressure from political masters and the Treasury in relation to the notional safeguarding of the public interest. Additionally, reliance upon EC rules and looking over the shoulder at what other people are doing does not help the process.

5. What are the financial implications of providing services through the third sector compared with directly provided state services?

(a) *Are services cheaper to provide?*

The issue here is value-for-money and the evidence is that the independent sector generally provides better VFM than the public sector. The danger of the private sector is that, by its nature, its tendency will always be to maximise profits, if necessary at the expense of quality. One of the advantages of the third sector should be its freedom to give greater emphasis to quality while still having to be financially viable.

A major problem is that the actual cost of providing health services in the public sector is still enormously obscure despite improvements in recent years. The accuracy of national tariffs and the accounting mechanisms of treating capital and depreciation differ so much from normal commercial practice—even in the voluntary sector—that value-for-money is extremely hard to demonstrate. As a crude measure, if a third sector organisation is able to remain financially viable whilst charging public service rates then almost certainly it is being run cheaper than the NHS or Local Authority services.

(b) *Are there “hidden costs” such as contract oversight?*

At present, it appears that there are very significant hidden costs incurred by the Department of Health in allocating undue levels of monitoring and supervision to independent sector contracts. Whether that is necessary is an issue which the National Audit Office might consider.

It is relevant to note that with the development of compliance requirements through the Healthcare Commission and CSCI, the need for additional monitoring within fixed price contractual terms should decrease as times goes by.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

Until stability within the shifting balance of public, private and voluntary sectors is achieved, it is probable that there should be some requirements to ensure that equal opportunities are given to the third sector, which does not have either the marketing muscle of the private sector or the status quo of the public sector. The third sector is used to operating in a free market and does not generally favour “rigging”. Having said that, the state, in its role as national commissioner of healthcare services (a) wholly dominates the market but (b) stands to lose most if the market fails to deliver what it needs. In recent years the NHS has favoured the private sector (whose aims and values it does not share) at the expense of the third sector, with which it has most in common. It should not be necessary to rig the market but, faced with such perverse behaviour, it may be wise to try and protect the state from further self-harm—if it is not already too late.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

In the short term the costs, not least in view of the state’s massive purchasing power, should be similar. Over time though, given (a) the remit of the private sector to maximise shareholder profit and (b) the increasing consolidation of private sector providers into large groups on which the state will become increasingly dependent, commonsense dictates that the third sector (if it survives) will be cheaper. As for the benefits, it seems fair to assume that a sector with a long and proven track record for high-quality patient-centred care will provide greater benefits than one for whom hospitals are merely a vehicle for making money.

February 2007

Memorandum from the Independent Complaints Reviewer

BACKGROUND TO THE INDEPENDENT COMPLAINTS REVIEWER

1.1 The ICR Service was first introduced in 1998. I am the Independent Complaints Reviewer for The Charity Commission, The Audit Commission, The Housing Corporation, Land Registry, The National Archives, and Land Registers Northern Ireland. At present I am also the Independent Case Examiner for the Child Support Agency, the Northern Ireland Social Security Agency and the wider agencies of the Department For Work and Pensions.

1.2 I am a solicitor with extensive management experience in both the private and public sectors. I am a Fellow of the Chartered Institute of Arbitrators and I investigate complaints made by members of the public, businesses, professional advisors and others.

1.3 I act as honest broker in seeking a fair resolution of complaints. I investigate the way in which organisations have dealt with matters and, where complaints cannot be resolved through conciliation, I will carry out a full review to decide whether the complaint is justified.

1.4 I am able to make recommendations aimed at putting matters right for individual complainants and at improving an organisations services for the future. When appropriate, I am also able to recommend modest compensation. Each organisation has undertaken to implement my recommendations.

1.5 I am not a part of the management structure of any of the organisations within my remit and my services are free.

SUMMARY

2.1 As the Independent Complaints Reviewer for the Charity Commission I note with interest the increasingly important role for the third sector in areas of work that are traditionally the responsibility of public bodies, such as the National Health Service or local government.

2.2 As I write this submission today, the Charity Commission has issued its report “Stand and Deliver” on the future for charities providing public service. The results are perhaps surprising. More than 60% of medium sized and large charities (income over £500,000) are providing a range of public services. One in three receive over 80% of their income from the public sector and this rises to two in three for the largest charities (income over £10 million). This involvement in public service delivery brings with it a number of new issues and challenges for charities to consider.

2.3 The ethic of volunteering and doing one’s best, for the best of reasons, is not necessarily sufficient in a situation in which people are entitled to a professional service delivered by professionals. In other words, wider public accountability for the way in which a service is delivered is much greater.

2.4 On an individual level, rather than offering a charitable service which beneficiaries are grateful to receive, the organisation concerned is delivering a service against established criteria. People expect no less in standards than they would from the public body commissioning the work. This difference must be reflected within the governance and management of charities, and, in particular, it must be reflected in their arrangements for responding to user and public concerns and complaints.

2.5 Of course, where services are delivered in partnership, it is not always clear to the service user where responsibility lies if something goes wrong. Neither do people always know how they can take complaints forward and they can find themselves pushed from pillar to post, as they try to ascertain who is responsible for the different parts of the service they have received.

2.6 This has always been a difficult issue to resolve even between statutory bodies, but the involvement of the voluntary sector adds a further degree of complexity for the service user. For example, in the delivery of social care, if a user is dissatisfied with a service provided by the Local Authority, ultimately they can refer that matter to the Local Government Ombudsman. If problems occur in the interface with the Health service, the Parliamentary and Health Service Ombudsman can step in to help the citizen. There is no similar arrangement for charities.

2.7 It is not the responsibility of the Charity Commission to deal with personal complaints about the service given to an individual, neither can it offer any form of redress, even where governance issues are the root cause of the problem. In this growing area of public service, the citizen remains unprotected by redress mechanisms other than the courts. I believe the Select Committee should take an active interest in this gap.

2.8 Before steps are taken to put this right, there is an onus on voluntary organisations to develop and maintain clear and published professional service standards, so that users know what they can expect in terms of how a service will be delivered to them, and how they can take forward complaints if that standard is not met. Service level agreements should incorporate a clear understanding of who will be responsible for dealing with complaints in a holistic manner, whether the contracting body or the voluntary sector organisation that provides the service, and specify how that complaint response will be provided.

2.9 The Charity Commission's recent survey into complaints processes and attitudes to complaints within charities, demonstrates that in far too many charities this is a neglected area, and one which culturally does not sit well with many trustees. This cultural difference between the not for profit and the public sector in my view has to be addressed.

2.10 The Select Committee has now a real opportunity to make a leap forward on behalf of the citizen by considering a recommendation for the establishment of the office of an Ombudsman for Charities. I have called for this development in my previous annual reports, and this suggestion has been supported by the Charity Commission itself.

2.11 I would be happy to offer any further information the Committee may wish to receive.

Kindly note that further information about my office can be obtained from my website:

<http://www.icrev.demon.co.uk/>

February 2007

Memorandum from In-volve

In-volve is a charity providing drug treatment services and personal development programmes to young people at risk under contract to local authorities and health authorities. We are very keen to contribute to the Public Administration Select Committee inquiry into Third Sector Commissioning as we believe we have evidence they should be aware of but the timescale for replies is impossibly tight. We were informed about the LVSC on 23 February. One week's notice does not allow us to pull together what we want to say when senior management all have full diaries. This does make us question the quality of the consultation exercise.

Our experience of commissioning by local authorities and health authorities is:

(1) Since the Compact, commissioning practice has been much worse. Guidelines on simplifying the process have been ignored and tender processes are now around 4 times as expensive in terms of preparation time, having gone from tender submission and presentation to PQQ, pre-tender presentation, tender submission, tender presentation, and site visit.

(2) Since the Government suggested payment in advance, all but one of our contracts has been switched to payment in arrears.

(3) Since the Government suggested that the NHS contract out services we have seen drug services increasingly return to the NHS. NHS managers seem to assume without question that our sector lacks the competence and professionalism of their own, regardless of the evidence to the contrary. We are not at the table when PCTs make their funding decisions.

(4) Not one of our commissioners operates full-cost recovery. Competitive tendering and aggressive commissioning has driven management fees down below feasible levels.

(5) We are not invited for our views on the future shape of services. We are generally excluded, for example, from discussions about their shaping of services under Every Child Matters and Children's Trusts until all the important decisions and structures have been decided upon.

(6) Increasingly contracts define budgets, staffing and methodology, in effect turning the sector into an extension of statutory provision.

(7) The voluntary sector has to jump through massively bureaucratic and tight monitoring hoops that the statutory sector does not impose upon its own service delivery.

(8) When budgets get cut, the voluntary sector is always the first to bear the brunt.

The Select Committee does not seem to be asking about these issues although they directly impact upon the answers to the questions they ARE asking.

Please convey our feelings to the Select Committee.

February 2007

Memorandum from Katharine House Hospice

Voluntary hospices are a very good example of Third Sector (voluntary) organisations providing services in their local communities. They did not evolve because services were "transferred" but because they were essential and the State had been unable or unwilling to act in the vital field of end of life care. There never was a contest.

Every voluntary hospice grew from the dissatisfaction of the founders who have over the years created end of life care services at a level and of a quality previously unknown in their immediate communities.

In this narrow sector what the Government needs to address is the best way to protect these organisations. It would be very unwise to undermine what already exists by introducing contestability not least because any new entrant into the field would need to provide the superstructure which has been developed over time so that duplication would certainly not be cost effective.

Any member of the Public Administration Select Committee who has a voluntary hospice in his constituency will already be aware that for users, these organisations are a very effective way of providing services. Upheaval is the last thing that these people need.

The Committee has suggested that it would like to hear from small organisations. I do not know your definition of small but if a local voluntary hospice with a budget of just below £2 million and caring for 600 plus patients each year is so designated then I would argue that small charities are willing, able and well equipped to run this particular kind of public service and have been doing so for many years and moreover would wish to continue to do so.

For a relatively small sum of money government could secure these services and facilities. At the present 35% of the annual revenue requirement of voluntary hospices is provided by the State. A realistic increase which has often been promised (for example in the Cancer Plan 2000) would secure the services without the bureaucratic involvement which contestability would entail.

February 2007

Memorandum from Leonard Cheshire

In each instance below we are answering the questions from our specific perspective as a provider of social care services often contracted from local authorities.

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

Leonard Cheshire provides a range of directly contracted commissioned services from local authorities across the UK. These services, statutory in nature (eg 1948 National Assistance Act, 1990 Community Care Act etc), are based upon an assessment of an individual disabled person's social care needs and costed/funded accordingly. Leonard Cheshire uses its voluntary income, judiciously, to supplement—not subsidise—these services where appropriate thereby making them of greater value to the individual beneficiary than if they had been provided directly by the commissioning authority. An example of such a benefit is the provision of advocacy services—vital in supporting disabled people to attain independence. This provides a distinct “added value” and a greater quality of service provision.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

No. We remain fully accountable to the commissioning local authority, and ultimately therefore to its elected members for the effective and legal delivery of services they contract from us. In addition we also are accountable to a range of external regulatory bodies for the effective and safe delivery of these services, notably the Health & Safety Executive, the Commission for Social Care Inspection and the General Social Care Council. Recent legal judgements regarding where responsibility lies for legislation such as the Human Rights Act clearly indicate that the commissioning authority retains responsibility to users of services for their rights even though services are being provided by third parties. Critically, we are accountable to the people who use our services, formally through established complaints procedures and informally through forums and user focussed initiatives which are designed to ensure people who use our services are able to shape and influence the style and nature of services commissioned and received.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Yes. In 2001 Stuart Etherington, chief executive of NCVO, cited polling evidence which showed six out of 10 people agreed that specialist not-for-profit organisations are better placed to deliver many public services than profit-making businesses.¹⁵⁵

A more specific indicator is the published view of the Commission for Social Care Inspection (CSCI) that social care services provided by the third sector are consistently of greater quality (against the National Care Standards) than those provided by the statutory and private sectors. In the “State of Social Care in England 2005–06” report, published in December 2006, the CSCI found that in all sectors of social care provision—

¹⁵⁵ “Charities warn Blair about cheap service”, *The Guardian*, 22/10/2001.

including residential care, nursing care, older people's services, services for younger adults and children's services—voluntary sector providers were meeting a greater percentage of their published standards than either the private or public sectors.

Leonard Cheshire can also pass on anecdotal evidence from our direct experience when tendering for contracts. We were, for example, recently informed by a shire authority that where a service was previously provided by a third sector organisation and then moves to the private sector, those services are less popular with service users. Anecdotally, we are also aware that there is sometimes resistance to moving some public services away from the public sector—irrespective of the alternatives on offer, based on an inherent resistance to a change in service provider.

(b) Is there evidence of demand for more services to be provided by the third sector? If so, who from?

There is already substantial contracting out of services within the social care sector. Whilst the public service reform agenda suggests a growing need and demand for a greater externalisation of public services, Leonard Cheshire has not detected any particular current shift towards increasing the degree of contracting out across the social care sector. This however may be due to the new rules on TUPE which could negate the financial incentive for local authorities to externalise more of their services, rather than through any policy intention.

(c) Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

Yes, very much so. Increasingly government policy intentions in adult social care have focused on increasing the involvement and choice of disabled people—for example through the public service reform objectives and the outcome indicators in both the Social Care Green Paper and the Health White Paper concerning user choice and independence. This drive towards choice and user-involvement provides a strong platform for the third sector to deliver services which have great appeal to individual disabled people.

Two factors distinct to the third sector underpin this. Firstly, voluntary income can and is used to lever in essential facilitating ancillary services, such as advocacy and personal development which can help to realise these policy intentions. A good example of this is the Government's stated policy aim of drastically increasing the level of take-up of Direct Payments by disabled people. It is widely accepted that one of the reasons for the current low level of take-up is the paucity of advocacy and brokerage services—which the third sector is well placed to deliver. Secondly, the third sector's values and culture resonate strongly with service users—a blend of mutual trust and a good practice base underpins a true partnership approach to service planning and delivery. In addition this relationship is also used to influence commissioners—either on an individual basis or in terms of overall commissioning plans/priorities/methodologies.

(d) Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

The third sector has always been known and valued for innovation; to some extent this is constrained in public service contracting by the rigid approach of commissioners, including a predominance of input rather than outcome measurement in contract performance assessment, a more flexible and open approach by commissioners would therefore be needed to take advantage of the real scope for innovation that the third sector can clearly bring. To achieve such results third sector providers need to be highly adept contract negotiators—and such skills are not always available throughout the sector. Ensuring that the sector can achieve fair and equitable contracting results that afford the flexibility to innovate is a key factor in ensuring that third sector delivery of public services will be effective.

3. Does commissioning benefit the third sector?

(a) Will contractual relationships with the state improve stability within the third sector?

It can do. Full cost contracts for reasonable time periods can give the sector the security it needs so that it can take risks and innovate. The income stream can help the sector to meet some overhead costs and employ experienced and knowledgeable staff to bring capacity and contribute over and above the actual delivery of the contract. A key issue here is what is meant by “contractual relationships”. A key opportunity afforded by working with the third sector is in the sharing of a distinct set of values, unencumbered by a separate duty to shareholders. This enables a different form of contractual relationship to operate—this has been called “relational contracting” to distinguish it from the very formal arms-length contracting which is commonly used. There is a particular logic in using this sort of approach for services which are relational by nature, ie involve the direct delivery of care and support.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

It is important to understand the nature of different types of funding from the state, and from different parts of the state. Social care provision is, in essence, based on the assessed needs of individuals—providing this kind of service does not in any way preclude a charity from challenging or criticising government policies. If, however, funding is received directly from central government, and is ring-fenced or tagged to a particular policy initiative then challenging that policy may become difficult for a charity. It is important to remember, however, that charities should be governed by their charitable purpose—and they should not, through their services, support a policy that runs counter to this purpose. The broad issues about charities’ ability to both work with and be critical of government was well and starkly articulated in the Charity Commission’s recent report “Stand and Deliver”.

Leonard Cheshire’s funding and contracting relationships are predominantly with local authorities. In the main, any criticism we might make about local government would be to central government about their levels of funding for social care services. This has the effect of us aligning ourselves with a case that local government itself often makes to central government. Recent exchanges between the Local Government Association and central government illustrate this. In 2006, the Local Government Association warned that, without extra central government funding, by 2009 councils will only be able to support those individuals with “substantial” or “critical” needs, leaving 370,000 individuals without support.¹⁵⁶

It is also important to remember that the purpose of criticising government or another public body would be to change the policies of that body. Leonard Cheshire would not commit to running a service that we did not think fell within our charitable purpose. We would also always retain the right to challenge commissioners on the application of policies—we have in the past, and will continue, to intercede in support of service users, where we are concerned about a commissioner’s application of policies. In this case our ability to challenge and change practice can actually be enhanced by working directly with commissioners.

The ability to continue to challenge government could potentially be reduced if a charity’s ability to survive was dependant on income from a single or narrow range of source(s). In Leonard Cheshire’s case, no one authority (central or local) accounts for more than 8% of our income. Thus we can “afford” to continue to challenge any public sector body with whom we contract, without jeopardising our future or compromising our commitment to the people who use our services.

A major advantage of being a service provider at a local level is the knowledge and feedback we get from working directly with disabled people. This makes our responses, and where necessary our challenges, to government (central and local) informed and evidence based. This is an added value as it positions the organisation as a conduit of end service user’s views—a key desired outcome of government public service policy.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

It is important for third sector providers to keep the right balance between their effort to secure and deliver public service contracts and their wider charitable activities. Yes, the processes and demands of providing publicly funded services can lead to a more bureaucratic approach and the development of an internal infrastructure which shifts the balance within an individual organisation. However the bureaucracy stems principally from the overly prescriptive requirements of the commissioner and the myriad of associated regulation, some of which can be clear duplication, rather than the act of providing the services *per se*.

A key issue here is the attitude to risk. Particularly in the field of providing care to adult services users, there can be a presumption that people do not have the ability to determine choices for themselves. This combines with a dominant pressure in most formal contracting being the reduction (even elimination) of risk. Ensuring that such contractual obligations, and the bureaucracy that often accompanies them, do not interfere with policies that promote independence and choice can be difficult. The adoption of the relational approach referred to above allows discussion and sharing of risk in a different way hopefully more responsive to the needs of individual people.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

Potentially, yes. The critical issue here is identity. As we explained above, Leonard Cheshire’s ability to continue criticising central and local government is largely based on the circumstances of its funding relationships but we accept that these are not universally shared across the wider sector (although they largely are in the provision of contracted social care services by the sector). What we have little control over is the public’s perceptions of our funding relationships with central and local government—and independence from them. As illustrated above, the contracted services we provide are based on individual

¹⁵⁶ “Meeting the Challenges Ahead”, Local Government Association, Autumn 2006.

need and can be substantially enhanced by the deployment of voluntary income—in addition to providing beneficiaries with a range of wholly voluntary funded services. There is a responsibility on the sector to articulate these issues.

Regarding ethos, the issue of mission drift has been cited as a possible outcome of the sector delivering public services. Third sector organisations need to be constantly vigilant that whatever services they agree to provide are of benefit to their beneficiaries and can be readily identified with their charitable objectives. There is clearly a role here for regulators such as the Charity Commission to hold third sector organisations to account where appropriate.

(e) Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

Yes some polarisation could occur—but no, it doesn't matter as long as each third sector organisation is clear for itself (and accountable through the Charity Commission) about how it is delivering its charitable objectives. Some may do that, at least in part, through service provision, some may not. Traditionally if there is a need for people to campaign, influence, innovate or provide services, the third sector has evolved to meet this need through existing or new organisations. There is no reason to believe that public sector contracting will inhibit these well-established and natural processes. One concern sometimes aired is that the sector may become differentiated into a predominantly service providing sector and one that focussed more on issues such as advocacy and campaigning. There is however good evidence that charities can do both—Leonard Cheshire and Scope are good examples of this and the dual benefits of both these approaches in a single organisation are recognised and enjoyed by their beneficiaries.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) Does the state risk losing control of service delivery in a way which might be damaging?

The state will ultimately retain control through contractual arrangements—as it does, and has done for some time, for a substantial part of what it does on behalf of its citizens. The Government is currently encouraging public service providers to give greater control to service users themselves through encouraging a plurality of providers, including the third sector, which will increase choice for service users.

(b) What capacity will the state need to ensure that it can be an intelligent customer of services?

The state needs to learn how to work with partner providers to be clear about outcome delivery and reasonable measures to monitor this. It also needs to recognise that, despite its experience and power, it doesn't always know best and needs to listen principally to service users, but also to its agents who are working directly with service users to meet their needs. A principle capacity that the state needs to create is the capacity to involve the third sector at the “service design/specification” stage thus ensuring that good practice and knowledge/expertise from one geographical area can be learnt and practised elsewhere—in essence this boils down to the effective cross fertilisation of quality practices and ideas. The state also needs to satisfy itself, possibly through the appropriate regulatory authorities, that whoever is commissioning services is doing so reasonably—putting enough resources into contracts in order to get a quality result in terms of outcomes for service users.

(c) How is duplication of effort in order to monitor and manage contracts best avoided?

There are a number of things that can be done to avoid such duplication:

- Standardised specifications and forms of contract.
- Shared commissioning (local authorities on regional basis/with PCTs/GP Practices/central government etc).
- The development of trust and confidence leading to true partnership rather than “contract compliance”.
- A stronger focus on outcomes—driven by service users—rather than inputs.
- The creation of a strategic partnership commissioner to ensure that any commitment to potential new services continues should the current commissioner role change for some reason.
- The creation of a three year purchasing requirement within any given locality.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

It is getting better—but there is still a long way to go. For example, there needs to be better planning for and engagement with potential providers prior to the procurement process starting together with more realistic timescales for the returns of bids. There needs to be a greater willingness to contract in response to provider proposals, providing this clearly meets identified needs and service user’s wishes without going through a formal tendering process. Over-formal tendering processes and an over-sensitivity to inputs rather than outcomes can inhibit innovation.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

- Cross boundary developments.
- Repatriation of individuals (out of county placements).
- Capital availability.
- Speed of delivery service solutions can be created far more speedily within the third sector as the sector is able to draw on additional sources of funding quickly to create solutions.

(a) *Are services cheaper to provide?*

There is evidence to show that the contracting out of services can lead to cost reductions through increased competition. Such reductions must not come, however, through denying providers with “full cost recovery” for their services, and through an expectation of voluntary sector providers subsidising statutory services with voluntary income. It is also vitally important that commissioners retain a clear focus on outcomes not just cost—this is hugely important in ensuring that quality of provision and added value is given sufficient weight in tendering decisions.

(b) *Are there “hidden costs” such as contract oversight?*

There are inevitably some costs to public authorities of contracting out services but a more mature approach to contract management and less “bean counting” would make these manageable—and more than offset by lower overheads together with the added value and flexible/innovative approach third sector brings to such contracts.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

It would be inappropriate to have an in-built “weighting” factor to favour any particular sector—“competitive neutrality” should be the fundamental approach. However, contract decisions should not be solely price determined—and, despite protestations to the contrary, in many cases they clearly are. Commissioners should determine a “cost envelope” within which they will award a contract and then make a balanced decision taking account of quality of service offered, outcomes for service users and any added value offered. A key issue for the third sector however is the absence of a “level playing” field when tendering for services. There are distinct differentials between say the third sector and public service providers over VAT liabilities and employment benefits such as key worker status. These differentials disadvantage the third sector in its ability to compete equally both on price and ability to recruit staff.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

No. We believe that there are aspects to services provided by the third sector which provide benefits that are not evident in those provided by the private sector. The private sector is driven primarily by growth, economies of scale and a need to provide a return to shareholders. If the public sector is moving towards greater contracting with the private sector, we believe that this will generate amorphous, generic contracts which give scale that the sector requires. This could lead to less tailored, person centred services.

The third sector provides a range of unique benefits:

- A strong empathy with beneficiaries in terms of shared value base.
- Demonstrable degrees of engagement with beneficiaries in terms of strategic planning and governance arrangements.
- Beneficiaries have a strong level of trust in third sector organisations they are involved with—seeing them as both independent of the state or commercial interests.
- The value of the input volunteers provide to third sector organisations is substantial, providing extra capacity and value to beneficiaries at no extra cost.

- The “whole price” of fees are translated into benefit with no responsibilities to shareholders.
- The use of voluntary income enables the delivery of innovative related services in support of the organisations charitable objectives.
- The third sector has strong traditions of developing and providing services in response to localised and individual needs.

March 2007

Memorandum from Local Compact Voice

PROTECTION OF UNPAID TRUSTEES: CHALLENGING THE ASSUMPTIONS

Context

On the very public matter of Kids in Communication (KiC) versus Learning and Skills Council (LSC), the financial settlement paid by KiC to LSC has left unpaid Trustees of small charities holding their breath while frantically reassuring their life partners about personal financial liability. We refer in particular to Trustees of small charities that deliver public services on contract.

It should be noted that calls for intervention by the Compact Commission to the LSC would run with calls for intervention by the Charity Commission or appropriate body to KiC.

But to the point; when instances increasingly occur of unpaid Trustees becoming financially liable and burdened by court judgements to pay sums out of their own pockets, then the stability of the Third Sector becomes threatened by a looming and perhaps inevitable falling off in numbers of new Trustees with existing Trustees opting out as their terms expire. It is relevant why these instances occur, but it is both the impact and the fact that the instances do occur that is the concern here.

Compact Issue

To put it plainly, it is more than just timely, it is essential all Compact parties revisit the traditional/current assumptions underlying the protection of unpaid Trustees in a litigious era when the Third Sector is being called upon to deliver more and different public services by way of contracts and not by way of partnerships.

Some charities have a policy of entering into contracts for public service delivery and hence need protection against a number of risks. But as a matter of principle other charities remain chaste and need no protection in a manner of speaking, and will only deliver a public service through a public sector/third sector partnership agreement thus sharing risk or not assuming risk.

Capacity builders and future builders

The foundation of the Third Sector ie Trustees (who are also volunteers) now need to be strengthened and perhaps redesigned.

Why? Because the external environment and events to which this foundation is subject is changing, and also becoming more severe in potential effect. Thus the builders have to rethink what protection is needed for the foundation (Trustees) in terms of material and architecture.

Unpaid trustees

Third Sector front line service organisations are governed by unpaid Trustees in the main, hence it is entirely the likelihood and past experience that such Trustees are not personally financially liable for organisational liabilities which renews the general supply of Trustees to small charities.

Liabilities

One expects that a charity will pay any organisational liability from insurance and/or reserves. When either reserves or insurance do not suffice, then the protection of being a company limited by guarantee should serve to reassure Trustees that the likelihood of payment from their pocket is so remote as to be non-existent.

We do not go here into the reasons for the financial liability arising whether due from a failure in service delivery or unforeseen factor. It is a significant question for elsewhere and the answers will impact on the issue of protection for unpaid Trustees.

Liability cover

It is instructive to note that contractual relationships for delivery of public services usually do not result in Third Sector organisations building a financial reserve over time that is commensurate with the financial penalty accompanying failure to deliver the service, whatever the reason. Nor do charities have access to a Third Sector insurance fund which cover such a public service risk ie a safety net, since no such fund exists.

Note that charities with assets held in Trusts are not generally able to apply such assets to cover liabilities and not even a court judgement could be ordered against such an asset.

Trustee protection

Unpaid Trustees always face the end prospect of paying sums out of their own pockets. The point is that being a limited liability company apparently is no longer an adequate last line of protection in an era when the Third Sector is being asked and encouraged in various ways to engage in more and new areas of public service delivery which carry considerable and increased risk.

RISK

Such risk can occur not only with the service delivery itself but is connected to other support functions that must exist to have the service delivered.

Public Administration Select Committee

PASC—the Public Administration Select Committee—is inquiring into the role of the Third Sector in providing services directly to the public on behalf of the state, and the potential benefits and risks of the Government’s policy of commissioning services from non-government bodies.

Let us refer to the PASC enquiry re Q 3.a Will contractual relationships with the state improve stability within the Third Sector?

Answer

“Apparently not!” since the supply of Trustees is under severe threat from the risks that accompany public service contracts. In particular we refer to the risks to unpaid Trustees and the continuity of such supply in the circumstances as mentioned in this paper.

But to give a bit of detail:

1. Contracts in themselves do not improve stability unless a state of stability is stated and expressed in the contract in some form. Contracts bring obligations but not necessarily equitable relations which is the foundation for stability.

2. Some stated contract benefit must arise to the organisation that contributes towards stability or at the least, does not undermine what stability already exists. Many say that it is the certainty of the duration of the contract, but again contract period alone cannot account for stability. Full cost recovery, for instance, must accompany contract duration.

3. It is clear that the Compact has a part to play in improving the relationship.

4. Would it be that stability is best attained by taking proper account of the guidance contained in the Compact in the pre-contract partnership working, which may then be subject to judicial review as public policy implementation?

Contract termination

And ensuing liabilities Where charities can have serious potential liabilities is when they incur high set-up and contract exit costs. This is a situation where an early termination of the contract, or even a small unforeseen liability, would leave most small charities insolvent. Few charities, or more precisely Trustees led by their chief officers, have the experience and knowledge to handle this sort of issue and tend to drag out the contract delivery problems with heroic efforts but in unrealistic hopes. They postpone the inevitable and make matters worse.

This is why understanding how a charity’s costs behave in changing conditions and scenarios is so important. This is a point made in a number of reports including “Know your cost base, Know your charity” from the Charity Finance Directors Group.

It may well be that the LSC nee Government, is making a clear statement while some in the Third Sector infrastructure are burying their heads in the sand, much to the danger of smaller charities needing early advice and assistance to avoid these situations. This is a matter for forward looking ie failure to differentiate between solving a contract delivery problem and making a contract exit decision or even a timely decision to close the organisation is a skill lacking in the Third Sector.

Compact

Perhaps it is use of the Compact in pre-contract discussions/early stages of procurement cycle that will hold water in the court, and not an implied compact way of working in the contract. This is based on two intelligent and capable bodies having agreed on a policy ie the Compact as a voluntarily agreed public policy. If one refuses to use it, is it not a matter for judicial review then? Equitable approach is an associated factor re the compact agreement which promised a bed of roses but with the thorns included.

June 2007

Memorandum from the Local Government Association

1. INTRODUCTION

1.1 The Local Government Association (LGA) welcomes this opportunity to respond to the Public Administration Select Committee's Inquiry into commissioning public services from the third sector. Local authorities are the tier of government which has the most interaction with the third sector.¹⁵⁷ As such local authorities, and the LGA as the national representative body, are well placed to respond to this consultation.

1.2 Local authorities are a major provider of public services at the local level with the services they have responsibility for touching on citizens every day lives. Ensuring high quality, efficient public services are provided locally is one of the main aims of local government. As local authorities strive for continual improvement in public services they have been at the forefront in service transformation. People's expectations of services and the level of choice they should have are increasing; services need to be transformed to meet the needs of citizens and be provided by the organisation which is best placed to meet these needs be that public, private or third sector, or a combination of these.

1.3 In recent years there has been a growing consensus that to secure further improvements in the efficiency and effectiveness of public services the focus needs to become more local than national. In May 2006 the LGA published a key policy document *Closer to People and Places* which calls for a new system in the way local services are shaped, delivered and monitored. Central to this is to secure more fundamental improvements in public services by re-designing services around the user, not around service silos. With the local authority leading local partners as well as managing and shaping local markets to get the best outcomes for their communities. To achieve this, partners from across the public, private and third sectors need to work closely together.

1.4 The LGA believes that the role for the third sector in service transformation should not just be at the service delivery end. The best local authorities involve the third sector in identifying service need and in service specification. Many Third Sector Organisations (TSOs) do not want to deliver public services but they do have invaluable expertise and knowledge of particular groups and their needs which is vital to ensuring services are genuinely shaped for users.

1.5 The forthcoming Comprehensive Spending Review will have a significant impact on the resources available to local authorities to deliver services either directly or through others via contracts. The LGA produced an autumn statement in 2006 *Meeting the Challenges Ahead* which sets out the pressures those public service providers will be under in the CSR07 period. The Committee needs to recognise that the tight settlement across the public sector will have implications for the Government's aspirations on this agenda.

1.6 In December 2006 the LGA carried out a comprehensive survey of local authorities on how they are working with the third sector on a range of areas. This included a representative quantitative survey of 163 local authorities across England and Wales and nine case studies from local authorities.¹⁵⁸ The LGA submission is informed by this research.

1.7 The LGA works closely with third sector umbrella organisations on this agenda. This includes: working with ACEVO through the Future Services Network to identify solutions to implement this agenda; supporting NCVO's publication *How voluntary and community organisations can help transform public services* in 2006; working closely with the Office of the Third Sector to implement the Third Sector Action Plan; and current work with Communities and Local Government and HM Treasury to develop guidance for local funders and purchasers.

1.8 The LGA is also carrying out a project looking at *The Role of public services in 2020* this is developing a vision, with partners across all sectors, of what public services should look like in 2020 and how they can be transformed to achieve this vision. The LGA has also worked closely with Sir David Varney during his 2006 review *Service transformation: A better service for citizens and businesses, a better deal for the taxpayer* which looks at opportunities for transforming the delivery of local public services to make them more efficient and responsive to the needs of users and businesses. Local government in its place-shaping role is well placed to help deliver his vision and the third sector should also play an important role in this. The

¹⁵⁷ *The UK Voluntary Sector Almanac 2006*, NCVO, 2006.

¹⁵⁸ The survey and case studies are currently unpublished but will be part of a publication to be produced in May 2007.

recommendations set out by the Varney Review provide an excellent opportunity for a cross-departmental approach to service transformation. It is vital that the critical roles that the third sector and local government can play in achieving this vision are included in the Varney Implementation Plan.

2. *What are the benefits of contestability to the users of public services?*

2.1 Introducing contestability into the public services market can help providers to improve their performance and ultimately the quality of the service experienced by users. However this will only succeed if there are a number of potential suppliers in the market who can be genuine competitors. For this to take place there needs to be fewer barriers to entry into the market for new suppliers and greater movement within the market to challenge poor performing providers and enable others to tender to deliver services. Local authorities working with other local partners need to have the power to shape markets and remove poor performing providers. The Local Government White Paper supports this and the LGA is keen to work with government to develop the market shaping role of local authorities.

2.2 However unless services are transformed to meet the needs of users with outcome criteria to support this then transfer of a poor performing service to another supplier will not benefit users. There needs to be a greater focus on collaboration to truly shape and create markets around longer term needs.

Have services which have been transferred to third sector organisations shown improvements in quality?

2.3 There are two separate issues within this question. Firstly, if services are transferred to the third sector where the scope of the service is already ill defined and the service is failing it is unlikely that the third sector will be able to bring about improvements in quality as they, as any provider would be, are constrained by the service specification or performance measures. Instead the focus should be on transforming services and making use of the skills of service providers and those working closely with users to develop a service specification which will meet the needs and demands of users. The third sector has an important role to play in shaping the service and their input at this early stage can have a positive impact on the quality of the final service.

2.4 Secondly, is the issue of whether the third sector when it delivers services shows improvements in quality over and above other providers. It is not possible to say categorically that the third sector can *always* improve service quality and it will often depend on the type of service, the skills and experience of the provider in this area and the demands being placed on the service. A case by case approach is required but recognising that all sectors come with skills and experience which they can bring to the table.

Is loss of accountability a threat of commissioning services? If so, how can this best be managed?

2.5 Commissioning services does not necessarily equal a loss of accountability. In fact, it arguably makes service providers more accountable as commissioning a service defines the strategic direction for the local authority for that service area. Therefore it makes accountability in terms of achieving objectives towards that direction far clearer for both the local authority and providers.

2.6 The Local Government White Paper recognises local authorities' important role in taking effective action on behalf of their constituents and holding local service providers to account. It sets out proposals to strengthen the strategic leadership role of councils as coordinators of all local agencies and groups involved in shaping the community through their work in different sectors. In addition the Paper also envisages a wider and stronger role for local authority scrutiny including the power to require evidence from all local service providers and placing a duty on them to have regard to an authority's scrutiny recommendations. The LGA supports these proposals and with this in place is confident that a clear line of accountability can be maintained.

3. *Is the third sector more likely to provide better public services than the state or the private sector?*

3.1 It will depend on the type of service that it being provided, the needs of users and the outcomes that are required. There is nothing intrinsic in the organisational structure of TSOs which means that they automatically deliver better public services than any other sector. A case by case approach needs to be taken to each service and the value that each potential provider can bring to delivering the best service for users.

Is there evidence that where services are provided by the third sector that they are popular with those that use them?

3.2 Research carried out for the LGA by MORI in Spring 2006 showed that many people often do not know who provides their services and do not care as long as it is of a high quality, meets their needs and is value for money. Therefore from a user perspective this issue can become irrelevant and the question should be making sure that all public services are popular with citizens however they are branded. The LGA

recently carried out some research with the National Consumer Council¹⁵⁹ which showed that popularity and satisfaction are very difficult to measure and can be influenced by a range of other factors from culture to demographics to attitudes towards government in general. The most appropriate service provider must be identified by local partners based on specific local needs, history and experiences.

Is there evidence of demand for more services to be provided by the third sector? If so, who from?

3.3 Currently the greatest demand appears to be coming from central government narrative on the value of the third sector. However evidence locally, voiced during regional consultation events for the CSR07 Third Sector Review, showed that many smaller TSOs do not feel that they have been asked if they want to deliver public services and many have said that they have no interest in this. This has left many small groups concerned that they must now compete to deliver services or face losing funding which they currently received under other funding arrangements such as service level agreements and grants. Much of the demand for greater involvement of the third sector in service delivery is coming from large national TSOs that have a strong voice within government.

3.4 Whilst the LGA supports the role of the third sector in further service delivery it is vital that this does not come at the expense of many smaller TSOs who have no interest in delivering services. Local authorities are left to face the reality of how to involve the third sector more in service delivery whilst also ensuring that small groups continue to receive the funding they need to carry out their objectives. The term third sector encompasses an extremely wide range of organisations and the same approach to all of them is not practicable.

Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

3.5 There is a wealth of anecdotal evidence to support this but a limited number of studies that provide accurate data on third sector innovation. In 1994 a study was carried out by Stephen Osborne at Edinburgh University which studies this. It was followed up with a replication study in 2006.¹⁶⁰ It found that innovation is not an inherent characteristic of voluntary organisations but arises from the policy context created by central and local government. The 2006 study shows that the number of TSOs who state they are involved in innovative activity has fallen considerably. One of the main reasons attributed to this is that many TSOs who relied on government funding had to portray their work as innovative to secure funding in 1994 whereas in 2006 the government agenda had moved on to valuing the specific expertise of their services rather than discontinuity and innovation. The contractual regime on TSOs is therefore preventing many from being innovative.

3.6 At the local level local authorities have been pressured with over 2000 performance indicators from central government and a focus up to meet the needs of the centre rather than those of local people in order to secure future funding. Pressures of performance indicators leave little incentive for TSOs to innovate in order to receive local government funding. The LGA welcomes the move to reduce the number of performance indicators. By achieving this local authorities will have the freedom to work with partners to shape services to meet local needs, calling on the third sector and other providers to explore innovative solutions.

3.7 Involving the third sector and other local partners in shaping services, coordinated through the Local Strategic Partnership and Community Strategy, will increase the knowledge base and intelligence of a particular service and user needs. Therefore a collaborative approach to service delivery is more likely to result in innovative services which join up providers making best use of different skills. Local Area Agreements have demonstrated that where agencies join up and involve providers from the private and third sectors to transform a service more innovative solutions will result.

4. Does commissioning benefit the third sector?

Will contractual relationships with the state improve stability within the third sector?

4.1 Commissioning should benefit the third sector, in that it will contribute towards an open and level playing field and clear strategic direction. However the LGA is aware from our recent survey that to get to this stage more still needs to be done to work with commissioners to develop skills in working with the third sector. The best local authorities have already developed commissioning frameworks in consultation with their local third sector which help TSOs understand how to get involved in any part of the commissioning cycle. The LGA welcomes the Office of the Third Sector Acton Plan which announced the training of 2000 commissioners across the public sector as a step towards achieving this.

¹⁵⁹ *Customer Satisfaction with local services*, LGA and NCC, January 2007.

¹⁶⁰ *The Innovative Capacity of Voluntary Organisations: Survey Evidence from a Replication Study*, Stephen P Osborne (Edinburgh), Celine Chew (Aston) and Kate McLaughlin (Birmingham), ESCR Discussion Paper Series: No 0701, January 2007. NCVO Almanac, 2006.

4.2 However looking at the sector as a whole, the contractual relationship could result in greater instability for many TSOs. There are two main reasons for this. Firstly, gaining a contract to deliver a service will often take place through a competitive procurement process. If the TSO in question is not chosen to deliver the service they risk losing a large proportion of their income and becoming less stable. This poses a greater risk for smaller groups who are locally based—for capacity reasons or due to the purposes of the organisation—and therefore unable to easily find other contracts elsewhere.

4.3 Secondly, many TSOs are not interested in service delivery or taking on contracts. Moving away from a regular grant situation to an uncertain contract environment could put many organisations at risk. As the LGA sets out in our autumn statement, government needs to recognise the funding pressures local authorities will be under in the CSR07 period and the impact this will have on the third sector as a whole. Ed Miliband has stated that we need to ensure public services are adequately funded so that costs are not passed on to the third sector.¹⁶¹ The LGA strongly supports this view. To achieve this aim local government must be adequately funded to meet the needs of the sector.

Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

4.4 A mature relationship between purchaser and provider should mean that both parties feel able to constructively criticise and support one another. The LGA in our submission to the Cave Review of Social Housing Regulation in February 2007 set out the future role which we see for registered social landlords and other service providers. Under this, service providers and others knowledge and expertise in a policy area would help to formulate the vision for the service which would then make up the Sustainable Community Strategy. Through this model service providers could help shape the service and provide constructive criticism where services are not currently meeting needs.

4.5 Many local authorities directly fund the third sector precisely so they can lobby local government and give a voice to specific groups in the community. This role of the sector must be protected and maintained if we are to build vibrant local communities. It is also essential for local and national democracy that the voice role of the sector is not impinged. If it is, we will lose the very essence that makes the third sector so valuable. The power relationship between funders and the funded requires further attention to ensure that the independence of the third sector is maintained.

Is there a risk that the service providers will become increasingly bureaucratic?

4.6 This is a concern for all service providers, not just those in the third sector. Rationalising the number of performance indicators passed on to local government from the centre will help in reducing the bureaucracy. In addition changes to the way local authorities are audited through the new comprehensive area assessment process will also help this. The LGA is working with Communities and Local Government, the Audit Commission and CIPFA to look at the current auditing processes and how local authorities can rationalise the monitoring and performance information collection that is currently passed on to the third sector.

Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

4.7 TSOs often carry out a number of roles—community advocate, lobbyist, building social capital and service provider. For TSOs to maintain their distinctiveness they need to maintain the diversity in their role and ensure that any contracts they take on do not compromise the purpose and objectives of their organisation. No third sector suppliers should rely on government funding alone and therefore compromise their independence.

Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

4.8 The third sector is already an extremely diverse sector and figures show that the sector is already polarised to some extent in terms of income and coverage.¹⁶² The best local authorities are developing commissioning strategies which will enable TSOs of all sizes to be able to compete for services and become involved in shaping services. There are distinctive values which smaller groups can offer and working in consortia with other small TSOs could help to maintain the distinctive values of these groups and work with specific parts of the community whilst also being able to deliver a larger contract for a local authority.

¹⁶¹ Questions to the Duchy of Lancaster, 7 March 2007.

¹⁶² NCVO Almanac 2006.

4.9 Those organisations who choose not to deliver services should not be seen as more radical as they have chosen instead to focus on other approaches to achieving their mission such as lobbying government and this should also be supported. Neither should it be inferred that those groups who decide not to deliver public services when it does not support their purpose should then have their mission seen as being radical and outside of the considered norm of society.

5. *Does commissioning services from the third sector have any benefits for the state?*

Does the state risk losing control of service delivery in a way which might be damaging?

5.1 As has been noted, accountability can be strengthened by commissioning services. The role for service providers within scrutiny and in developing the sustainable community strategy should also ensure that the state retains control of services. The state has a legal responsibility to provide statutory services. If a service was not performing sufficiently the state could call for it to be re-commissioned or taken back in-house. It is therefore important that statutory bodies retain some degree of capacity and knowledge should they need to take services back in-house. Commissioning services allows local authorities to focus on their wider place-shaping role.

5.2 There needs to be a clear understanding amongst providers and purchasers that purchases retain the ultimate accountability and responsibility for a public service, as has been shown on many occasions when a service which has been outsourced fails, the public body with overall responsibility is held accountable. In high risk service areas, such as social care and children's services, providers from all sectors need to accept that there will be closer monitoring of the service by the statutory body. A process which minimises the monitoring burden should be agreed.

How is duplication of effort in order to monitor and manage contracts best avoided?

5.3 When the monitoring burdens placed on local authorities are reduced this can be appropriately passed on to the third sector. To reduce duplication all statutory agencies contracting to the third sector need to similarly reduce the burdens passed on to providers. Duplication can best be avoided by providers working through the local area agreement structure agreeing on the services that need to be provided for a local area and commissioning them through the LAA under one monitoring system with specific local statutory partners taking on responsibility to monitor and manage specific contracts.

How good is the state at managing bidding processes and defining contractual obligations when commissioning services?

5.4 The Regional Centres of Excellence have worked with local authorities during the SR04 period and now possess a large number of case studies of local authorities working developing good practice across the commissioning process (see www.rcoe.gov.uk). Many local authorities are reviewing the way in which they commission services and in response to this agenda and to support their place shaping role they are improving the role of commissioners. Moving further towards local authorities having the freedom to focus on local needs will mean that an outcomes approach can be adopted rather than traditional outputs pre-set by central government.

6. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

Are services cheaper to provide?

6.1 It will depend on the service area as to which sector can provide the cheapest services. However lowest price should not be the mark of best value. Achieving quality services that meet user need has to be the main focus. Examples from local authorities demonstrate that the third sector can provide better value for money services in some instances. However there can be other costs to consider such as upskilling the sector. In some areas the skills base of the sector to deliver services is so low that adding this cost on to the cost of the service can make them an uneconomical option in the short term.

6.2 Over the longer term working with the third sector as a service provider may result in cheaper services. Faced with tight budgets local authorities need to consider turning to more preventative forms of service delivery. We are arguably paying for the consequences of bad results by spending money building prisons and hospitals when the cost of preventative services would have been less. Many TSOs have skills and expertise in working on preventative services. By commissioning such services the third sector could help to reduce overall service costs in certain areas.

6.3 More needs to be done within the sector to develop peer-review systems to challenge each others performance, particularly around areas of delivering efficient services and identifying opportunities where TSOs could join up to deliver shared services. Large TSOs could lead the way on this and support smaller groups to identify ways to make the services they deliver more efficient, and in turn even more attractive to purchasers.

Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?

6.4 There should be competitive neutrality between all sectors. Parts of the third sector still need support to be able to get to the stage where they can compete on a “level playing field” and funding from central government is needed to support those TSOs who want to get involved in service shaping and delivery. It is necessary to distinguish between parts of the third sector as many larger national or international TSOs are arguably in a better position to compete for services than a small business and therefore it would not be fair to support the third sector as one homogenous group. Support needs to be given on a case by case basis and the resources made available to local authorities to support groups who have the potential to provide particular services. Neutrality can also be achieved though identifying the value of the third sector at the selection stage. The work by the Childcare Implementation Project from the Department for Education and Skills provides such evidence: <http://www.everychildmatters.gov.uk/earlyyears/implementation/>

7. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

7.1 The costs and benefits of commissioning from the private and third sector differ as do the costs and benefits of providing services in-house. The costs and benefits will be different depending on the service, the specific needs of an area and the outcomes required. Each provider will be able to offer a different service package and the state, be that local or national, needs to be clear about the outcomes they require.

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LOCAL GOVERNMENT ASSOCIATION

The Local Government Association (LGA) represents almost 500 local authorities in England and Wales. They, in turn, represent over 50 million people, spending over £76 billion each year on local services.

March 2007

Memorandum from Mandy Lawrence

I think that there needs to be more accountability within the third sector, to the public.

At present the accountability levels seem to remain within the third sector organisations themselves with little scope for appropriate independent scrutiny.

I would like to see charities involving those who fund them in the decision making on a regular basis, and for transparency when informing funders and members of the public of what they are doing and why. I also think it is important for information on what funding has been spent on to be open access to the public.

In regards to complaints about how third sector organisations run their affairs. This needs to be, again, effectively dealt with. Proper and transparent procedures should be in place and again the public (an independent body made up of members of the public) should oversee how these procedures are used and if/how complaints are dealt with.

Ultimately, charities and the voluntary sector should not be dictated to or driven by government directives but should be driven by those they have been set up to represent/support and the independent funders who are often members of the public. I think the fact that many charities are relying on and seeking out government funding means that they will lose independence and become another section of the government. This leads to too much government control and not enough democracy.

March 2007

Memorandum from Mental Health Providers Forum

The Mental Health Providers Forum promotes voluntary sector providers as first choice partners in the design and delivery of modern mental health services. We have 27 providers in membership¹⁶³ who have a combined turnover of over half a billion pounds and provide direct services to over 30,000 people.

The issues raised by the Public Administration Select Committee's inquiry are highly relevant to the Mental Health Providers Forum's work. We are pleased to submit these responses to your questions as evidence and would be happy to assist further with any matters if so requested.

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

While there is a shortage of hard data, transferring services benefit from:

1. increased staff morale;
2. increased management flexibility;
3. more cross organisational working; and
4. high levels of user satisfaction.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

Third Sector organisations in general and our members in particular are:

1. accountable to funders;
2. have active processes to involve and be accountable to users;
3. are inspected by the regulators such as the Healthcare Commission, CSCI and Supporting People; and
4. should be required by their contracts to be transparent and publicly accountable.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

- Most of the larger third sector organisations carry out user surveys and receive positive feedback.
- Users value the person centred approach, destigmatising locations and attitudes and the potential for involvement and acceptance.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

- Most third sector organisations come into being and are developed because users and carers are seeking a different and more responsive service.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

- Unfortunately funding models often reduce third sector ability to respond to changing needs.

¹⁶³ Members are: 2 Care, Advance housing and support, Alternative Futures, The Avenues Trust, Carr-Gomm, Focus Futures, making Space, Mental Health Care, Mental Health Concern, Mental Health Matters, Mind, Mind in Birmingham, P3, Rethink, The Retreat, Richmond Fellowship, St Andrew's Hospital, St James's House, Second Step, Sussex Oakleaf, Together, Tulip Mental Health, Turning Point, Umbrella Care, United Response.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

- Many innovations in service delivery have originated with the third sector.
- In the more competitive environment fostered by commissioning and tendering it is important to protect the development and sharing of good practice and new approaches.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

- They should but often they do not. Commissioners are very powerful and difficult to challenge.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

- It is the responsibility of the Trustees to ensure this doesn't happen. Third sector organisations with a member base focus on the concerns of their members.
- There are many examples of third sector organisations which deliver services and campaign actively. Mental Health Provider Forum members who exemplify this include Rethink, Mind, Turning Point.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

- A lot of bureaucracy is determined by government and commissioner requirements. Often there is too much tight regulation which stifles organisations and makes it difficult for smaller organisations to meet the requirements. This is where the focus needs to be to enable flexibility and local responsiveness.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

- This needs to be protected in the way that commissioning and funding is handled.
- The emphasis on Trustees retaining independence is right.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

- There is a range of sizes. What is important is to promote co-operation and collaboration and to protect diversity in the face of commissioners seeking easier to manage contracting.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

- The possibilities for appropriate control are within the commissioning and regulation processes.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

- More ability to assess, understand and value outcomes which are meaningful to users.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

- Have one lead commissioner.
- Ensure that monitoring is based on valued outcomes and indicators kept to a sensible and useful minimum.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

- The over rapid changes in structures and personnel and lack of clear central guidance often mitigate against good processes.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

- The aim should be for them to be better value not cheaper.

(b) *Are there “hidden costs” such as contract oversight?*

- Transaction costs are there for the commissioner and the provider—these need to be taken into account, properly funded and accounted for.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

- The rules should be fair and appropriate. “Neutrality” can be unfair in a systematic and institutional way.
- The third sector cannot play venture capitalist or take the same financial risk on investment which can make sense for a commercial player.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

- The private player is not only focused on private profit but will also be wary of sharing learning and development. Third sector organisations often see sharing and collaboration as part of their value base, though it is important not to undermine this in a competitive environment.

February 2007

Memorandum from nef

INTRODUCTION

nef (the new economics foundation) is an independent think-tank that undertakes innovative research and thinking on economic, environmental and social issues.

Over a number of years, **nef** has developed innovative thinking and practical approaches to improving the public benefit impact of public procurement, sustainable procurement, and monitoring and evaluation. This has provided us with the opportunity to work closely with third sector organisations to develop their understanding of the value and contribution they bring to public services delivery and society as a whole. **nef** is currently working with the London Borough of Camden on a three-year HM Treasury funded Invest to Save Budget programme to develop a new model for commissioning public services from third sector providers that builds economic, social, and environmental outcomes into the procurement process, and relates those outcomes to longer term savings. The first findings from this research will be available autumn 2007.

In this response we have addressed those aspects of the Issues and Questions Paper where we have direct evidence from our programmes of work.

SUMMARY

1. There is no empirical evidence to suggest that competition and contestability are likely to improve outcomes in public services. Competition and contestability are likely to result in greater emphasis on cost being decisive in the awarding of contracts, particularly given the challenging financial environment and demand for cashable efficiency savings in the public sector, at both local and national levels. This is likely to favour larger organisations with lower per unit overheads and may result in smaller community and voluntary sector organisations losing funding, which in turn may also lead to a decline in quality of services.

2. The Government should pursue “people centred” rather than “market-centred” public services and encourage collaborative, partnership relationships between commissioners, providers and service users focusing on long-term positive outcomes as defined by users as the guide for reform.¹⁶⁴ Ed Miliband has

¹⁶⁴ More detailed recommendations on the use of co-production in public services and using outcomes can be found in **nef**'s previous PASC response: **nef** response to the Public Administration Select Committee's Issues and Questions Paper, *Public services: putting people first?*

commented on the potential for statutory services to learn from the best of third sector approaches by engaging in innovation and learning together (through real partnerships) rather than risk outsourcing learning and innovation whether to private or voluntary sector agencies.

3. Using the third sector to deliver commissioned public services poses a threat to their independence and sustainability. It is also likely to result in a polarisation within the sector between larger providers and smaller community and voluntary groups, with medium-sized providers particularly threatened.

4. Innovation, a characteristic prized in third sector delivery by stakeholders is unlikely to be cultivated in a commissioning relationship.

5. Government needs to redefine the existing Value for Money (VfM) criteria to take into account the wider outcomes—economic, social and environmental—that may be delivered by third sector providers. Commissioning, particularly at local government level, needs to be focussed on outcomes for communities as well as at service-level.

1. *What are the benefits of contestability to the users of public services?*

Challenging the contestability model- refocusing the argument:

Contestability is unlikely to create better outcomes for users of public services for reasons detailed below.

The contestability model requires the “good” or “service” to be defined (you have to know what you are buying.) Rather than a focusing on what is traded in a market sense on the basis of price (outputs), to deliver effective public services the standard commissioning process needs to be refocused to ensure that it is procuring public benefit (wider outcomes) as opposed to short-term outputs.

Our procurement work with local authorities in the commissioning of public services has revealed a general confusion over what public benefit is being procured, particularly when there are strong drivers within the authority to procure at the lowest price to make budget savings. Generally there is confusion at the commissioner level between procuring short-term outputs (and calling these outcomes) as opposed to focusing the procurement decision on the longer-term outcomes¹⁶⁵ from the service delivery for the users of the public services. For example, in the provision of mental health support services focusing on procuring a day care centre that can support x number of people per day, masks the fact that the day centre is only one way (and perhaps not the most effective way) to delivery longer term outcomes such as: a journey to recovery, a reduced sense of social exclusion, and building coping mechanisms for users. It is these longer-term outcomes that count and should be detailed in the service specification and subsequent performance management framework.

Cost is easier to measure than quality and consequently is measured more often. In a public service context, quality should be associated with long-term outcomes such as positive behavioural change, greater independence or improved well-being. Commissioners of services, however, are faced with a challenging financial environment with 2.5% efficiency savings required year on year until 2008. Even more ambitious savings targets are expected following the 2007 Comprehensive Spending Review. The Government’s drive to aggregate and scale-up local authority and other services is further evidence of a concentration on cost reduction over and above quality of outcomes.¹⁶⁶

Our procurement research supports the assertion that adopting a commissioning approach dominated by concerns with contestability, without any adjustment of the commissioning process to value the longer-term outcomes delivered by public services in economic, social and environmental terms, will result in a failure to deliver a public service, ie a service which has a wider societal contribution.

Public services are delivered most effectively when they are co-produced by users of a service, and when providers and success are determined by longer-term positive outcomes as experienced, and defined, by users.¹⁶⁷

Co-production describes a model where responsibilities and knowledge are shared between professionals and users, and sometimes with the user’s family and neighbours. This implies a relationship of reciprocity and partnership between commissioners, providers and users. Whilst the Government’s model of public service reform emphasises the role of users shaping services “from below”, the commissioner/provider segregation required by the contestability model can run counter to this co-production approach by excluding the vital input of users’ voice, skills and experience from the equation.¹⁶⁸

¹⁶⁵ Outputs are direct and tangible products from the activity eg number of people trained. Outcomes are changes that take place in stakeholders as a result of the activity eg increased income or improved stability in life.

¹⁶⁶ *Strong and Prosperous Communities: The Local Government White Paper*, Department of Communities and Local Government, October 2006, p 143.

¹⁶⁷ In a previous PASC response we have demonstrated the importance of measuring outcomes over and above outputs or activities to prevent the development of perverse incentives: **nef** response to the Public Administration Select Committee’s Issues and Questions Paper, *Public services: putting people first?*

¹⁶⁸ The UK Government’s Approach to Public Service Reform—A Discussion Paper, Strategy Unit, 2006; The Local Government’s Commissioning role and the third sector, presentation to London Community Recycling Network’s Procuring Social Enterprise Launch, 25 January 2007 <http://www.lcrn.org.uk/images/1905.pdf>

Contestability, or opening up markets, and the appearance of greater “user choice” through the market mechanism, not only focuses commissioners on short-term outputs from service provision as opposed to longer term outcome for service users, it also reduces the greater involvement of service users in the design and delivery of those services.¹⁶⁹

Jake Chapman, author of “Why Systems Fail” noted that “You can deliver pizza but you can’t deliver public services”. In other words, market logic cannot be applied to all human transactions. Effective doctors know they cannot “deliver” healthcare to patients, effective teachers know they cannot “deliver” learning to students. Both are relationships where both parties play a part in the desired outcome. This is also true of effective police forces who know they cannot “deliver” community safety without resident participation.

Public services are best delivered through a partnership approach to ensure wider public benefit.

Many services, for example social care and mental health services, demand the development of mutually beneficial and often long term *partnerships* between users and providers, be they statutory, voluntary or from the private sector. People with mental health problems, children in care, the long term unemployed, elderly people, prisoners and other marginalised groups require long-term (years rather than months) and consistent support, involving the creation of positive and trusting relationships to improve their well-being. Evidence shows that people who use public services do not think of themselves as customers or consumers. People want high quality services and relationships with the professionals within them based on values such as “respect” and “partnership”.¹⁷⁰

The over emphasis in the contestability model of greater choice, fails to recognise the overriding need to develop a relationship based on trust in this delivery partnership.

The (unintended) consequences of contestability and commissioning.

If the Government continues with this drive towards contestability and competition it must recognise the impact of the wider financial climate and efficiency agenda, and take steps to ensure that the potential negative consequences (summarised below) are prevented.

1. The undermining of a partnership approach between statutory agencies, providers (whether they are public, third sector or private) and users. Our research with third sector providers suggests that they value the development of a partnership approach to delivery with commissioners of services where they have equal status in striving towards positive outcomes for services users, involving ongoing dialogue and the review of service outcomes.

2. A shift towards cost-driven commissioning where short-term criteria, such as the unit-cost of a service, takes on greater importance than longer-term outcomes for users which, whilst they are more difficult to measure and compare may result in greater savings for commissioners in the longer-term.

3. Less incentive for public service professionals and commissioners to develop and create networks of support, including peer support networks, for individuals or communities.

4. Less incentive for collaboration between providers, including in the third sector, in an environment where incentives and performance management stress individual organisational performance and financial balance over creating long term positive outcomes. As knowledge and innovation become key to winning contracts so third sector organisations will protect or copyright their learning. This is likely to exclude commissioners and services users, and reduce the possibility of replication of best practice. A competitive model of commissioning will result in competitive behaviour.

5. Public service professionals become less engaged with, and less accountable to users for the success or delivery of services as they contract out the service provision.

6. Outsourced learning that does not contribute to broader understanding and evolution within the commissioning agency. Currently there is very little discussion about how local authorities will develop learning mechanisms and performance management systems to understand the outcomes emerging from the service delivered. Effective data collection and contract management does not necessarily result in learning that could challenge and refocus a delivery approach to ensure longer term outcomes will be achieved.

7. Increased risk aversion which will constrain innovation as commissioners outsource risk to third sector providers. Creating an increasingly risk averse sector as commissioners are not willing to share risk.

2. Is the third sector more likely to provide better public services than the state or the private sector?

In addressing this question it is essential to remember the complexity that exists within the third sector. Additionally current third sector performance in the context of a distinct and separate sector does not in any way reflect how they may or may not perform in delivering a service within the constraints of a standard commissioning relationship.

¹⁶⁹ In doing so contestability fails to deliver what Government policy recognises as a desirable outcome—greater user involvement in public service design and delivery.

¹⁷⁰ See research by John Clarke, <http://www.open.ac.uk/socialsciences/citizenconsumers/> and also Demos

Innovation, a characteristic frequently cited in our research by stakeholders as a major strength of the third sector in the delivery of services, has developed outside of the contestability model, and is likely to be severely reduced in a traditional commissioning relationship with the State sector.

Third sector organisations have been heralded by Government as more innovative than public sector providers. This is generally thought to be because they have often grown out of, or are embedded in, the communities they serve. Or that they are staffed by people with direct experience of the challenges they are tackling. The insights and knowledge they have of how to meet people's needs are generated over the course of many years of informal learning and interaction with people, often in a community context. To use Government terminology, they are "closer to users". Innovation in the third sector is not driven by competing with other providers for services, but rather by commitment and values of the providers.

The danger of forcing competition and contestability into the public services market is that cost will come to dominate decision-making, innovation will be under-valued and overall service quality will decline as a result. Recent Audit Commission research suggests that local authorities heavily emphasise unit cost assessments to monitor and compare service provision.¹⁷¹

Rather than focusing on the business model, the public service should focus on the mission of the organisation.

The question appears to assume that particular business models or organisational structures are inherently more capable of delivering better outcomes for users than others. Rather than focusing on the structure of an organisation it would be more pertinent to focus on the mission of the organisation. Organisations that are driven by social, economic and environmental goals and have an intimate knowledge of the people they are working with will be in a better position to deliver these wider outcomes than organisations primarily driven by profit. It is also important that providers are flexible in their approach to delivery and have sustainable funding models. In many cases, there is a strong argument that such outcomes are best achieved through state provision ie the state has a duty to maintain a level of core capacity and expertise to provide such services, and be held accountable for them (as with education and health). Decisions should be taken on a case-by-case basis, again with the close involvement of service users, the local community and a wide range of other stakeholders.

3. *Does commissioning benefit the third sector?*

Scale matters. Third sector organisations often thrive where there is little bureaucracy and a light touch approach, ironically this is often the case as services provided are niche and high risk, and therefore vulnerable. Commissioning favours larger organisations for reasons of administrative efficiency and perceived "contract risk". It is as yet unclear how commissioning will support the diversity of the third sector, as opposed to reducing it to a few large charities operating in any one sector.

The third sector encompasses an enormous range of organisations, from very small community-based groups to multi-million pound charities and profitable social enterprises. A move to commissioning will affect different organisations in very different ways.

Distinct from an ever professionalising "voluntary" sector is the "community sector". Made up of micro-charities, community sector organisations are often the real experts when it comes to knowing how best to respond to the needs of some of the most vulnerable people in a locality. Due in part to necessity (restricted size and limited access to resources) they are often most able to "co-produce" services with users. This means that they are able to play a significant and substantial role in recognising and engaging the skills, talents and resources available within their local environment.

The uniqueness of these micro-charities—the very qualities which make them different from larger, corporate charitable enterprises and more able to be the caring face of our communities—also makes them less able to respond to the opportunities to take part in the current public service revolution. The emphasis of the new funding regime on the delivery of core public services, is largely to the detriment of the more informal but equally vital, broad ranging, services provided by smaller groups. Recent research undertaken by nef with the Joseph Rowntree Foundation (2006) *Hidden Work; co-production by people outside paid employment* has shown that current models of service delivery often fail to recognise the existing resources and assets within communities and can create a culture of helplessness and dependency amongst users of public services.

Evidence, from our work on timebanking, shows that asset-based approaches that recognise and exchange the skills and resources available locally are common to many successful micro-charities. However, these very different ways of working can actually make it even harder to move examples of best practice to the mainstream, precisely where these fresh new approaches are most needed.

The recent survey by the Charity Commission—*Stand and deliver: the future for charities providing public services*—is the most comprehensive review of the impact of commissioning on the third sector. It suggests that commissioning threatens the third sector's sustainability—with only 12% of charities delivering public services achieving full cost recovery all of the time—and independence. Consistent under-funding will clearly threaten innovation, staff morale and quality of services and, ultimately, the sustainability of the

¹⁷¹ *Working effectively with the Voluntary and Community Sector*, (forthcoming), Audit Commission 2007.

organisation. The study suggests medium sized organisations are particularly at risk and that public service market could become polarised between smaller organisations still attracting grant funding and “supercharities” mainly funded by public service contracts.¹⁷²

The third sector will be best able to maintain its positive contribution to public service delivery, including its role as an independent voice, in a mixed-funding environment, rather than being reliant on commissions.

If the move to commissioning is accompanied by cuts to other forms of funding, in particular grants, the danger is that some smaller third sector organisations will suffer. There seems to be perception that many local authorities are moving towards increasing “contractualisation” of grant funding, even where they are not moving to full competitive commissioning. The reason small to medium third sector organisations are currently able to respond to local need, fill gaps that the public sector is not geared up for, innovate and take risks is because their funding arrangements allow them greater flexibility. In a recent report, HM Treasury pointed to the important role of small community and voluntary groups play in regeneration and creating social capital.¹⁷³ The great danger is that contracting to the sector comes to be seen as a way to do more for less money by public sector organisations.

This is also related to the broader risk that where they are contracted to deliver public services, third sector organisations risk losing their independence. The charity commission’s report suggests that 50% of charities delivering public services cannot agree that their activities are determined by the charity’s mission, rather than by funding priorities. *nef* would share the Chair of the Charity Commission’s concern that “contribution of the sector to social progress arises from its independence” and it cannot be taken for granted that such independence will remain as more third sector organisations gain their primary income from delivering public services. A recent academic study suggested that innovative capacity has fallen in the voluntary and community sector over the past decade as a direct result of increasing emphasis on service delivery in Government fund practice.¹⁷⁴

The third sector will benefit from a mixed economy of funding, including:

- using commissioning (we welcome the Government’s initiative to make three-year funding the norm in such contracts to give providers adequate time for longer term strategic planning) but with the caveat that the current “value for money” criteria is too narrow in scope, and the commissioning process needs to be reformulated around a partnership approach to delivery focused on understanding the outcomes for users of those services;
- grants with Service Level Agreements which are again outcome focused; and
- small grants with only the standard conditions of grant aid.

Local Authorities, working in partnership with local stakeholders and service users, should be free to decide on the best approach to funding third sector organisations. Whether or not competitive tendering is appropriate should be carefully considered and debated across the stakeholder group.

Commissioners should also consider carefully the wider benefits certain kinds of providers, for example smaller community and voluntary groups, bring to their communities. A notion of “community value” needs to be developed, derived perhaps from local authorities’ sustainable community strategies or local area agreements, and addressed whenever decisions over shifting from grants to competitive tendering is considered. This should be built into “best value” commissioning criteria.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

There is evidence to suggest that third sector organisations deliver multiple services and multiple outcomes in excess of those “contracted” for in their agreements with the public sector. This reflects their client-focused values in delivery. Any consideration of cost should therefore be a benefit-cost assessment across all outcomes achieved rather than restricting it to the outputs described in the contract. If this is taken into consideration then there are greater grounds to argue that their unit cost across the full outcome framework is “cheaper”.

The commissioning process itself should be revised to enable providers to describe, and then capture the economic, social and environmental outcomes that their delivery approach brings to the sector. That is, to express the full value their organisation can bring to a service and to the wider community. This does not however preclude, where appropriate, making financial arrangements available to support a diverse range of potential providers to bid for the work.

The current conceptualisation of efficiency, derived from “Value for Money” (VfM) criteria used by procurement officers in making decisions on which service provider to choose, is too narrowly defined. It focuses heavily on cost-effectiveness and neglects wider social, economic and environmental impacts that

¹⁷² *Stand and deliver: the future for charities providing public services*, Charity Commission, February 2007.

¹⁷³ The Future role of the third sector in social and economic regeneration: interim report, December 2006, HM Treasury & Cabinet Office
http://www.hm-treasury.gov.uk/media/53E/94/pbr06_3rd_sector_428.pdf

¹⁷⁴ Osborne, S [2006]: Is money the mother of innovation?
http://www.publicservices.ac.uk/our_research/Innovative_Capacity_of_Voluntary.asp

providers, in particular third sector providers, can bring to contracts. VfM does emphasise the importance of whole life cost over lowest cost, but there is very little evidence of local authorities actually taking whole life costs into account in contracts, particularly in the service sector. Recent Audit Commission research has found that service commissioners viewed the efficiency agenda as being in direct conflict with expanding the voluntary and community sector's involvement in public service delivery.¹⁷⁵

Third sector providers create many of these neglected outcomes in the way that they deliver services. They are more commonly known as “added value”. Hence a social firm which employs and provides training to people with learning disabilities in its print production process might lose its bid to print council stationary because it has higher unit costs than a larger private sector provider. There is no opportunity in the standard commissioning process for the social firm to demonstrate the added value and potential savings for the council and wider public sector that may accrue from employing people with learning disabilities.

Similarly, the value of a locally-based provider is not necessarily captured in the current commissioning process, both in terms of the social (such as ease of access for users), and environmental impacts (such as reduction in traffic and emissions). There are also potential local economic benefits if a provider is embedded within an area experiencing economic disadvantage and employs local people with associated local economic multiplier effects.¹⁷⁶ There are some good examples of local authorities paying greater attention to the sustainability of local decisions that affect the environment. Hertfordshire is using its annually produced quality of life report, which contains indicators measuring economic, social and environmental progress and performance, to assess progress in key activity areas.

Value for Money needs to be redefined around broader economic, social, and environmental outcomes to enable commissioners to improve their understanding of the relative cost-effectiveness of services delivered by third sector organisations.¹⁷⁷ This will be the most effective means of “levelling the playing field” for potential providers of public services.

Currently, however, public sector service commissioners usually specify outputs rather than outcomes when procuring services. Defining the right outcome measures is challenging, particularly in social services where outcomes are qualitative changes in peoples well-being. However, there are excellent examples of such tools in the field, including those developed by the London Homeless Association and Alcohol Concern.¹²⁶ The next step is then to develop an understanding of the financial impacts of these outcomes for the council and wider public sector.

FULL COST RECOVERY

There is still significant evidence that third sector organisations are disadvantaged in tender contracts in comparison with private and public sector organisations on the basis of full cost recovery. Below is an example taken from the Local Area Agreement of a London Borough:

Dear applicant,

Re: 2007–08 Local Area Agreement (LAA) Commissioning—Stage 2/Full Proposal Document

Question 3.1

All voluntary and community sector (VCS) organisations should be working on the basis of recovering the full cost of the service from the London Borough of Xxx

Non-VCS organisations may choose to absorb some of these costs and are not in any way obliged to pass on the full cost of the service to the London Borough of Xxx

If the organisation is working on the basis of full cost recovery from the London Borough of Xxx, their management costs as a guide should not exceed 10% of the whole cost of the service and their central overheads are clearly itemised with a method of apportionment stated.

Committing third sector organisations to “compulsory” full cost recovery clearly puts them at a disadvantage against private or statutory bidders who are “allowed” to absorb some of the full costs and therefore could offer seemingly less expensive services. In addition, the “compulsory” full cost recovery for third sector organisations is then “restricted” (ie not really “full” at all) by limiting it to no more than 10% of service cost in terms of overheads. This seems an arbitrary approach and may be a significant problem for third sector organisations based, for example, in central London where costs of rent and transport can push overheads above 10%.

¹⁷⁵ *Working effectively with the Voluntary and Community Sector*, (forthcoming), Audit Commission 2007.

¹⁷⁶ One way of measuring such local economic impacts is to use nef's Local Multiplier 3 tool which measures how an organisation spends and re-spends money over three rounds of spending, and calculates how much of this money is retained within a defined “local” area.
http://www.neweconomics.org/gen/tools_lm3.aspx

¹⁷⁷ London Borough of Camden is working with nef on an Invest to Save Budget programme to capture such wider outcomes and build these in to the commissioning process.

¹⁷⁸ <http://www.homelessoutcomes.org.uk>; <http://www.alcoholconcern.org.uk>

We would suggest that the Government needs to lay out clear guidelines for funders around full-cost-recovery beyond what is stated in the Treasury's recent publication "Improving financial relationships with the third sector", to ensure a level playing field.

March 2007

Memorandum from the Office of Government Commerce

EU PROCUREMENT RULES BRIEFING FOR PUBLIC ADMINISTRATION SELECT COMMITTEE

BACKGROUND

All public procurement should be undertaken in line with the principles underlying the EU Treaty: non-discrimination, equal treatment, transparency, mutual recognition and proportionality. The EU Procurement Directives flesh out these Treaty principles with detailed procedures and criteria for the procurement of goods, works and services above set monetary thresholds.¹⁷⁹ The Directives are implemented in England, Wales and Northern Ireland by the *Public Contracts Regulations 2006*. Their purpose, in line with the Treaty principles outlined above, is to open up the public procurement market consistent with the free movement of goods and services within the EU and to ensure that all potential suppliers are treated in a non-discriminatory way while tendering for public contracts. Contracting authorities are responsible for their own compliance with the EU procurement rules.

The Directives are enforced through the courts, including the European Court of Justice (ECJ). Even where contracts are not covered by the Directives, the European Commission (the Commission) has successfully challenged public authorities in the ECJ where there has been a breach of EU Treaty principles. A communication released by the Commission in 2006 reminded EU public authorities of these obligations. In particular, the communication noted that some degree of advertising is likely to be required to demonstrate transparency and that there should be an appropriate level of visibility for the particular contract, as determined by the contracting authority.

The Directives and EU Treaty are complemented by the UK's procurement policy based on value for money, which is currently set out in Chapter 22 of HM Treasury's *Government Accounting* (due to be updated in the near future). It states that "goods, works or services should be acquired by competition unless there are compelling reasons to the contrary" and that "the form of competition should be appropriate to the value and complexity of the product or service to be acquired".

SPECIFIC QUESTIONS

Can the invitation to tender only be issued to third sector organisations?

No. Only issuing tender documents to third sector organisations would be discriminatory and lack transparency. It would contravene the EU Directives and the principles set out in the EU Treaty. Restricting competition in this manner would also run against the UK's policy of ensuring value for money in public procurement.

Can commissioners specify that they only want to use a third sector organisation?

No. As above, specifying such a requirement would be discriminatory and, therefore, contravene both the EU Directives and EU Treaty principles. This would also restrict competition, running counter to the UK's policy of achieving value for money in public procurement.

Can commissioners choose only to approach one particular provider?

Under most circumstances, no. The EU Directives only allow the direct award of a contract without an advert or competition in specific, highly exceptional circumstances, such as where urgency necessitates an immediate award or where there is only one provider of a particular supply or service. In the former, the Accounting Officer of the public authority would have to be able to justify their action. In the latter, the public authority must be clear that the provider is the only provider of a particular supply or service. In most cases, the only way to test this properly is to run a competitive tender.

Direct award without competition lacks transparency and restricts competition. It could therefore contravene the EU Treaty principles and runs counter to UK value for money policy.

¹⁷⁹ For certain listed bodies, including Government departments, the threshold is £93,738 for goods and services contracts; for all other public sector bodies it is £144,371. For works contracts the threshold is £3,611,319 for all public bodies.

What can public authorities do to increase the participation of third sector organisations in tendering for public contracts?

- Undertake ongoing dialogue with the market to identify potential third sector providers, to understand their capabilities and the barriers they face in tendering for public sector contracts.
- Engage early with the market to help inform requirements. While this must not give any provider a competitive advantage, third sector organisations may have specialist knowledge and links to the community that are useful in helping to understand how best to meet the needs of certain user groups.
- Open up contract opportunities by providing information about how to do business with the authority, and undertake wide advertisement of contracts, including in third sector publications.
- Use of outcome or performance based specifications that allow suppliers, such as third sector organisations, to demonstrate their expertise and innovation.
- Ensure procurement procedures and documents are simple, proportionate and relevant.
- Offer training to potential suppliers, outside of any particular procurement, so they better understand the public tendering process and what is required of them.
- Provide feedback to allow unsuccessful suppliers to improve their future performance.

July 2007

Memorandum from Partnership for Young London

Partnership for Young London is the strategic regional youth unit for voluntary and maintained sector organisations in London, with a remit covering youth work, services to young people, and 14 to 19 education. Members of Partnership for Young London include 29 of the 33 local authority youth services, the five London Connexions sub-regional partnerships, and 17 voluntary youth organisations (for a full list, see Appendix 1).

1. *What are the benefits of contestability to the users of public services?*

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

Where contracts and service specifications are properly written and based on accurate needs assessment and knowledge of the service, loss of accountability is not a significant threat of commissioning services. The difficulties arise when a local authority's commissioning processes take place through a centralised commissioning team where there is little understanding of the intricacies and discrete skills involved in a particular area of work (eg youth work), and in effectively meeting the needs of disadvantaged or targeted groups of young people. The importance of clear accountability is rivalled by the importance of ensuring effective, quality outcomes for service users rather than using cost implications as the main decision tool for specialist services.

2. *Is the third sector more likely to provide better public services than the state or private sector?*

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

In themselves, services provided by the third sector, whether targeted or universal, do not necessarily reflect need more accurately than those provided by local authorities, although smaller voluntary and community sector (VCS) projects have often arisen in response to local need. However, we would argue that the VCS is currently able to respond more quickly and effectively to *changing* needs. Commissioning services from the VCS is seen as a way to deliver on specific targets; however, the constraints of contractual obligations and the impact of a five year contractual cycle on developing services to meet emerging needs may remove the very flexibility that makes the VCS an attractive option for service delivery. To guard against this, we need to protect the ability of the VCS to develop services through flexible contractual arrangements that take into account the fast-changing nature of specialist and targeted services in particular. Effective commissioning, whether from the VCS or elsewhere, is based on the assumption of complete, specific and accurate needs analyses, supported by interagency co-operation and in-depth knowledge of a local area. Where this is not the case, where a particular area or issue is not identified as a key target in a local authority's Children and Young People's Plan or Local Area Agreement, it risks being overlooked.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

Whether contractual relationships with the state will improve stability within the VCS depends on the continued availability of funding, the length of contracts, and the arrangements for termination. There is good practice emerging from local authorities in London in developing three and five year contracts with VCS organisations (some with two-year extension facilities) to deliver public services. This in itself can help to promote stability. However, a reliance on contractual service delivery could, in the longer term, result in increased instability, assuming large numbers of VCS organisations decide to provide services in this way: competition with the private sector; the potential loss of core and project funding from local authorities and other state sources (which will impact particularly on small VCS groups). Many local authorities also ask VCS organisations to obtain match-funding—there is a danger of seeing the VCS as a “quick fix” to service delivery problems, but this is not a sustainable approach.

Contractual relationships with the VCS will only increase and maintain stability if they are supported by additional capacity-building activities, such as awarding small strategic grants to enable the local VCS to develop, and providing training to ensure VCS organisations have adequately trained staff and appropriate procedures in place to be able to compete on a “level playing field” with private sector providers. Some local authorities are also actively promoting mergers between small local VCS organisations, who will no longer be able to rely on the local authority to supply core funding under the new commissioning arrangements.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

We do not believe that this will be the case, although it will require a commitment from government to ensure that VCS organisations retain their independence in terms of their ability to be critical of local and national government’s policy and practice. Some VCS organisations will choose not to engage in public service delivery; the distinction must be made between these organisations that hold a campaigning remit, and those that deliver public services. That said, VCS organisations, especially on a local level, must be confident that speaking out will not result in the loss or non-continuation of a public service contract—local councillors must be held to account, through mechanisms such as the Compact, for their decisions in this regard. Government, whether local or national, must acknowledge the importance of the VCS in acting as a critic and monitor of government policy, and the VCS must be proactive in holding local and national government to account.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

VCS members of Partnership for Young London and other voluntary agencies we have contact with have voiced significant concern around the inconsistencies in commissioning processes across different public sector agencies, over the extent of the supporting documentation they are required to supply when tendering for services, and around the reporting requirements they will be subject to if successful. Many organisations would be unable to meet the current local authority reporting requirements without engaging additional staff and instituting more bureaucratic arrangements to collect the required data. While we recognise the importance of proving the effectiveness of services, such an increase in bureaucracy must be avoided in order to retain the flexibility of the VCS. It must not become an extension of local government bound by the same constraints—this was not the intention of the Government when instituting this approach to service delivery. Local government need to consider what information is necessary, what procedures can be made uniform, and what can be dispensed with.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

Most VCS organisations have a very clear perception of their own identity, and many have been delivering projects and services that are partially or totally funded by “the state” for years without losing their independence. In reality, public confusion around who provides what, and who is accountable should problems arise, is more of an immediate risk. There is also a danger that VCS organisations, newly driven by the need to meet targets, will have no choice but to succumb to the “tick box” culture that is often cited as a major problem within public sector organisations. Continuing in this vein, there exists a very real concern that VCS organisations delivering public services will, unavoidably, begin to shape their activities around available funding, rather than undertaking action in line with the mission outlined in their constitution.

(e) *Might the third sector become more polarised between large service providing organisations and more radical groups? If so, would this matter?*

This is a distinct possibility. However, such polarisation is more likely to take place between large VCS organisations and those that are of a smaller size. Certainly many VCS organisations that Partnership for Young London works with have no intention of engaging in public service delivery, for reasons of ethos, remit, size and capacity, inclination, and staffing complement (eg paid staff versus volunteers). However, those that do intend to bid for commissioned services in London face immense difficulties in keeping track of delivery opportunities across 33 boroughs, let alone dealing with 33 different procurement procedures and reporting requirements. Taking time out to respond to tenders may also have a negative impact on current service or project delivery, which may in itself discourage VCS organisations (both large and small) from such activity. We may well be faced with a situation where those organisations that are actually best placed to deliver a particular service are forced to “opt out” of doing so as a result of these barriers, assuming they are even aware of the opportunity in the first place.

Where the VCS has an effective local or regional umbrella structure, this is likely to increase the involvement of VCS organisations in commissioning and being commissioned. However, there is significant concern in the sector over the future of small, specialist organisations, and some local authorities, having recognised this, are making special arrangements to cater for them and grow their capacity to engage with the new commissioning agenda.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

Central co-ordination at a local level is key to ensuring high standards of service delivery when commissioning, and clarity is required with regard to the outcomes and qualities of each commissioned service, for VCS organisations in how they “market” what they can offer, and in the ability to monitor services and provide evidence of their impact. To avoid “losing control” of service delivery, some sense of appropriate interventions, outcomes and benchmarking need to be agreed.

It is increasingly important that local authorities consider the implications of cross-borough service delivery, and that they take into account the mobility of their target group when commissioning services. Voluntary organisations unrestricted by conventional borough boundaries are well placed to help in doing this. To ensure effective service delivery, local authorities need to be aware of activities outside their borough boundaries, whether led by the voluntary, statutory or private sectors. How does their service specification take account of similar services provided in neighbouring boroughs? Where does sub-regional commissioning play a part? These are crucial questions that must be answered if “the state” is to retain an accurate overview and some measure of control of the services being delivered in any geographical areas.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

Currently, local authorities lack the capacity (especially within services for young people) to work alongside VCS organisations to support them to effectively compete for public sector contracts. Councils for Voluntary Services and other support organisations are working hard to support VCS organisations to engage with the new approach, but are also limited by time, funding and capacity. This needs to be resolved on a practical level. The “state” will also need to ensure that there is a clear delineation between commissioner and provider, particularly when the local authority is one of the bidders to deliver a service, along with those from the third and private sectors.

In commissioning services for young people, the state needs to ensure that local commissioners have a clear understanding about the values and principles of youth work, and of the depth and quality of those services currently in place. This applies across the board—commissioners must not attach more importance to cost than to learning or developmental outcomes for young people.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

Duplication of effort is not only an issue for the state with regard to commissioned services, but for the VCS. The increasingly localised agenda is causing difficulties in London, where services need to be more integrated across borough boundaries than elsewhere, especially at secondary and tertiary levels, and when considering the mobile nature of young people. The difficulty for VCS organisations working in multiple boroughs or pan-London in engaging with 33 different local authority arrangements is not being addressed. Most do not have the capacity to contact each individual authority to discover what is being commissioned and when. The creation of some form of central resource advertising all tendering opportunities within

children and young people's services would ensure that all organisations were aware of available opportunities available, avoid the high levels of duplication of work that are currently occurring (in discovering which local authorities are commissioning services), and enable local authorities to discover the best possible provider for each commissioned service.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

VCS services can often appear more costly as a result of producing figures to attain full cost recovery in delivering public services. A recent survey by the Charity Commission discovered that only 12% of charities delivering public services achieve full cost recovery all of the time, leaving the other 88% with a serious funding gap that, in time, will have an impact on the quality and sustainability of the services they provide. The Chair of the Charity Commission, Dame Suzi Leather, stated in an article in the Guardian (21 February 2007) that "... with 88% of charities failing to achieve full cost recovery for service delivery, can we really sustain the belief that this can be in the best interests of charities, beneficiaries, or the sector as a whole?". This is an issue that will need to be immediately addressed if the Government is to continue down the route of commissioning public services from the third sector.

(b) *Are there "hidden costs", such as contract oversight?*

There are a number of "hidden" costs when commissioning services, and in providing public services through the third sector. Some of these are related to preparing the third sector for public service delivery; others to the delivery of services itself. Seed funding for the local VCS may be required and the time (and therefore cost) implications of recruiting staff to deliver new contracts must be considered. Conversely, VCS organisations are required to produce figures that include core costs, and can thus seem to be more expensive in providing services than the state sector, which does not always account for costs in the same way. It may also be necessary or advisable for a local authority to continue to fund existing VCS providers while moving over to a commissioned approach, in order to give them the opportunity to develop to a point where they are capable of meeting new reporting requirements and procedures. A number of local authorities in London and no doubt elsewhere have discrete training budgets to support VCS groups in delivering services for the local authority; others run small strategic grants programmes to capacity-build the local voluntary sector.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

Commissioning services from the VCS brings a wide range of benefits to the state, including the scope for different VCS groups to work together to deliver a better, multi-faceted public service than organisations could if working alone; the ability of VCS organisations to bring in match-funding; the knowledge and relationships VCS organisations have developed with regard to certain targeted groups; and the added value they can provide. However, the state will need to institute, on local and regional levels, appropriate capacity building measures to develop a strong VCS that can deliver what is requested of it. This will include ensuring services are accurately costed, taking into account long-term capital costs (such as building maintenance, replacement equipment, etc) that have not yet come to light. Finally, the involvement of the VCS with local authorities when they are establishing their commissioning and procurement models is crucial to ensuring a smooth transition to the new approach to service delivery, and to ensuring quality for service users.

APPENDIX 1

MEMBERS OF PARTNERSHIP FOR YOUNG LONDON

Connexions partnerships

Central London Connexions

Connexions South London

London East Connexions

North London Connexions

West London Connexions

Local authorities

City of London
London Borough of Barking and Dagenham
London Borough of Barnet
London Borough of Bexley
London Borough of Brent
London Borough of Bromley
London Borough of Camden
London Borough of Croydon
London Borough of Ealing
London Borough of Enfield
London Borough of Greenwich
London Borough of Hackney
London Borough of Hammersmith and Fulham
London Borough of Harrow
London Borough of Havering
London Borough of Hillingdon
London Borough of Hounslow
London Borough of Islington
London Borough of Lambeth
London Borough of Lewisham
London Borough of Merton
London Borough of Newham
London Borough of Redbridge
London Borough of Richmond
London Borough of Southwark
London Borough of Tower Hamlets
London Borough of Wandsworth
Royal Borough of Kensington and Chelsea
Westminster City Council

Voluntary youth sector

Barnardo's (London, East and South East Region)
Boys' Brigade—London District
Brent Association for Voluntary Action (BRAVA)
Citizenship Foundation
Consortium of Lesbian, Gay, Bisexual and Transgender Voluntary and Community Organisations
Duke of Edinburgh's Award—London
Fairbridge in London
London Youth
Rainer
Scout Association—Greater London Region
Sound Connections
The Prince's Trust—London Region
The Salvation Army (ALOVE)
Tower Hamlets Summer University/Summer Uni London
UK Youth Parliament London Region
YMCA—London Metropolitan Region
Youth A.I.D. Lewisham

February 2007

Memorandum from Remploy

SUMMARY

Remploy believes that third sector possesses inherent advantages in the provision of certain public services, based largely on the pool of specialist knowledge and proximity to interest groups which cannot be matched by the Government. Given the significant cost savings which third sector providers can frequently provide to the public purse, we very much encourage the Government to take steps to increase the scope for increasing the contestability of public service provision, with the third sector being able to compete on a level playing field.

ABOUT REMPLOY

- Remploy is the leading specialist employment services group that focuses on enabling disabled people to maximise their potential through gaining and retaining sustainable employment.
- We enable individuals to maximise their transferable skills, helping them be more employable and to find sustainable employment with mainstream employers. Last year, we helped over 4,300 disabled people and individuals with a long term health condition, to obtain new jobs.

KEY QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

- Accountability should be managed by the Commissioning department setting the outcomes and key performance indicators required at the start of the tendering process.
- Monitoring processes should then focus on the key performance indicators and outcomes required, rather than operational detail, thus encouraging more opportunity for innovation and greater choice for the service user.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

- Most service users simply want the services that meet their needs and are less concerned about who actually delivers them.
- As already stated, third sector organisations already provide a range of services that meet needs of end users. As a result there is a level of expertise in this group that doesn't exist in the public or private sector, including advice and support on independent living, advocacy and personal care.
- Given the origins of many third sector organisations and the markets they work in, there is a recognition and trust by and seen as close to this group.

(d) *Is there evidence that contracting to the third sector leads to greater scope in innovation in public service delivery?*

- If the organisation commissioning the service promotes greater operational flexibility then there is likely to be an increase in innovative solutions leading to improved performance as more third sector organisations enter the market.
- An example of how contracting out to the third Sector encourages innovation is highlighted in the "Healthy Minds" project in South Wales. Remploy manages the project in partnership with the Public, Private and Voluntary sector organisations and has created and delivered an intuitive, programme—"Healthy Minds at Work", Healthy Minds identifies and delivers preventative strategies on mental health targeted at enabling more people to stay in work, through health promotion and improved mental health outcomes involving job retention services for employees, the unemployed and incapacity benefit claimants. The programme has worked with over 200 people, so far and achieved a 90% success rate, supporting employees in retaining their job during 2006. Two recent examples are given below in Appendix 1.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

- Any perceived reduction in central control over service delivery can be minimised through the stipulation of mutually agreed standards and performance indicators. If the assessment criteria are thus seen to be fair and rigorous, the scope for concern could be safely minimised.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

- The state needs to improve its commissioning expertise and avoid involvement in operational activity.
- Ensure, through the use of Key Performance Indicators, the third sector is empowered to deliver and make use of its existing expertise.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

- Previous examples have highlighted this as an area of weakness for the state and needs improving.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

- Competition should not focus on price alone, rather value for money. As such, services provided by the Third sector may not be cheaper, but through competition offer improved value for money to both the service user and commissioner.

(b) *Are there “hidden costs” such as contract oversight?*

- Yes, though all contracts have an element of hidden costs including existing services provided by the public sector.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

- The Freud review, commissioned by government actively encouraged the greater use of private and voluntary sector resources and expertise for harder-to-help benefit claimants.
- There needs to be competitive neutrality within the public sector, otherwise there wouldn't be a level playing field.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

- Smaller third sector organisations may require more support, though be able to generate innovative solutions.
- Allowing the third sector to deliver more public services would benefit the user group as it would bring the service users and service providers closer together in the market place.

APPENDIX 1

JOB RETENTION CASE STUDIES

NHS Trust

Dave

Dave contacted Healthy Minds At Work Wellbeing Centre (HMAW) who referred his case to Steve, a Job Retention Case Manager.

Dave had been on sick leave for six weeks suffering from depression and alcohol abuse. His GP had diagnosed medication but was not aware of the alcohol abuse problem.

The Case Manager contacted Dave who had tried other organisations for help with no success.

Dave was in an extremely emotional and distressed state about his drinking and also was concerned that if problems were not resolved it would result in his termination of employment. Dave was unable to even complete simple tasks like personal hygiene, and couldn't see an end to his situation.

The Case Manager suggested some counselling and suggested that he talk to his GP about his drinking problem. Dave was given some focused advice with a few simple tasks to complete every day. The Case Manager contacted Dave every morning to check whether tasks issued day before were completed and to suggest more tasks for that day.

Dave was given medication from his GP to help tackle the drinking problem and received face to face counselling sessions. Within two weeks there was a marked improvement. Dave stopped drinking and in his own words "could see light at the end of the tunnel".

Dave remained on sick leave for a further two weeks, and then returned to employment.

Dave's employer was unaware of the Case Managers confidential intervention with Dave, but without his involvement, Dave would have been on sick leave much longer and faced his employment being terminated if his issues weren't resolved.

Large Retail Organisation

Sheila

Sheila was suffering from depression with frequent absence levels under threat of losing her employment. Sheila was issued with medication from her GP to overcome her depression. Unfortunately Sheila suffered from a number of side effects to the medication, affecting her performance and attendance at work.

The Healthy Minds At Work team (HMAW) were contacted by Sheila to intervene and help prevent her employment being terminated.

The Job Retention Case Manager contacted the company to advise on reasonable adjustments, as outlined under the Disability Discrimination Act, that may accommodate Sheila's needs.

The Company had no programme in place and were not aware of the help, advice and support available to employers for employees suffering from stress, anxiety and depression.

Working with the employer, the Case Manager created a Return to Work Plan which enabled Sheila to have a staged return over a three month period.

The organisation was pleased with the Return to Work Plan, since it enabled Sheila to work with reduced hours rather than on sick leave.

Sheila returned to her normal hours after three months and has successfully integrated back into the workplace.

March 2007

Memorandum from Richard Molineux

We would like to bring attention to the deficit in financial management knowledge and skills in smaller and medium sized charities (TO less than £500,000).

These charities and community programmes are funded by statutory funds to a significant extent.

Community Accountancy Self-Help, a client, works with c500 of these a year, training people to keep books, manage accounts, and inform trustees/boards in comprehensible ways of where they are going financially.

There is, essentially, no statutory funding earmarked for financial training to go alongside grants made for example community cohesion projects, or work with BME groups.

There are only 109 trained community accountants in the country, largely concentrated in London.

This is a big gap, and the result is that investment is wasted, or mis-spent, or stolen, or even not taken up, because groups are afraid to take on financial responsibility when they have no training in this field.

We attach two examples of what is meant.¹⁸⁰

There is research done by Sheffield Hallam University available if it would be helpful.

Also, see www.cash-online.org.uk

¹⁸⁰ Not printed

CASH CASE STUDIES

Baby & Toddlers Learning Alliance

Baby & Toddlers Learning Alliance run nurseries, mother and toddler clubs, and summer play schemes. Their role is to provide learning environments for small children, encourage play and interaction between toddlers, reduce isolation felt by many inner city mothers and provide information on health access and other related topics for new parents. The scheme operates in outer London on council estates where low skilled workers were relocated from central London in the 1970's.

Following a mail shot we were asked for help. On our first visit we found an organisation with very well kept books, which appeared to have five branches—nurseries and other sites for parent and toddler groups. Some funding was for specific sites and costs had to be apportioned out to different projects. The Bookkeeper used a system of coloured pens, one for each site to track the apportionment of costs. There is a certain amount of synergy between coloured felt pens for bookkeeping and pre-school learning. The problem she had was that they had received money from a government scheme Sure Start and now had 38 branches—she could not find 30 different coloured pens for allocating all the costs. Their staff had increased to 80 largely part-time workers many of whom worked on several sites. Allocating the cost of time to different sites and payroll was taking two weeks to a month.

CASH computerised the accounts with Quick Books, set up an Excel file for allocating staff time and encouraged the charity to use a payroll bureau and pay by BACS. This reduced the two weeks spent on payroll and cost allocation to one hour a month. We set up a system to help apportionment of partial VAT exemption, which is always very complex and devised a way of getting Quick Books to produce a Charities Act SOFA (Statement Of Financial Affairs) from a profit and loss account using automatic journal entries.

The project had experienced a huge growth in transactions, but by computerising and stream-lining procedures they managed to continue with the existing bookkeeper who later became the finance director. We worked with the project on a step-by-step basis for a year improving different aspects of the systems and training the book-keeper, we now visit occasionally if they get stuck and have a few outstanding improvements to add including—changing banks to earn more interest and computerised cheques to reduce pen-pushing. The children now keep all the coloured pens.

Outside Chance

Outside Chance works with young offenders when they leave prison. The majority have convictions for burglary or violent crime. They come into contact with the charity while inside (prison) hence the name “Outside Chance”—a chance of surviving legally on the outside with a starting sum of £60 for food (one weeks supplementary benefit) and guidance from the charity.

CASH was approached early on to work on the first budget. We put in a system for filing financial papers that reduced paper work. CASH drew up the early management accounts, and helped with the preparation for the Independent Examination, all the time training the bookkeeper to take over these responsibilities. We now visit twice a year.

The Charity has now set up a book distribution company—supplying prisoners who are studying in prison.

It also provides employment to ex prisoners.

Outside Chance works with about 500 people a year, and has reduced significantly the number of muggings and burglaries in parts of London.

Their Director, an ex-businessman, encourages offenders to cost their time in prison against the money they have gained from crime, and to work out the hourly rate for what they have gained. One prisoner said, “The cameras and anti-burglary devices he brought in (to prison) were good. Can't see me re-offending. Just ain't worth it.”

The director said of CASH—“Their accountant was the most significant person providing outside support. CASH has always given the right steer and been there to answer questions when needed.”

(Parts of these case studies have been changed to maintain anonymity)

February 2007

Memorandum from Rotherham Metropolitan Borough Council

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

Our experience in transferring low dependency day care has resulted in maintenance of quality standards and value for money. This has been evidenced through a Best Value review of community services.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

We do not believe there will be a loss of accountability with effective contract management and monitoring arrangements in place to ensure individual outcomes are met. Responsibility for meeting individual needs will still be retained. The introduction of Direct Payments and Individual Budgets gives greater choice and control to service users enabling them to retain a degree of accountability and risk.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Yes—evidence from contract monitoring and service user forums. This is particularly true of services providing advocacy, self-advocacy, leisure and employment support particularly for people with learning disabilities.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

We are unaware of specific evidence. Service users tend to choose and value a service irrespective of the provider as long as their needs are being met. However, from time to time a very small number of service users or their carers will express dissatisfaction with their current support arrangements and at these times, alternative services through voluntary and independent sector organisations have met the need. On occasion service users have come together and considered establishing their own service, eg advocacy services.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

Some third sector organisations have traditionally provided services geared towards lower level prevention and specialist service needs that local authorities have been unable to meet. This is particularly true of advocacy services, but is less true of services providing larger services such as supported living, residential care etc where services often seem to struggle to meet the changing national agenda and changing needs of service users. In many cases, request for additional staff support (and therefore funding) are made to meet challenges, rather than seeking to provide more creative and appropriate options.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

We consider there is a mixed picture dependent on the nature of the service and particular market. Given the shift towards higher criteria for access to services it could lead to less scope for innovation. Given the correct contracting environment, services such as Rotherham Speak Up, have been able to develop their service, to attract further funding, to develop as a leader within the national agenda on support for self—advocates.

Large third sector organisations can also draw on experience and innovation projects in other areas of the country.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

Potentially yes, provided there is long term planning and funding commitments. The provision of three year contracts would provide the opportunity for some organisations to build on and develop new service models such as user-led social enterprises. Projects such as these require significant lead in time, and as such a longer contract provides the ability to develop. The role of third sector support organisations such as Voluntary Action Rotherham and the development of a local Compact can assist development of the sector and also prevent “fall out” when third sector organisations may be competing for the same funding.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

We consider there are strategic questions to be considered by individual third sector organisations. For large third sector organisations it will be possible to manage both service provision and campaigning. For smaller organisations it may require decisions as to the key aim of the organisation and how this may be funded.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

This largely depends on the nature of the contracts with the third sector—in some cases, services are required to comply with the national minimum standards, and a certain amount of “bureaucracy” is required.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

There is a risk but each organisation will need to address their primary function and strategic direction.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

There is a risk. From a commissioner's point of view it does not matter as long as individual needs and outcomes are met. From the perspective of service providers it can provide more sustainable funding but for smaller campaigning organisations it could affect the availability of funding and therefore viability.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

No, we consider that the state will retain control through commissioning strategies and contract management. We consider that in this way the state will continue to meet its duties to arrange provision as opposed to providing services.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

The state will need appropriate commissioning structures, funding and regulatory capacity. An ability to work with the sector, a willingness to be transparent and an understanding of the pressures on the sector are equally important.

The state will also need an effective understanding of how providers operate and structure their business (including operating costs and profit margins) and also a very real understanding of the outcomes required by service users and how providers might achieve these, in order for the state to direct service provision in the required direction. Good providers will provide creative solutions, less good providers will fall back on established methods which may not be person centred or meet the outcomes desired.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

Assuming the question means duplication of a third sector provider with several authorities, then a sub regional response to commissioning would avoid duplication and provide efficiencies in relation to very specialist services. Similarly, joint commissioning between health and social care can also contribute to avoiding duplication.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

We feel that local authorities have been developing their skills in this field since the introduction of Community Care in the early 1990s which may not be as evident in health services. There is still a lot of work to do around performance management, ensuring that outcomes for service users are achieved, ensuring that targets are met, and ensuring that services develop in line with national principles, values frameworks etc.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

Yes, for some dependent on the market, due to current differences in terms of conditions between the state and third sector organisations, overheads and access to funding streams. For some third sector organisations these may not be so different

(b) *Are there hidden costs such as contract oversight?*

We do not believe there are as currently service provision is overseen anyway both in-house and externally.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have “competitive neutrality” between public, private and voluntary sectors?*

We believe there should be a “level playing field”.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

We feel generally that the costs of commissioning from the third sector ought to be less than from the private sector as there is no profit element, less overheads etc. This assumption needs to be examined, however, in each case as; simply providing a service through the third sector will not always guarantee cost effectiveness. Some services, including day services for people with learning disabilities, can be more costly within the third sector.

March 2007

Memorandum from Swift Health Promotions

Further to the Committee’s deliberations on the role of the third sector in providing directly commissioned services, the following evidence is submitted in response to the specific questions raised.

A. EXECUTIVE SUMMARY

- (i) The third sector continues to have a key role in the development and delivery of public services.
- (ii) The *raison d’être* of third sector organisations should not be compromised by the commissioning process. Contracted services are distinct and it behoves both parties to protect brand integrity.
- (iii) Larger, representative third sector organisations could be commissioned to manage local service delivery, with smaller organisations being sub-contracted accordingly.

B. BRIEF INTRODUCTION TO SUBMITTER

- (i) Julia Hobbs MSc, BA, FRSH is a Trustee of Denbighshire Voluntary Services Council and owner of a third sector consultancy business—Swift Health Promotions.
- (ii) In a career spanning 20 years, she worked in NHS strategic management, prior to taking up a charity chief executive post. Through Swift Health Promotions, she is working with the Director General of Help the Aged to promote outcome-focused, integrated care commissioning for older people. She is a past winner of an UnLtd award for social enterprise.
- (iii) Her particular expertise is in health service commissioning, public health issues, including Health Impact Assessment and charity management. These perspectives inform the submission of this evidence.

C. FACTUAL INFORMATION—RESPONSES TO QUESTIONS

1. *What are the benefits of contestability to the users of public services?*

Contestability should ensure the seamless delivery of needs-matched public services to users. If the competitive programme is well managed and focused on outcomes, numerous enhancements to service delivery can be sought, thus:

- Choice, where choice is desirable and an appropriate commodity.
- Range, where provider capacity is the only restriction to meeting user needs.

- High quality standards, assessed through the efficiency and effectiveness domains of evidence-based best-practice, customer satisfaction, financial control and risk management.
- Geographical convenience. Though local provision is always desirable, good transport links or an integrated travel service can lessen the burden of distance.

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

This entirely depends on the nature and scope of quality measurement and the baseline from which quality is assessed. For third sector organisations with specialist interests, products and services are restricted to the focus of expertise. In order to compete, standards are rigidly monitored to drive the ongoing process of quality improvement. For third sector organisations with generic interests, the range of products and services brought to market can appear unstructured and haphazard. Nevertheless, the quality drivers revolve around offering a user experience of the services or products in a manner that surpasses expectations. Both quality impacts have their place. The highest standards are achievable when an organisation has a specialist interest in a client group and is sensitive to the changing requirements of this cohort, adapting products and services accordingly.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

Responsibility can be delegated, but accountability is retained. The commissioning process can establish this delineation in consultation with its contractors. Please see question 4c for an example of how responsibility and accountability can streamline the contracting process.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

Service provision should be seamless; that is one of the goals of contestability.

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Not for profit organisations tend to be visionary in outlook and values-driven in nature. While the vision supplies the organisational destination, it is the values that inform their brand. In many respects, values provide the “feel good factor” and they can be as simple as reliability, trustworthiness and politeness. In customer satisfaction terms, these add to a positive experience. Anecdotal evidence almost always reflects the evidence gathered in service evaluations—that the services are consistently and persistently popular. The validity of the data is open to interpretation, as some people make positive comments to express gratitude for a service rendered even when the delivery was poor.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

The best evidence of demand for more services to be provided by the third sector is the swamping of existing services. Unfortunately, commissioners have been slow to recognise that demand-management processes by service providers can be translated as unmet needs. The data might be unrecorded, as there are no financial incentives to collate information on unmet needs.

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

Please refer to the notes for 1(a). Not for profit organisations are committed to changing needs and in many cases are able to respond swiftly. Clearly, rescue organisations thrive in emergencies, but they are not unique in their dynamism. They tend to be client-focused and there are fewer operational and political limitations on the help and support they can provide. Decision-making is rapid, especially during crises. Furthermore, not for profit organisations can rely on the passion, enthusiasm, generosity of spirit and entrepreneurialism of their workforce (paid or unpaid) in identifying and meeting changing needs.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

(i) The public service dilemma in contracting with the third sector arises from their relative strategic status. Public sector strategy is unyielding, in that its budgets, plans and commitments are entirely fixed. Whatever “innovation” demands are placed on the sector, there is no escaping the financial, structural and operational rigidity through which services can be contracted or delivered. Despite the near permanence of political restructuring and direction, public sector organisations are rooted in their welfare state history and

the expectation that what was done then can and will be done today. For all its ambitions, the public sector is largely driven by endless operational objectives. Targets-based performance monitoring and management are recognisable manifestations of this culture.

(ii) Third sector strategy, in contrast, is mutable. Though historically they emerged in response to the cause or symptoms of crisis most voluntary organisations, charities and social enterprises are experimental in nature and future-focused in direction. As the environment changes, the successful organisations adapt. In the process, many have made the painful decisions required to meet current and future needs. The key difference is that they have acted upon the decisions by making the changes.

(iii) Regrettably, few commissioning organisations have managed to build a flexibility clause into their contracts, so not-for-profit organisations have been unable to meet changing needs within budget. Some organisations are able to meet these needs through their own fundraising efforts, if allowed. It is more likely that they will be penalised for extending beyond their contractual obligations, than rewarded for their creativity, adaptability and needs-sensitivity.

(iv) Until this aspect of the commissioning process can be reconciled, the scope for innovation is small and voluntary and charitable organisations will continue to push boundaries without public sector backing.

3. *Does commissioning benefit the third sector?*

A well-managed, consultative commissioning process can bring enormous benefits to the customer or recipients of third sector services. Even with full cost recovery contracts, compensation for the provision of public services is partial. This is not unreasonable, as it allows third sector organisations to continue their extraneous activities without conflicts of interest.

(a) *Will contractual relationships with the state improve stability within the third sector?*

(i) The provision of public services should fall outside of, though aligned to, the day-to-day functioning of the third sector. Dependence on the public sector for overall stability should be a cause for concern by both parties, as independence is the key to ensuring diversity in service provision.

(ii) The destabilising effects of contractual relationships are linked to commissioner short-termism and delayed decision-making and to the failure to ensure full cost recovery by either or both parties.

(b) *Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?*

(i) The *raison d'être* of third sector organisations cannot be compromised by a contractual arrangement to deliver public services. Drawing attention to failures in government policy and campaigning for improvements are essential facets of representative and research-based organisations.

(ii) Not all third sector organisations will seek to provide public sector services. Those that do will be subject to rigorous monitoring to ensure they deliver the required outcomes. Even the most radical and critical third sector campaign groups, if they so choose, can bid to provide services. Their ability to generate desirable results could provide the impetus for major change in government policy.

(c) *Is there a risk that the service providers will become increasingly bureaucratic?*

(i) Please see question 4(c)(i). Increasing bureaucracy is a feature of modern life and it is right that all organisations that provide a welfare service should adhere to like employment, financial, technical/clinical, risk management and governance standards.

(ii) It is within the gift of commissioners to minimise the extent of unnecessary or wasteful bureaucracy on third sector organisations. Likewise, it behoves third sector organisations to manage their internal processes to provide resource-efficient services. Overall, it is more efficient to contract with large representative organisations who can then subcontract with smaller and local providers.

(d) *Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?*

(i) Third sector organisations need to have a strong identity and brand awareness in order to survive. This is not the same as recognition-awareness. Brand awareness means an internal understanding of the organisation's vision, mission, goals and ethos. It also reflects operational standards, campaign priorities and even a way of life for stakeholders. There is no reason why these should be sacrificed by public sector commissioning.

(ii) There is one exception; third sector organisations that exist exclusively to deliver publicly-funded programmes. Despite appearances, they are already dependent but they have much to lose as the public sector itself changes.

(e) *Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?*

Please see 3(b)(ii). In many respects, this polarisation already exists and it is entirely appropriate that it should do so. Yesterday's radicals are today's philanthropists; today's radicals could well be tomorrow's saviours. Radical groups remind us of ever-present concerns; they bring discomfort in their critiques of service providers and they force a level of introspection that slowly delivers change. There is no reason why large, service providing organisations should not retain their own radical edge. Public sector contracts are not a substitute for organisational purpose.

4. *Does commissioning services from the third sector have any benefits for the state?*

Many public sector leaders have introduced the concepts of vision and values into their organisations, with a near-universal lack of success. They might motivate staff and help board members feel connected, but ultimately the public sector is at the mercy of politics and therefore lacks the self-determination inherent in the third sector. However, the public sector can benefit from third sector philosophy.

(a) *Does the state risk losing control of service delivery in a way which might be damaging?*

(i) Damaging to whom or what? The client? The third sector? The public sector? Government? The population? The state has long since relinquished control of many services; it is part of the natural evolution of change.

(ii) Risk is manageable; containing risk is not. The public sector has a duty to meet the needs of the population in ways that are fair, equitable, cost-effective and fit for purpose. It is only through these means that risk can be minimised.

(iii) Third sector organisations are similarly motivated, with the added dimension that they must attract public donations. It is not in their interests to damage brand status through the provision of poor services.

(b) *What capacity will the state need to ensure that it can be an intelligent customer of services?*

(i) It is imperative that the state can agree clear, strategic performance indicators with third sector organisations. It has the capacity—and indeed, the necessary culture—to achieve this goal. The state can and should determine benchmarks for assessing trends, successes and shortfalls in meeting objectives and these must be practical, reliable, repeatable and replicable. Performance indicators have to be valid, measuring only the outcomes and impacts they are intended to measure. Above all, they should be sensitive to change.

(ii) In order to be an intelligent customer of services, the romance with targets has to end. Target-setting is rarely appropriate, other than for simple, mechanical processes. In public service, a multitude of human variables can confound the targets issue and for the health and care sectors in particular, placing target achievement ahead of all other factors is ethically burdensome.

(c) *How is duplication of effort in order to monitor and manage contracts best avoided?*

(i) There is considerable merit in letting contracts to third sector organisations that offer economies of scale. In the voluntary and charity sectors, the enormous diversity of organisations can be overwhelming and the competition for scarce resources is wasteful to all parties. The commissioning cycle can be a bureaucratic nightmare for smaller organisations as they pitch against their natural allies and expend time, energy and money they can ill afford, in the hope of gaining a modest return. Having set clear performance indicators, the state should invite national voluntary and charity sector organisations to submit their proposals to deliver outcomes in partnership with stakeholders. Small or locally-based organisations are not excluded from this process, as the onus is on the national organisations to sub-contract aspects of product or service delivery to ensure full coverage.

(ii) For example, Help the Aged could be commissioned to provide all products and services that enable older people to live independently in their own home within one or more regions. The range of products might include assistive technology and home aids, while the range of services might include home and garden maintenance, falls prevention advice, visiting and befriending schemes, hospital at home and end of life care at home. In accepting responsibility for monitoring and managing this contract, Help the Aged would also be accountable for its effective delivery by sub-contractors. In the first instance, paperwork would inevitably increase, though in the longer term duplication of effort would be minimised if not eradicated.

(iii) A key advantage of this approach is that the brand integrity of the individual sub-contractors would be protected and maintained, though clearly poor performance or low quality might put the sub-contractor at risk.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

(i) Bidding is onerous and contractual obligations are defined too early within the commissioning process. Commissioners have much to learn from the voluntary and charitable organisations that seek to provide state-funded services. They have considerable experience in filling gaps left by inadequate public sector provision. They consult widely with their stakeholders and they understand the priorities, needs and expectations of their consumers.

(ii) Commissioners have geographical and philosophical priorities that aren't necessarily at odds with other sectors. Unfortunately, third sector organisations often find themselves competing for an identified budget allocation for the sector, ring-fenced or otherwise. This sector-oriented budget allocation is contrary to needs-led purchasing, yet it is often the norm. This increases competition within defined sectors, so for example, several dissimilar charities will vie for a share of the pot. There will be winners and losers in that process. However, the state should be commissioning on behalf of its population. It is the needs of the people that should dictate commissioning, not the business nous of available organisations.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

State service disinvestment is as immensely unpopular as public sector wastefulness. The present pattern of public sector provision is unsustainable, however, so something has to change.

(a) *Are services cheaper to provide?*

It is not appropriate that third sector services should be cheaper to provide; it is the cost-benefits that make the difference, as briefly described in question 6.

(b) *Are there "hidden costs" such as contract oversight?*

All contractual arrangements should be scrutinised at the outset, to prevent or negate the effects of oversight. Cost control is key and this should form part of a two-way process.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?*

Competitive neutrality is a worthy goal but is only achievable when access to public sector provision is unrestricted. In the meantime, commissioners need to develop their capacity to work flexibly with third sector partners in the pursuit of service delivery excellence.

6. *Are the costs and benefits to the state the same when commissioned from the third and private sectors?*

(i) The costs and benefits are different. Third sector organisations are not motivated by profit, while clearly the private sector has to make sizeable profits in order to compete. Third sector providers are more likely to be trusted by the general public—who, after all, pay for the services they receive. Private organisations are less trusted, particularly as there is a perception that they are a part of a drive to dismantle the welfare state.

(ii) The private sector is capable of producing high quality services, attaining excellent standards. These successes are far less likely to receive the publicity afforded poor service delivery, especially when that poor delivery is linked to individual harm or suffering. Efficiency savings and service cuts in the private sector tend to result in a downturn in quality and the immediate withdrawal of provision to clients, while financial rewards for shareholders and directors remain buoyant. Efficiency savings and service cuts in the third sector tend to result in the maintenance of quality for as long as possible, but with concomitant cuts in working hours, salary or both. Volunteers are likely to fill the shortfall, while donors are encouraged to dig deep. This is wholly unfair, but reflects the sad reality.

(iii) As for benefits, third sector organisations usually draw on an army of volunteers—an unpaid, skilled workforce that at minimum wage levels would dramatically increase the cost of public services. The third sector provides added value in the form of specialist products, information, research data, educational resources and training materials. It adds considerably to the knowledge-base of society, including sponsoring academic posts and drawing public and political attention to hidden issues through lobbying and high-profile media and cause-marketing campaigns.

D. RECOMMENDATIONS FOR ACTION

(i) That commissioning of integrated third sector services becomes the responsibility of larger, representative third sector organisations, in partnership with the public sector, where the capacity and interest exists.

(ii) That commissioning of third sector services is outcome-focused.

(iii) That commissioning of third sector services is discrete from the usual strategic and operational outputs of the organisation.

(iv) That commissioning of third sector services rewards innovation, flexibility and exceptionally strong performance in meeting needs.

February 2007

Memorandum from Together

The following response is based on the experiences of a voluntary sector organisation providing services as contracted by London Probation and other statutory commissioners in health and social care.

CONTEXT

Together is a leading national charity working for wellbeing supporting people with mental health needs. The organisation provides a range of services across the UK; by campaigning and undertaking research; and by educating local communities about their own mental health needs.

One of the services operated by Together is the Forensic Mental Health Practitioner Service:

The service is operational within eight London boroughs, utilising nine forensic mental health practitioners, with the aim to help and support offenders with mental health needs within London Probation, Magistrates Courts, HMP Wandsworth and the Drug Intervention Programme in Hammersmith & Fulham.

The service provided focuses on:

- first level mental health assessment and triage service for mentally disordered offenders in court and, when appropriate, recommendations to facilitate diversion into health care;
- mental health assessments of offenders under the offender management of probation, signposting into (or back into) services and provision of short-term interventions;
- an advice and liaison service to both Probation and Court staff;
- a specialist mental health assessment and intervention service to offenders as part of the Drug Intervention Programme;
- an anger management service to users of community mental health services;
- an assessment and intervention service to remand and short-sentence prisoners with mental health needs; and
- a mental health advice phonenumber to London Probation staff working in boroughs where there is no direct practitioner service.

1. *What are the benefits of contestability to the users of public services?*

(a) *Have services which have been transferred to third sector organisations shown improvements in quality?*

In the case of the Together Forensic Mental Practitioner Service (FMHP Service), service-users now have access to specialist support as part of their offender management by London Probation (LP). Improvements in quality of the service provided include enhanced and more effective communication between services, which is co-ordinated by the Forensic Mental Health Practitioner (FMHP) to ensure that clients, who are frequently marginalised and excluded from services, can access and receive the help from local services that they need.

(b) *Is loss of accountability a threat of commissioning services? If so, how can this best be managed?*

London Probation is one of the main commissioners of the FMHP Service (along with other statutory stakeholders such as PCTs and NHS Trusts across London). As the FMHP Service is working closely and in partnership with London Probation, accountability and responsibility is shared, but decisions in relation to issues of enforcement remain the responsibility of London Probation. Ultimately, accountability remains with the Offender Managers.

Contractual arrangements between Together and London Probation very clearly sets out who is accountable for what in relation to the management of offenders with mental health needs. These arrangements, which include operational and practice-based agreements such as how information is recorded and shared, are kept under constant review through quarterly contract meetings and ongoing liaison between the Together Service Manager and the LP Commissioner.

2. *Is the third sector more likely to provide better public services than the state or the private sector?*

(a) *Is there evidence that where services are provided by the third sector, that they are popular with those that use them?*

Service-users who have had contact with both the mental health and criminal justice systems have often experienced a significant degree of social exclusion and disadvantage. These experiences may be as a result of their social circumstances, including traumatic and abusive past events, or may be a direct result of the discrimination that they have encountered at the hands of agents of these two systems. Third Sector organisations are well positioned in order to advocate on behalf of these service-users and to encourage their engagement and support them to sustain their engagement with services once their care pathways have been identified.

The primary aim of the Together Forensic Mental Health Practitioners working within the courts, London Probation and HMP Wandsworth is to facilitate a trusting alliance with service-users, which often requires a level of creativity and flexibility that is not available to the statutory sector. This more person-centred, rather than system-centred approach, validates the experiences of the service-users and increases their confidence that they will receive the support and help that they are seeking.

(b) *Is there evidence of demand for more services to be provided by the third sector? If so, who from?*

(c) *Do public services provided by the third sector more accurately reflect the changing needs of those that use them?*

Offenders with mental health needs who are in contact with the criminal justice system have long since had their needs neglected through lack of statutory resources, such as poor diversion out of the criminal justice system and into (or back into) appropriate healthcare. It could therefore be argued that it is not always the case that service-users needs have changed, but that we are recognising that public services have been failing in their duty of care to meet those needs.

In the case of the partnership between London Probation and the Together FMHP Service, there was an explicit recognition that London Probation did not have the specialist resources available to meet the needs mentally disordered offenders and that Offender Managers were also struggling to access local mental health resources on behalf of their offenders.

(d) *Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?*

The Together FMHP Service has been pioneering an approach of undertaking the direct supervision of offenders with mental health needs who are under the offender management of London Probation. This is in recognition of the criminogenic needs of offenders, that some offenders commit offences as a direct result of poor mental health and that diversion out of the Criminal Justice System is not always possible or appropriate. By undertaking the direct supervision of those offenders, with the offender management remaining the responsibility of London Probation, their needs may be more effectively met with the aim of reducing their risk of re-offending, improving their mental wellbeing and reducing the burden on both London Probation.

This is also particularly evidenced by the increasing acknowledgment that offenders with personality disorders, who often present with distressing, destructive behaviours and problematic personality traits, challenge agencies' capabilities to manage and treat their symptoms and behaviours. Specialist case management as part of their offender management and improving the co-ordination of services, is more likely to lead to better risk management and a decrease in the risk of harmful behaviours either towards themselves or others.

3. *Does commissioning benefit the third sector?*

(a) *Will contractual relationships with the state improve stability within the third sector?*

The current contractual relationship between London Probation and the Together FMHP Service has been agreed for a three year duration. Previously, the agreement was reviewed on a yearly basis making service planning and development more problematic. In essence this arrangement has increased the stability for over half of the funding of the service, although a clause in the contract allows for termination of the contract by LP giving a period of notice. The relationship has also allowed for closer working practices

between Together and London Probation, with the Together service more accurately demonstrating that it is supporting London Probation to meet its targets and responsibilities in relation to offenders with mental health needs.

Service Level Agreements with other commissioning bodies, such as the PCTs and Mental Health Trust, are generally more at risk to cuts or withdrawal in funding particularly in the current climate. As the FMHP Service operates in a number of different London boroughs, the risk varies as grants may be reviewed on an annual basis or a three-year period. Limited or no annual inflationary uplift is also a common feature, which may contributory factor to deficit budgets for proceeding years.

(b) Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

(c) Is there a risk that the service providers will become increasingly bureaucratic?

In order to demonstrate effectiveness of service provision through demonstrating positive outcomes and value for money, organisations are already involved in a certain amount of bureaucracy. However, this is essential to promote good practice. If anything the closer involvement with service provision by the Together service with London Probation and other key stakeholders, the more focused the service has become in terms of raising standards and striving to providing a high quality service and providing the evidence that we are achieving our aims and objectives.

(d) Is there a risk that third sector organisations will lose their independence, their identity or their distinctive ethos?

In the case of Together, as one of the main national mental health charities in the UK, the infrastructure of the organisation which has a distinct focus on service-user involvement and campaigning (for example as part of the Mental Health Alliance) provides the kind of framework that allows services to maintain their independence and integrity. This may be more problematic for smaller organisations.

(e) Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

The third sector in general has always fulfilled a vital role of agitating for change and pricking the social conscience of the state and within that there have always been more radical groups who have driven the agenda, particularly in key areas such as social exclusion and discrimination. If large organisations predominantly provide the services, there is a real risk that these smaller groups will not survive. This is why initiatives, such as the LankellyChase Foundation/Tudor Turst focusing on supporting smaller organisations in the South West in the NOMS process, are key to ensuring that innovation and creativity is not lost from the third sector.

4. *Does commissioning services from the third sector have any benefits for the state?*

(a) Does the state risk losing control of service delivery in a way which might be damaging?

In the case of the Together FMHP Service and providing specialist support of offenders with mental health needs, the statutory responsibility remains with London Probation even if some of the legal requirements are undertaken by the Together practitioner. Agreed protocols, such as around information sharing, ensures that the Offender Manager is fully aware of the service being provided to the offender, the offender's engagement with that service etc and, thus enables the Offender Manager to ensure that the statutory responsibilities are being fulfilled.

(b) What capacity will the state need to ensure that it can be an intelligent customer of services?

(c) How is duplication of effort in order to monitor and manage contracts best avoided?

Through a single point of contact and through agreed expectations in terms of the kind of data required to effectively monitor contracts—for example, the Together FMHP Service is required to provide monitoring data to London Probation and a number of PCTs and MH Trusts across London. Agreement was recently reached in terms of what each of the commissioning stakeholders required in terms of measuring service outcomes and how this could be incorporated into one set of monitoring requirements. This has primarily been facilitated through a working group from Together and London Probation and aims to avoid undue time being spent on producing different sets of monitoring data for each stakeholder. Piloting of the new monitoring practices further allows for each commissioner to review and comment.

(d) *How good is the state at managing bidding processes and defining contractual obligations when commissioning services?*

Practices vary greatly and some support to manage the process of commissioning through defining standards would be helpful to ensure transparent processes, value for money and good outcomes for service users.

5. *What are the financial implications of providing services through the third sector compared with directly provided state services?*

(a) *Are services cheaper to provide?*

Commissioners shouldn't expect third sector organisations to be cheaper—Together expects to demonstrate value for money and we should be judged on this as well as service quality. It is right that we should expect to recover our full costs from contracts—something that most third sector organisations are saying that they don't do on most contracts at the moment.

(b) *Are there "hidden costs" such as contract oversight?*

Yes, contract oversight is a cost.

(c) *Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?*

This may well depend on the kind of services that are required. As already outlined, the independence of the third sector can be particularly attractive to marginalised and socially excluded service-users with the result that they may be more likely to engage with services provided by the third sector than by other sectors. If services are designed to be responsive to the needs of the service-user, financial rules may well be required to support the benefits that the third sector brings to service provision.

February 2007

Memorandum from Tom Levitt MP

The third sector has a long history of providing public services. Ever since charities began, the voluntary collection of funds to spend on services which make life better for those in a state of suffering has been regarded as a "good thing" and something to be encouraged. Even hundreds of years ago hospices and hospitals were provided in this way, a hundred years ago it was social housing and today it could be almost anything.

In that sense it is the public sector which has arrived late at the feast. As it grew in power, reach and wealth throughout the 20th century it became the dominant force; taxation rather than charity became the embodiment of "from each according to his means to each according to his needs".

We have passed through an era in which the swing of the pendulum dictated that we could provide public services without relying too heavily on the voluntary sector, though it has never gone away.

Today there is a strong political belief both within government and outside that what we can achieve when the public and voluntary sectors work together is more than the sum of its parts; that the third sector can bring mission qualities to an enterprise that the monolithic state cannot nuance alone; and that communities which at least influence, at best deliver local services themselves are sustainable, cohesive and happier than those that merely receive.

A marriage is therefore assumed: but the nature of the dowry is proving a challenge. There are several bones of contention:

Who decides what services are needed?

The public sector traditionally makes this decision, with the occasional nod in the form of grant aid to local good causes. Notable exceptions include, of course, guide dogs for the blind and lifeboats, services in which there is no formal public sector involvement.

Ultimately, no plan can be sufficiently comprehensive to provide services to respond to each and every identifiable need. The beauty of the third sector is that it can create and evolve services organically in direct response to local need, when necessary on a timescale the public services might regard as unreasonably rapid.

Over the years various third sector organisations have developed areas of expertise in service delivery. They have grown in size and reputation as cost effective service providers to meet various readily defined needs. The public sector has recognised this and bought into it, literally. Health and social care, for example, now account for a third of all the services provided by the third sector.

A partnership of equals?

Despite heroic attempts through service level agreements, compacts and even seats for volunteers on Local Strategic Partnerships, we do not have anything like a partnership of equals between public and voluntary sectors. The Local Government and Public Involvement in Health Bill, currently before Parliament, has the potential to address this.

The public sector has the last word on deciding on the cost of a service. Of course it will often be possible for a voluntary organisation to provide a service on a more cost-effective basis (for the commissioner) than the comparable service could be obtained from a private source, even if it were available. But the commissioner is not looking for a service identical to that on offer from 'traditional' sources; whilst from the provider's point of view the service should both reflect the organisation's mission and have the flexibility to bring new benefits to each individual service user. With increasing professionalism in the sector and the rise of social enterprises, greater competition amongst providers is inevitable.

Commissioners of services do not, on the whole, compete with each other for the favours of the providers.

Competition is a double-edged sword. Many voluntary sector organisations would be more than happy to deliver, on their own terms, a service compatible with their mission in partnership with the public sector. But to do so in a competitive environment, where the wrong outcome to a daunting funding process can destroy an organisation, causes many to hesitate before either holding their nose or stepping back.

If providing a service is part of a third sector organisation's mission then maybe there is an argument that the organisation could be providing this service on a charitable basis, without the need for a public sector partner. Whilst this is often not financially viable, the argument could be used to justify the commissioner meeting less than 100% of the provider's costs, but should it? Surely nothing can justify the fact that fewer than one voluntary sector service provider in eight provides services commissioned by the public sector on the basis of full cost recovery.¹⁸¹ This has to be addressed.

The length of service contracts or grant aid is also problematic. Local authorities themselves have until recently only ever been able to plan according to annual budgets, rendering them unable to guarantee funding to a third party for more than 12 months at a time. This argument, often employed disingenuously, makes it impossible for voluntary organisations to plan and invest for the longer term the more they become dependent on public sector funding streams.

What happens when needs change?

Picture the scene: a volunteer gets out of a van and takes a piping hot meal to a waiting elderly housebound person. They chat for a few moments and the volunteer, who is perhaps the old person's only visitor of the day, moves on.

The social services department then decrees "We want you to spend less time delivering meals and more time chatting, helping identify the needs of the most needy clients and identifying what more we can do for them." If they can cope, the clients are to be given a stack of meals at the start of the week, a freezer to keep them in and a microwave to heat them up, plus training on how to use it.

"No", say the volunteers, "We volunteered to deliver meals, not chat, we're not social workers!" and off they walk. This is exactly what happened in my county a few years ago. In different circumstances a "yes" might have brought about a fundamental change in the objects of the charity, mission creep, caused by the influence of the outside body. Neither response is intrinsically right or wrong, but this sort of choice has to be made by voluntary organisation service providers every day.

He who pays the piper . . .

There is a fear in the third sector that too close a relationship with the commissioner of services, not least because that body is ultimately subject to political swings, can be poisonous. The wrong word spoken could compromise the organisation's mission even when part of that mission is to campaign for a common and worthy cause. The commissioner, deliberately or otherwise, forces them to grow larger to pursue their part of the common goal, when their infrastructure cannot support this. They may be obliged to take on 'non-core' activities in order to subsidise their core mission values and the "non-core" activities may grow like Topsy and compromise the mission.

¹⁸¹ *Stand and deliver: the future for charities delivering public services*, Charity Commission, February 2007.

As stated earlier, bidding for a contract against a private sector provider or (heaven forbid) a social enterprise or a fellow voluntary organisation is anathema to many voluntary sector organisations. Not only does tendering require skills which may be alien to them but the concept of losers is not part of the sector's value structure.

There is a perceived lack of local funding for internal infrastructure and capacity building, with Capacitybuilders only seen as relevant to the sector's pinnacles and the Lottery's Reaching Communities fund being 10 times over-subscribed. Add this together and you have a sector which is becoming genuinely worried about the idea of "the bigger they come, the harder they fall".

CONCLUSION

Some magnificent things have been achieved by public and voluntary sector partners working together on service delivery. The roll-out of digital hearing aids, worth over £100 million, by the Department of Health in partnership with the Royal National Institute for Deaf People (RNID) is one of the most spectacular so far, yet most such achievements are local and small fry by comparison.

The relationship between the sectors has changed and will always be changing. Change is always more difficult to manage than stasis.

At a macro level, amongst what needs to be done is:

- for commissioners of services to commit themselves to full cost recovery in a meaningful and demonstrable way and for providers to have the capacity to calculate full cost recovery accurately and negotiate on that basis;
- for the third sector to be more involved in the strategic planning of services, identifying needs and prioritising spending and action, at government level down to Local Strategic Partnerships and Local Area Agreements, whether or not they are providing services locally. Good practice in partnership working exists and should be better disseminated, whilst commissioners should learn not to regard the voluntary sector as cheap or amateur;
- for funding to move as rapidly as possible to three-year minimum contracts for commissioned services (only less with good reason and by agreement), especially at local authority level;
- for greater levels of targeted funding to enable grass roots third sector organisations to develop the capacity to better negotiate and tender, together with developing the confidence to say 'no' when the need arises;
- for recognition by commissioners that whilst dealing with a larger number of smaller providers across a city or a county may be less efficient on paper than having a single larger partner, it could be the best way of guaranteeing the flexibility and diversity of provision that may be needed; and
- for third sector providers to accept that growing bigger does not always mean getting better.

All large voluntary sector providers started off small. As some grow larger, as they inevitably will, new and smaller ones will emerge in their wake, not carbon copies but groups with different missions in different landscapes. At a micro level these groups are seed corn and need to be nurtured. At the same time, the community sector—distinguished by its horizontal or geographical base rather than the classic vertical mission-based silos of the conventional voluntary sector—is emerging as a legitimate influence on localised service delivery within neighbourhoods. Its place in promoting cohesion, social inclusion and the development of social capital also requires nurture and support.

Ultimately, this partnership in service delivery does not relieve politicians and others of responsibility. It may dissipate the chain of responsibility but voters—which includes service users and providers alike—will judge their servants on the quality and appropriateness of the services that their decisions have created and their funding has sustained, as much in the future as they have in the past.

March 2007

Memorandum from WCVA

INTRODUCTION

1. WCVA represents, campaigns for, supports and develops voluntary organisations, community action, and volunteering in Wales.

2. It represents the sector at a European, UK, and national level, and together with a range of national specialist agencies, county voluntary councils, and volunteer bureaux, and other development agencies, it provides a support structure for the third sector in Wales. It has over 2,000 members, and is in touch with many more organisations through a wide range of national and local networks.

3. The third sector's involvement in public services has been the subject of extensive debate in Wales, particularly in the light of the Assembly Government's Making the Connections public service reform policy, and the independent review of local services undertaken by Sir Jeremy Beecham.

4. This response to the Public Administration Select Committee's inquiry into the Provision of Public Services considers the sector's contribution to achieving more citizen-led commissioning, as well as its contribution to service delivery. It reflects WCVA wide consultation with the sector on this subject in the light of the current public policy priorities in Wales, and its recommendations to the Welsh Assembly Government.

COMMISSIONING—DECISION-MAKING

5. Sir Jeremy Beecham's Review of Local Services in Wales emphasised in its recommendations the role of the third sector in "championing the voice of citizens and service users at every level".

6. The sector's involvement in commissioning is critical. It is essential that there is challenge from a citizen and service perspective in the processes to design services and determining how and by whom they are delivered.

7. Current commissioning practice, however, is ambiguous about the sector's involvement. There are some models of good practice, where the sector is fully involved in joint commissioning through pooled budgets.

8. But there are also arguments, including in some Assembly Government guidance, that the sector cannot be involved at all because some individual organisations are potential service providers and therefore have a vested interest.

9. However, the involvement of statutory bodies in commissioning that are also major service providers (local authorities, health trusts, police, probation service) is unquestioned. Moreover, far from providing a level playing field, commissioning frequently adopts a twin-track approach of short-term contracts and regular re-tendering exercises for "contracted-out" services, and unquestioned ongoing funding for "in-house" services.

10. It is unsurprising, therefore, that current commissioning arrangements are seen as public sector provider-led and unresponsive to citizens in the eyes of many service user and carer organisations.

11. The sector does have an important role in service provision, and Beecham has recommended that it has a bigger role to play. But the majority of organisations are not major public service providers. Their important contribution to commissioning decisions, drawing upon their accountability to citizens and communities at any level, is to champion the interests of citizens, including service users and carers. Their experience of the impact of delivery enables them to challenge current patterns of delivery, and to contribute their expertise and experience in citizen centred service design and delivery, drawing upon individual and community resources, and responding to those who tend to be excluded from traditional provision.

12. WCVA recommends that government provides consistent guidance on commissioning public services that confirms the expectation that:

- The third sector should be a full and equal member of relevant commissioning bodies;
- the sector's representation should provide a citizen perspective to commissioning processes;
- commissioning bodies should have robust and transparent procedures in place to address any conflicts of interest of any of the organisations involved in commissioning process, whether they are statutory or third sector organisations.

COMMISSIONING—DESIGN AND DELIVERY

13. Beecham has also identified the Government's responsibility for "promoting and delivering a 'level playing field' which encourages a more mixed economy of provision" in order to achieve more responsive and personalised services for the citizen. Beecham also called for commissioning arrangements that encourage collaboration rather than competition.

14. The Welsh Assembly Government's Strategic Action Plan for the Voluntary Sector Scheme (currently subject to consultation) argues that the third sector is in a particularly strong position to provide front line services when:

- Users have multiple disadvantages, requiring a coordinated portfolio of services from an informed provider;
- the service needs to be directed at sections of the community that have been excluded from traditional service provision;
- the service is targeted at users who are likely to mistrust businesses or state providers;
- the service is labour-intensive, where the flexibility and commitment of volunteers can be an asset;
- the needs of service users are highly variable;
- the quality of service required by procurers is difficult to specify, measure and monitor; and

- where procurers are unsure of the exact service required, and are seeking innovative proposals.

15. The Strategic Action Plan also recognises that third sector delivery of public services can be achieved through grants or procurement, and provides the following definitions:

Grants: funding that can be provided by the Assembly Government and other public bodies as a means of offering financial support to third sector organisations to enable them to undertake activities they wish to support. Grants may be aimed at assisting with the core costs of running and developing an organisation or more specifically to help it carry out a particular project or service. The grant giver is not contracting for a service that forms part of its own business.

Procurement: the acquisition of goods and services from third party suppliers under legally binding contractual terms where all the conditions necessary to form a legal contract have been met. Such acquisitions are for the direct benefit of the contracting authority, necessary for the delivery of its service or for the running of its own business.

16. Whilst procurement is increasingly becoming the norm for the funding of local services, the use of grants should still be considered, particularly where a public body is inviting proposals for innovative approaches to tackling particular needs, rather than tightly specifying a service it wishes to purchase. Grants can provide a vehicle for a partnership and investment approach, in line with Beecham's recommended collaborative rather than competitive scenario.

17. However, where contracts are used, it will be necessary to address the shortfalls in procurement processes that have been highlighted in recent years. Particular barriers are short-term funding, inappropriate balance of risk, pricing systems that impede full cost recovery, and excessive monitoring and evaluation requirements.

18. The Office of Government Commerce has issued guidance to commissioning and procurement officers highlighting the need for engagement with potential third sector providers at all stages in the process in order to harness innovation and best practice. It provides detailed and practical guidance on engagement with the third sector at each of the following key stages:

- When policy is first being formulated (early supplier consultation);
- when programmes and strategies are being shaped (seek supplier input in developing policy outcomes/outputs);
- during pre-procurement (better procurement strategies);
- during tendering phase (better tender documents);
- post contract (feedback, review and continuous improvement).

19. There is also scope for developing service and tender specification criteria that enable commissioners to judge the extent to which potential providers can place the wider interests of citizens/service users at the heart of their service, and deliver wider and more sustainable benefits—for example, through increasing community and service user participation in service management and delivery, synergy with other services, drawing on wider networks of formal and informal support, supporting the personal development of service users, maximising local economic and environmental impact.

20. The Strategic Action Plan includes the proposal for the publication by Value Wales of a similar Third Sector Charter, providing the opportunity to address these issues.

21. WCVA has supported the proposal for a Third Sector Charter for commissioning services from the third sector in Wales, to include:

- Guidance on the funding options open to commissioners (grants, open competitive tendering, preferred bidders) for supporting third sector service delivery, and the circumstances in which each can be used;
- guidance on ensuring a level playing field for potential providers in any sector;
- guidance on developing service specifications and assessment criteria that include and measure citizen-centredness, sustainability, additionality and local impact;
- an analysis of the circumstances in which the third sector may be identified as the preferred provider of particular types of services;
- guidance on full engagement with potential providers at all stages;
- commitment to the principle of full cost recovery;
- guidance on balancing risks between provider and commissioner;
- guidance on appropriate monitoring and evaluation.

Memorandum from Women's Health In South Tyneside

We would like to present the following views for your Commissioning Public Services from the third sector.

Q2(a)

Women's Health In South Tyneside (WHIST) is a well-established voluntary organisation. It was set up by local women (20 years ago) and has flourished into its present form by offering services in response to local needs.

The organisation deals with a wide range of health issues and attracts women who are unable to find a service to suit their needs elsewhere. The provision complements statutory services and the agency is used as a referral point by social workers, mental health workers, GPs, health visitors, psychiatrists, psychologists, occupational therapists, employment agencies and other voluntary agencies.

We offer training courses, individual and group support, volunteering opportunities, personal development, physical exercises and crèche provision. We support about 350 people a week, we have 33 volunteers active within the organisation and we help women to move on in their lives by overcoming the difficulties and barriers they are facing.

We have waiting lists for all provisions on offer, at present we have 616 people on the waiting lists.

The organisation offers services, which are firmly linked into four of the local authorities current priorities.

We help women into jobs.

We help to make safer communities.

We help people to live independent and healthy lives.

We attract women who are considered hard to reach and who have a reluctance to approach statutory services because they do not provide the type of services they require or they are unable to access the services through lack of childcare etc.

So we have this evidence that local voluntary services are popular.

Q2(b)

We also hold evidence of demand for more of the services that we provide and we can never meet the demand.

Q3

I do not see how aligning ourselves with the state will be of any help. We have entered into contracts through the LSC for the training aspects of our work and we are buckling with the bureaucratic demands this places upon us.

There has been a great risk of our losing our identity and Adult Community Learning have struggled to operate within a locally managed organisation wanting to have a presence in the courses, wanting to interview women who may be participating in educational opportunities for the first time in their life. This has proved intimidating and since accepting this funding we have a bigger drop-out rate, due in part to the form filling that the participants have to undertake.

I would like to add that this organisation which was visited recently by the Minister for the Third Sector and the Minister for the Environment has recently had two substantial funding streams removed at short notice. The Drug Action Team have moved the goalposts and have taken their grant away since they now want to fund work that exclusively targets women taking class A drugs rather than for supporting women affected by drugs. Their decision has been enforced in a manner that leaves this organisation operating outside of employment law and has not taken account of redundancy requirements. Social Services have given us one month's notice that they intend to put us on a month-by-month contract, which again flies in the face of employment legislation and Compact agreements between the local authority and the voluntary sector.

The organisation is well thought of and is a referral agency for GPs, mental health workers, social workers and other voluntary agencies. We respond to identified local needs government targets do not always take account of local needs. We are a small organisation with a core staff of three key workers. Two of these posts have been undermined as described above and the third worker is on maternity leave. Organisations such as WHIST are in grave danger of folding up because of the current target-driven culture. We offer high quality services and we would be capable of entering into contracts if we were allowed the opportunity to participate in the process, however the actions described above that have been taken without consultation exclude us completely. Larger national charities are waiting on the sidelines to take up contracts.

We have 1,653 members

350 women a week use WHIST.

663 women are on our waiting lists.

And there are more success stories than we have space to report.

SAVINGS TO HEALTH AND SOCIAL CARE SERVICES AS A RESULT OF PROVISION ON OFFER FROM WHIST

So far, having looked through only 11 letters of support from women attending WHIST we can provide the following information:

- Less hospital visits were mentioned by seven of these 11 women.
- Less use of A&E was mentioned by five women. All five would have used this potentially two times maybe more.
- Less visits to GPs mentioned by nine women.
- Of these nine women three were attending at least once a month = 36 visits a year.
- 1 reports attending weekly so we would estimate 48 visits a year.
- Taking less prescribed drugs—nine women. This will involve less visits to the GP as well as they would have to be seen.
- Less use of alcohol and services associated four women.
- This is from information offered by the women in open letters of support. They have not been asked for specific information about their uptake of services.
- One GP knows of a woman he referred who did not need NHS services while attending WHIST. She finished the courses she was on and there was a two month gap before she started attending for further support, during that two month period (Jan and Feb 07) it cost the NHS £3655.00 to provide services to her.
- We have also supported a woman in receiving her children from care. We have offered a package of support both practical and emotional that has enabled her to care for two children again, the savings must be immense.
- Of 150 women taking up physical activities one third of them have been referred by a GP or health worker.

OTHER INTERESTING FACTS

- At least seven support workers access our services every week bringing on average three or four women on each visit.
- Over 350 different women use WHIST every week.
- Our membership is 1600 women.
- We have 33 volunteers actively involved in the organisation. The services they provide are equivalent to £66,384.00.
- Volunteers raised over £4500.00 for us last year.
- Of 150 women taking up physical exercises in a week one third of them have been referred by a GP or health worker.
- Over 80 children a year use the crèche.
- 48 women have received counselling from WHIST during the last year.
- 90% of the women taking up support and training services report an increase in confidence and self-esteem as a result.
- We have provided individual and group support, training and activities to over 450 women in a year.
- Women gain qualifications with the support of WHIST
- We have turned away 25 women requesting counselling in the last four weeks.

March 2007

Memorandum from Zurich

INTRODUCTION

Zurich is grateful for the opportunity to respond to the Public Administration Select Committee's inquiry into third sector delivery of public services. Zurich is one of the leading insurance and risk management specialists in the UK with a dedicated charities segment that currently works with more than 15,000 charities. These customers range from some of the largest charities in the country to thousands of small, community-based groups run solely by volunteers. Zurich is also the country's largest insurer of local authorities, often the source of a significant amount of funding for local voluntary organisations. Being positioned at this nexus enables Zurich to have a good overview of the relationship between charities and statutory bodies during the commissioning and letting of services.

In keeping with your guidance this short response will focus on Zurich's area of expertise and concentrates on topics found in questions 3, 4 and 5 in your issues paper. We work very closely with our customers in the community and voluntary sector and have identified a particular issue regarding the transfer of risk in the delivery of public services by community and voluntary sector groups. We are currently engaged in pressing this issue with a range of stakeholders and have fed back directly to the Department of Communities and Local Government on the recent Local Government White Paper and its implications for the community and voluntary sector.

Zurich would be happy to speak to the Committee should it wish to probe further into the issue of risk transfer in the delivery of public services.

RISK TRANSFER

The Committee has rightly recognised that the third sector is becoming increasingly involved in the provision of public services. This outsourcing often goes hand in hand with a wider drive towards "contestability" in the provision of public services, the aim being to improve service delivery while also securing value for money for the taxpayer. But third sector organisations don't just claim to be better value, they claim to be better across the piece: better at delivering to "hard to reach" groups; better at being innovative; better at thinking outside the box. Perhaps most importantly, community and voluntary groups also claim to increase social capital by encouraging community cohesion and civic engagement.

However, while these added value services should clearly be part of any contract letting process, finance is also important. Local authorities are themselves working to tight budgets and need to secure value for money in the most literal sense. Therefore, there is clearly a tendency to drive down costs in a public service tendering process and a temptation to cut corners. Zurich believes that this is becoming the case in the area of risk management and insurance.

When community and voluntary sector organisations take on the running of public services they also take on significant amounts of extra risk. This ranges from the day to day operational risks to the macro strategic risks inherent in running such services. An operational risk in a contracted out meals on wheels service could be an increased likelihood of injury to volunteers due to lifting; a strategic risk could include volunteers not arriving at the allotted time and the service being unable to function on a particular day.

Whatever services third sector groups take on they will find that they incur increased risk management cost, whether through increased insurance premiums or in administration time to manage uninsurable strategic risks. Zurich is concerned that this fact is not being understood during the letting of contracts, which is exposing the community and voluntary sector to greatly increased risks with no financial recompense. In effect, local and central government could be tempted to outsource the risk, as well as the service, with no commensurate reimbursement.

FULL COST RECOVERY

The third sector is understandably exercised by the concept of full-cost recovery as it relates to management and administrative time and costs. Given the importance of risk management to the smooth running of public services, especially those delivered by volunteers and community groups, Zurich believes that risk management and insurance should form a part of any discussion about full cost recovery. We have seen examples with our clients where this has not been the case and the charity/voluntary group has been saddled with significantly increased risk and insurance costs which has not been reimbursed by the commissioning body.

Zurich believes that the current Compact Code of Practice, which briefly deals with the transfer of risk issue, is insufficiently clear to manage the ever-increasing number of issues associated with the funding of charities and voluntary groups by central and local government. For example, while the guidance does state that "*the Government undertakes to discuss risks up-front and place responsibility with the public sector body or voluntary and community organisation best able to manage them*", this does not seem to be working in

practice. On top of that, there is no explicit recognition in the guidance that insurance and risk management carries a cost and that that should be built in to the concept of full cost recovery. Without this explicit recognition it will be hard to leverage funding for insurance and risk management in contract negotiations.

Some of the guidance on this issue also seems to be relatively inappropriate for many of the contracts undertaken by small voluntary groups. For instance, one of the documents referred to in the Compact Code of Practice, *Managing Risks with Delivery Partners*, is a very high level document published by the Office of Government Commerce seemingly pitched at companies bidding for large scale PFI contracts. What the third sector needs is high quality but simple advice which demystifies the issue rather than making it seem more complex than it really is.

Given the size of statutory bodies relative to many of the voluntary organisations with which they are contracting it is more likely that they will have expertise in risk management. Statutory bodies should therefore discuss the issues surrounding risk transfer at the beginning of a partnership, which will ultimately benefit both partners as it is likely that if there is a problem risk, if managed poorly, will ultimately find its way back to the local authority or government department. This is not just an issue with community and voluntary groups but is an inherent issue when public services are outsourced to any group, be that a charity or a private company.

CONCLUSION

Zurich is pleased to have the opportunity to comment on this important issue. Our hope is that this inquiry can push the issue of risk in public sector contracts up the political agenda. Community and voluntary sector groups are carrying out great work across the country and Zurich wants to support them in this. Our fear is that the more contracts are let to third sector bodies, the problems that occur when risk is not properly managed will increase in frequency and severity. However, small changes to the process could have a significant benefit. Zurich's proposals are:

- Risk management and insurance should form part of any discussion about full cost recovery.
- Full-cost recovery should include the cost of insurance and risk management.
- There should be an obligation on statutory bodies to engage in discussion about risk management with potential service providers before a contract is let.
- The Compact guidance should be clarified to highlight the issue of risk transfer and the guidance should be appropriate for all sizes and types of organisation.

Zurich would be pleased to offer more detail to the Committee if required, either in written or verbal form.

February 2007