

Third Sector Guide for Public Sector Commissioning

in Norfolk

Produced on behalf of the
VCS LAA Reference Group
by **Claire Collen & Jo Clapham**
(Voluntary Norfolk)

July 2008

Care Services Improvement Partnership  **CSIP**
Eastern

**VOLUNTARY
NORFOLK**

Supporting volunteers and voluntary organisations

Abstract

What is the Third Sector Guide for Public Sector Commissioning?

This Guide is a **tool for both commissioners and procurement staff**. It has been designed to work alongside existing commissioning frameworks, not as a replacement for them. It is intended to assist public sector partners by

- ▶ explaining what the third sector is and how it works
- ▶ showing how involving the sector can help achieve sustainable outcomes and value for money
- ▶ giving examples on how to engage the sector in service planning, delivery and evaluation
- ▶ providing a mechanism for evidencing good practice in working with the third sector

Primarily the Guide has been written for Norfolk's public sector partners working in

- ▶ district & county councils – including adult social care and children's services
- ▶ primary care trusts
- ▶ learning, skills and employment
- ▶ criminal justice
- ▶ local partnerships such as Local Strategic Partnerships and Crime & Disorder Partnerships.

Third sector organisations, particularly those delivering public services, are also likely to find it of interest as a means of assessing what good practice in commissioning can look like.

What's in the Guide?

- ▶ An overview of the **policy context**
- ▶ A set of **checklist questions** relating to the main stages in the commissioning cycle
- ▶ **References** to a range of sources, including **good practice examples** and government guidance
- ▶ A **checklist template** for use with the checklist questions
- ▶ A **glossary** of terms

Contents

	<i>Page</i>
Part One – Introduction & Using the Guide	5
Background to the Guide	5
Acknowledgements	5
A word on terminology	6
A brief word on Voluntary Norfolk	6
Using the Checklist	7
More information and registering as a Guide User	7
Part Two – Role of the Third Sector and Policy Context	9
National and local drivers	9
Eight Commissioning Principles	9
Public Services and the third sector’s ‘added value’	10
Norfolk’s voluntary and community sector	11
How will we know if the Guide has made a difference?	12
Part Three – The Checklist	15
Analysing	15
1. Identifying Needs	15
Planning	16
2. Designing Services	16
3. Knowing the market	16
4. Commissioning Approach – Grants or Contracts	17
5. Shaping the Specification	17
Doing	18
6. Procurement Options	18
7. Procurement Timescales	18
8. Pre-Qualification Stage	19
9. Invitation to Tender	19
10. Contract & Payment Terms	20
11. Tender Evaluation	20
12. Awarding the Contract	21
Reviewing	21
13. Contract Management	21
14. Service Evaluation and Feedback	22
Part Four – Third Sector Checklist Template	23
Part Five – References and Good Practice Examples	25
Appendix 1 – Relationship between the Guide and the Compact	41
Appendix 2 – Glossary	43

Introduction and Using the Guide

Background to the Guide

This Guide comes out of the voluntary and community sector's (VCS) engagement in Norfolk's Local Area Agreement (LAA). This is steered by a Reference Group made up of chief executives from leading voluntary organisations. The lead partner is Voluntary Norfolk who facilitate the project. The Reference Group has a number of key priorities, amongst which are

- ▶ building the capacity and ability of the VCS to respond to the third sector agenda on public services
- ▶ developing professional relationships with commissioners and contracting bodies to improve third sector access and involvement in the commissioning process.

This Guide is a reflection of those priorities.

Acknowledgements

The authors, Claire Collen (LAA VCS Co-ordinator) and Jo Clapham (Public Services Development Manager), would like to thank members of the multi-agency Working Group to whom various versions of the Guide were submitted. The Working Group included senior public sector commissioning leads and others who offered much practical advice and assistance. We would very much like to thank

- ▶ Graham Robinson & Hilary Mills (Norfolk Adult Social Services)
- ▶ Rachel Miles & Adrian Grant (Great Yarmouth & Waveney PCT)
- ▶ Wendy Hardicker, Lucy Macleod and Barry Pinkney (NHS Norfolk PCT)
- ▶ Philip Burton (District Councils Chief Executives' Group)

We would also like to acknowledge the additional contributions of colleagues in the Working Group whose expertise, support and further comments have been invaluable:

- ▶ Tim Allard (Chief Executive, Space East), Richard Draper (Chief Executive, Benjamin Foundation) Julia Haig (Regional Manager, Ormiston) – all members of the LAA Reference Group
- ▶ Frances Kemp, Assistant Director, Commissioning & Performance, Norfolk Children's Services

Our thanks go to Ian Hartley (Care Services Improvement Partnership) for his input. CSIP's role is to support the delivery of Department of Health priorities at a national, regional and local level to bring about

improvements in health and well-being¹. We are therefore particularly pleased that **CSIP are endorsing the Guide**. We also wish to thank them for the financial contribution towards the cost of production.

The Guide has also been **endorsed by Norfolk County Council's Health, Social Care and Voluntary Sector Strategic Forum** whose membership includes the Directors of Adult Services, Children's Services, senior colleagues from both PCTs, and Chief Executives from the VCS. Finally, a working draft was presented at **IDeA's** National Training Programme for Third Sector Commissioning Roadshow (at the University of East Anglia).

A word on terminology

Generally we use the term **third sector** throughout. The third sector includes, as a major and substantial player, the voluntary and community sector, and occasionally we use that specific description because it is relevant to do so in the context of what is being covered.

The **Glossary** includes a definition of the third sector and the voluntary community sector.

A brief word on Voluntary Norfolk

Voluntary Norfolk is the largest voluntary sector infrastructure organisation in Norfolk as well as the major volunteering organisation in the county.

Voluntary Norfolk employs over 80 paid members of staff and has a growing membership of around 300 local voluntary and community organisations.

It has effective communication channels to the sector, including *Voluntary Norfolk News* – a 12 page bi-monthly newsletter, a regular e-bulletin, regular training workshops and a Chief Executives' Network.

Voluntary Norfolk supports the work of voluntary and community organisations through a range of services and by providing a voice for the voluntary and community sector within key strategic partnerships in the county.

Voluntary Norfolk manages three generalist Volunteer Centres (in Norwich, Thetford and Great Yarmouth) and also has specialist volunteering services, for example, for people with mental health problems, adults with learning difficulties and the v Project for young people.

In addition to the head office and central functions (in Pottergate, Norwich), Voluntary Norfolk works with steering groups in Norwich, Great Yarmouth and North Norfolk to support local voluntary activity as well as strategic engagement in partnerships, including Local Strategic Partnerships (LSPs). There are also strong links to VCS activity in West Norfolk and developing work in South Norfolk.

Voluntary Norfolk holds the lead responsibility for third sector outcomes in the Local Area Agreement. This aspect of the LAA is recognised as one of the leading examples of best practice in the country². Voluntary Norfolk is the host for the Compact Officer, and is also the lead and accountable body for the Norfolk Voluntary and Community Sector Infrastructure Consortium.

Through its Public Services Development Project (PSDP), Voluntary Norfolk is working with third sector organisations to become 'commission ready' to

deliver public contracts. It is also working with public partners to improve access and links into the sector and this Guide is an example of that work.

Using the Checklist

The Checklist Questions are intended to be used in whatever way best suits your own individual commissioning frameworks and practices. However, in Part Four, we have included a **Third Sector Checklist Template**.

In the hard copy we give two illustrative examples. However, in the electronic form we have populated the template with all the checklist questions, should you wish to download it, use it as it is, or amend it for your individual use.

More information and registering as a Guide User

Voluntary Norfolk would be very pleased to **hear from you when you start using the Guide**. We are keen to know how the Guide works in practice and whether there are aspects which require fuller explanation. We are able to work with you and offer advice on how some of the good practice examples could be implemented.

By registering with us we can also keep you informed of any updates to the Guide, as well assisting us in any follow up research we undertake.

If you would like to **register as a Guide User**, or for further information on how Voluntary Norfolk can help you work with the Guide, please email your contact details, with 'Guide User' in the title, to

Jo Clapham, Public Services Development Manager
jo.clapham@voluntarynorfolk.org.uk
Tel: 01603 883842

The Guide can also be downloaded from Voluntary Norfolk's website
www.voluntarynorfolk.org.uk

Role of the Third Sector and Policy Context

National and local drivers

Policy priorities in such areas as health, social care, criminal justice, housing, learning and employment constantly move forward. A current example is the personalisation agenda which emphasises self-directed care, and where individualised budgets are seen as a major tool for achieving change. This poses major challenges and opportunities for public agencies and third sector organisations alike in how services can respond effectively to individual need.

It would not be possible to reflect the range and scope of government policy requirements and the influence of local drivers and circumstances in a Guide such as this. Instead the Guide works from the position that **engaging the third sector is as a cross-cutting thread** which impacts on all the major strands of social welfare policy.

Within this context, the Guide should be able to help public partners

- ▶ understand the **benefits to service users** of involving the third sector in planning and delivery
- ▶ provide a means of capturing the ‘**added value**’ of the third sector
- ▶ consider if **changes are needed to existing commissioning practices** in order to facilitate greater involvement of the third sector
- ▶ provide evidence to inform **progress against targets** – particularly those relating to the third sector,
- ▶ look at further, and perhaps previously unexplored ways, of achieving **value for money**, and
- ▶ provide supporting evidence for being **Compact compliant**.

Appendix 1 sets out the relationship between the Guide and the Compact.

Eight Commissioning Principles

The Office of the Third Sector has been working with government departments, and the wider public sector, in seeking to harness the added value of the sector in the commissioning process. A range of policy publications, including the key *Partnership in Public Services: An Action Plan for Third Sector Involvement* provides advice, best practice and guidance³.

A critical strand of work within the *Action Plan* is *The National Programme for Third Sector Commissioning* (being taken forward by IDeA⁴). Underpinning the Programme are 8 Commissioning Principles and the expectation is that

these principles will be embedded in the commissioning frameworks and strategies of public partners. This Guide will assist public sector partners to **assess the extent to which existing procedures and practices reflect the 8 Principles.**

Box 1 National Programme for Third Sector Commissioning – 8 Commissioning Principles

- 1 **Understand the needs of users** and other communities by ensuring that, alongside other consultees, public sector bodies engage with the third sector organisations, as advocates, to access their specialist knowledge;
- 2 **Consult potential provider** organisations, including those from the third sector and local experts, well in advance of commissioning new services, in order to set priority outcomes;
- 3 Put **outcomes for users at the heart** of the strategic planning process;
- 4 **Map the fullest practical range of providers** with a view to understanding the contribution they could make to delivering those outcomes;
- 5 Consider **investing in the capacity of the provider base**, particularly those working with hard-to-reach groups;
- 6 Ensure **contracting processes are transparent and fair**, facilitating the involvement of the broadest range of suppliers, including considering sub-contracting and consortia building, where appropriate;
- 7 Ensure **long-term contracts and risk sharing**, wherever appropriate, as ways of achieving efficiency and effectiveness; and
- 8 Seek **feedback from service users**, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.

Public services and the third sector's 'added value'

The distinctive qualities of the sector – sometimes referred to as its 'added value' or, the 'additionality' of the sector, are assets which the policy imperative from central government seeks to capture.

The third sector has a particular role in helping bring service users into a closer relationship with public services. This involves not just looking at the sector's role as **potential service providers** – which will of course help increase market choice – but also thinking about the much wider role it can play, for example by helping to **identify gaps in service provision, feeding in local perspectives on service re-design or re-provision, as well as offering innovative solutions on service delivery.**

The third sector's reach into local communities means that it is able to

- ▶ create 'social capital' through building and maintaining relationships and bridges within and across communities
- ▶ access individuals and communities who are particularly disadvantaged and which traditional services often have difficulty reaching

- ▶ advocate on behalf of actual or potential service users
- ▶ offer specialist ‘niche’ expertise in areas where the public or private sector tends not to operate
- ▶ involve service users, for example as deliverers of services or in governance
- ▶ be independent
- ▶ be flexible and innovative in delivery and mode of operation
- ▶ work across a range of public sector organisations
- ▶ act as a critical friend to public sector partners
- ▶ deliver value over and above that commissioned through the parallel provision of other services which give added benefit to service users

Box 2 Good practice example: added value and BREAK ⁵

BREAK, a Norfolk-based charity, provides a range of care services including: residential homes for looked-after children, holidays and respite care for children and adults with special needs, residential family assessment, and residential, respite and day services for women with mental health problems.

BREAK is working in partnership with Norfolk County Council to develop key services for the delivery needs of the authority as well as helping to fulfil local community needs in that area. By working with BREAK, NCC is meeting its statutory strategic objectives while gaining an investment partner that has the knowledge and ability, service quality and commitment, and the right philosophy to deliver to meet the needs identified as well as being cost-effective.

Norfolk’s voluntary and community sector

In 2006 *The Sector Counts*⁶ researched the size and scope of the VCS in Norfolk. In line with other parts of the country, it found that organisations vary in size, income, activity and the way they are constituted. They range from small neighbourhood community based groups (about two-thirds of the total), to medium sized and larger district or county-based organisations (constituting about a third).

The sector delivers a wide range of activities and services to many different groups, including

Information, advice, advocacy

Health and housing/homelessness

Older people; children and families

Environment and recycling

Criminal justice; substance abuse

Mental health; learning difficulties; physical disabilities /sensory impairment

BME communities

Culture and arts; education and training; recreation and sports

Community transport; gardening and allotmenting

Food co-ops and credit unions

The research revealed what had long been suspected: the significant role the sector plays in Norfolk's public life:

Box 3 Size of Norfolk's sector

- There are nearly **4,000** voluntary and community organisations with a combined income of over **£94m**
- The sector involves, or provides support and services to nearly **642,000** people
- **40%** of voluntary and community organisations have paid staff, (more than are employed in agriculture!) and a very high proportion (**88%**) use volunteers to undertake at least some of their activities
- over **70%** are registered charities

The research found that **46% of organisations wanted to expand their current services**, whilst **34% were keen to develop new services**.

However, the biggest barriers faced were lack of finance and funding difficulties. Other factors which limit growth were skills and expertise as well as recruiting and retaining volunteers.

This local evidence suggests that Norfolk, given the right environment and support, is well placed to respond to the growing policy agenda of an enhanced role for the third sector in delivery better outcomes for local people. **The variety in size of organisations, and the spectrum of activity offers huge potential to commissioners for flexibility and responsiveness in service provision as well as scope for creative partnership working and collaboration.**

How will we know if the Guide has made a difference?

As already indicated, the intention of the Guide is to provide a means for engaging the third sector more fully in the commissioning process. But how can the third sector, and how can public sector agencies, judge whether it has been successful in achieving change?

Some targets and measures already exist. For example, Norfolk's Local Area Agreement includes the national indicator for an environment in which the third sector can thrive⁷, and, in due course, this will be assessed as part of the Comprehensive Area Assessment (in 2009). There are also specific service area targets, for example, the National Service Framework for mental health requires that 15% of all services should be delivered through the third sector⁸.

Public sector partners may therefore want to use the opportunity the Guide presents to set their own targets. This could be within the operational scope of individual agencies, or across specific service delivery areas – including those which are jointly commissioned and/or delivered through partnerships.

One way of doing this would be to set targets, or objectives, at each of the three levels of commissioning (see below). Such an approach would be seen as proactive because it recognises the sector as an important partner in the **co-production** of services and utilises its **added value**.

Box 4 Engaging the third sector across the board ⁹

Strategic	Operational	Individual
<p>Contribute</p> <p>Experience of what is already working</p> <p>Ideas on how services could change and develop</p> <p>Knowledge of local needs and services</p> <p>Knowledge of individual service user experience</p>	<p>Contribute</p> <p>Proposals for innovation</p> <p>Specialist expertise</p> <p>Standards and quality</p> <p>Monitoring and reporting on performance</p>	<p>Responsible for</p> <p>Responding flexibly to individual need</p> <p>Ensuring users can influence form and style of service</p> <p>Being an advocate for service users</p>
<p>Mechanism:</p> <p>Participating in high-level strategic partnerships</p>	<p>Mechanism:</p> <p>Participating in operational partnerships</p>	<p>Mechanism:</p> <p>Delivering efficient and effective services</p>

With regard to target setting on the sector’s **service delivery role**, the box below proposes some preliminary questions that would assist in establishing baselines.

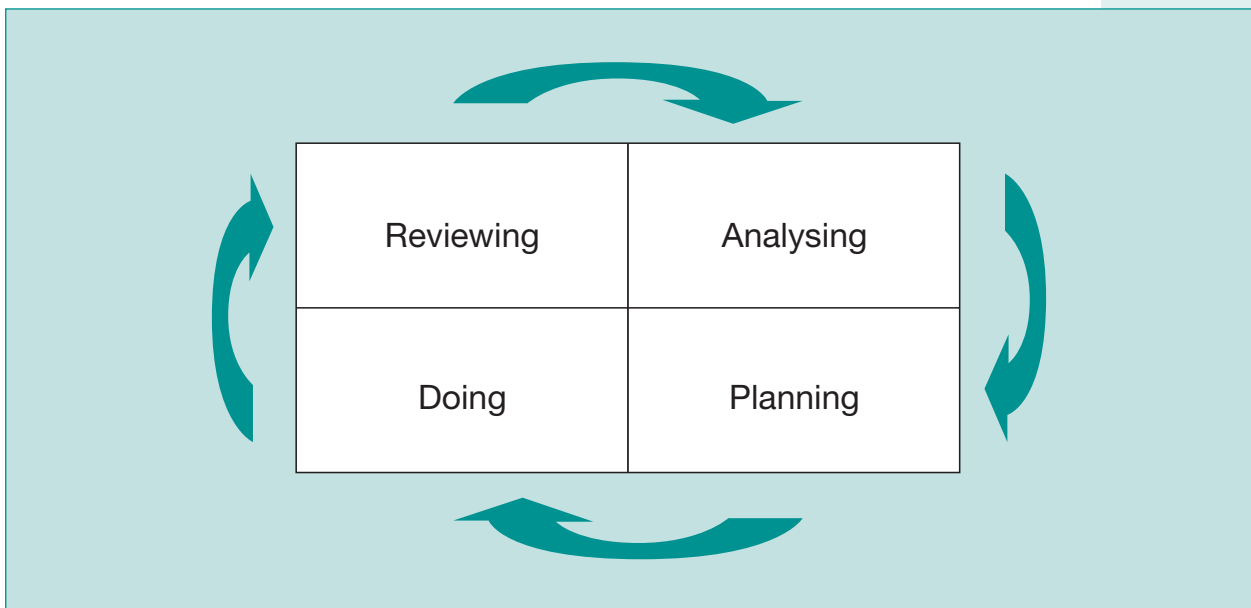
Box 5 Service delivery role – preliminary questions for base lining

- Do you know what your current spend is with the third sector?
- Can you distinguish the different types of funding – grants, service level agreements, contracts?
- Can you separate the figures out across different specialisms or service areas?
- Do you know the proportion of your spend between in-house providers, private providers and third sector providers?
- How will you measure progress against targets set?

The Checklist Questions that follow should enable public partners to identify the extent to which **meaningful engagement across each level is taking place**, and consider how participation and involvement can be developed where it is weak.

The Checklist

Public sector commissioners work within a range of commissioning frameworks, but they all reflect, in different ways, the four key performance management elements shown below. The Checklist Questions which follow are therefore **organised under these 4 headings**.



Analysing

1 Identifying needs

Quality information from the local community benefits any assessment of need. A service that consistently engages with service users – either directly, or through third sector organisations, provider forums or other specialist networks, is more likely to result in appropriate, responsive and effective services.

Checklist Questions

- 1.1 Are your consultation and decision-making processes **open to the active involvement** of relevant third sector organisations and networks? (see Box 4)
- 1.2 Have you considered **investing** in third sector **infrastructure organisations** to undertake capacity building work to support provider networks?
- 1.3 Have you considered the potential of a third sector organisation to undertake **research or advocacy** work – especially to access socially excluded groups?

Planning

2 Designing services

Public sector bodies can draw on the expertise and reach of the third sector in designing new services, or remodelling existing ones. This will help facilitate a culture of trust and partnership between third sector organisation and public sector partners.

Checklist Questions

- 2.1 Have you considered using a third sector organisation with **specialist knowledge and expertise** to act as a **consultant** for you in designing service solutions?
- 2.2 Have you considered commissioning a specialist third sector organisation to **deliver resources** for you, for example, good practice materials, or staff training/induction?
- 2.3 If you are running a large project with an advisory panel are **experts from the third sector involved**?

3 Knowing the market

Knowing the market means that services can be procured in away that encourages as many potential high quality third sector providers as possible to bid for your contracts. A wider supply base, inclusive of the third sector, means that there is greater opportunity to find the right provider and achieve the right service at the right price.

Box 6 Example: Voluntary Norfolk

Voluntary Norfolk can help commissioners reach a significant number of Norfolk based third sector organisations through its membership and the wide range of networks and forums that it has involvement with. This means that Voluntary Norfolk can help commissioners to engage and communicate with third sector organisations throughout the commissioning process. It can help to facilitate contact with potential providers and promote consultations, commissioning plans, requirements and tenders. (See Part One for contact details.)

Checklist Questions

- 3.1 Do you know the **number, size and capabilities of third sector providers** and potential providers in the market? (There may already be a willing supplier that could meet your needs.)
- 3.2 Do you **communicate your future commissioning plans** to the third sector to enable suppliers to forecast and plan capacity more effectively? (In this way you could also help to stimulate the third sector market.)
- 3.3 Is there useful **information** about third sector providers **held by the local infrastructure organisation** that you could be accessing?

4 Commissioning approach – grants or contracts

There are different ways of commissioning a service, a project or a piece of work and the most suitable approach will be informed by the outcomes that are to be achieved. Primarily, the choice is likely to be between taking a grant making approach or contracting through the competitive procurement route. In both cases, an overarching question is the relationship to the strategic corporate objectives of the commissioning body.

Factors that should be considered in deciding which approach to take include the financial value of a project, and the number of likely providers in the market. For example, a highly specialised service, where it is known there is only one provider, and/or the project is of a low financial value, might be best served through grant funding. (It would not be proportionate, and could be over bureaucratic, to require that one niche provider go through a full tendering process.)

Grants play a vital role in supporting and maintaining a healthy third sector and are seen as an essential part of the local funding mix ¹⁰. An example, operating in Worcestershire uses a combination of shopping (contracting), investing (to build capacity and for strategic engagement) and giving (grants)¹¹.

Checklist Questions

- 4.1 Do you have a mechanism that enables you to choose the most **appropriate funding approach** for ensuring outcomes are met?
- 4.2 Are there **innovative approaches** or **pilot schemes** for which grant funding would be more appropriate? ¹²
- 4.3 Do you have a **corporate approach to grant making** and is it aligned to corporate strategic objectives?

5 Shaping the specification

The specification stage of the commissioning and procurement process is a key stage at which to consider how to achieve the added social value that the third sector can bring.

Checklist Questions

5. 1 Where appropriate, have your service specifications been informed by **meaningful consultation** with the third sector? ¹³
5. 2 Do you have a system for regularly **inviting comment on draft specifications** from third sector specialists?
- 5.3 Have you considered what **added value the third sector** could offer when delivering a contract and reflected this additionality in the service specification? ¹⁴
- 5.4 Does your specification ask providers to demonstrate a detailed local **knowledge and understanding** of local context and local needs? ¹⁵
- 5.5 Have you considered the whole life costs of the contract and how Value For Money can be achieved by **including wider social, economic and environmental objectives** in the specification? ¹⁶

continued over ►

► *continued*

- 5.6 Are your specification requirements **focused on the outcomes** to be achieved, (not on outputs or activities)? ¹⁷
- 5.7 Could you use a '**social clause**' in the contract as a method for achieving wider outcomes? ¹⁸

Doing

6 Procurement options

How a contract is shaped, and how a tendering process is undertaken, can have a significant impact on the ability of local third sector organisations to compete for contracts. If small or medium-sized third sector organisations are to be encouraged to bid then the contract and procurement process has to be accessible. This section looks at how this could be achieved.

Checklist Questions

- 6.1 Have you **worked proactively with your procurement team** to ensure that the procurement process encourages the involvement of third sector providers?
- 6.2 Have you considered what **impact** your proposed procurement approach might have on **smaller and local providers**?
- 6.3 Can you break the **contract down into smaller lots** which would be more accessible to smaller providers?
- 6.4 Are your **contracts between 3-5 years**? ¹⁹
- 6.5 Have you considered the value of having a **mix of providers** to deliver the contract rather than one main provider?
- 6.6 Are **opportunities for sub-contracting and consortia bids** from third sector providers identified and encouraged? ²⁰
- 6.7 If only a small number of third sector organisations provide the service you want to commission, could you operate a '**preferred provider**' approach rather than going through a full tendering process (thus reducing the administrative burden on potential providers)? ²¹
- 6.8 Have you considered what **impact** your **tendering 'thresholds'** might have on small or inexperienced third sector providers? ²²
- 6.9 If you are commissioning a '**Part B service**' have you considered the **impact on the third sector** of going through a full European Union tendering process if this is not mandatory? ²³

7 Procurement timescales

The timescales involved in a procurement process can put off smaller third sector organisations from bidding for contracts. Particularly long timescales can present organisations with capacity issues because of the cost and resources involved. Short timescales may not allow small or less experienced organisations sufficient time to submit high quality bids.

Checklist Questions

- 7.1 Is your **procurement timetable long enough** to encourage bids from smaller providers, partnerships or consortia? ²⁴
- 7.2 Are you encouraging larger providers to **publicise opportunities for sub contracts**?
- 7.3 Do you provide **early notice of forthcoming procurement opportunities** for all potential providers including the third sector?
- 7.4 Do your **distribution lists** include third sector organisations and provider forums?
- 7.5 Are your **contracting opportunities publicised and widely available**, for example, do you have hyperlinks from third sector infrastructure websites to your own?

8 Pre-qualification stage

The accessibility and transparency of the pre-qualification process will impact on the extent to which third sector organisations, especially smaller ones, feel confident to take this step.

Checklist Questions

- 8.1 Are your pre-qualification criteria carefully chosen so as to **avoid unnecessarily ruling out potentially competent suppliers** who may not have an extensive track record?
- 8.2 Are your pre-qualification **criteria proportionate to the value of the contract** and the level of risk? For example
 - Is the **financial information** you require **proportionate**? ²⁵
 - Have you taken into account the quality standards relevant to third sector organisations, including considering the use of **passporting or proxy quality standards**? ²⁶

9 Invitation to tender

At the invitation to tender stage third sector organisations, faced with overly complex tender processes and documentation, may be put off from submitting a tender.

Checklist Questions

- 9.1 Have you considered offering training to potential providers to enable them to improve their tender submissions?
- 9.2 Have you provided prospective providers with information setting out the background to the project, the organisation's objectives and an outline procurement process and timetable, with roles and responsibilities made clear?
- 9.3 Have you considered holding provider briefing events to explain the tendering timescales and your criteria for the tender?

continued over ►

► *continued*

9.4 Has **risk** been allocated to the body best able to deal with it and has it been fully agreed with the preferred providers? ²⁷

9.5 Have you provided guidance on **TUPE** to third sector providers and considered supporting preferred providers to undertake assessments of TUPE obligations and any **due diligence** required for collaborative working? ²⁸

10 Contract and payment terms

When agreeing the contract and payment terms be aware of the impact these could have on third sector providers.

Checklist Questions

10.1 Are the contract terms and conditions **proportionate to the scale and complexity** of the contract? ²⁹

10.2 Have you considered what **impact the payment terms** might have on the cash flow of a third sector organisation and whether this might deter them from bidding? For example:

- Are your **payment terms sufficiently flexible** to make early or advance payments e.g. for start up costs?
- Do you have a system for making frequent **milestone payments**?
- Are you **paying promptly**?
- Is there a clearly identified **liaison person** for payment problems?

11 Tender evaluation

Tender evaluation criteria and weighting should be sensitive to areas in which the third sector can add value. Criteria and weightings should be developed to measure the bidder best able to deliver the value for money required from the contract.

Checklist Questions

11.1 Have **social considerations** detailed in the specification also been reflected in the evaluation criteria and given **appropriate weighting** so that they can be properly assessed? ³⁰

11.2 Do your tender **evaluation panels have the right skills** to assess compliance with social impact criteria, for example, do they include an independent third sector advisor?

11.3 Are you treating third sector organisations the same as other bidders in how **they set the price** (inclusive of overheads and management costs) of delivering a contract?

12 Awarding the contract

Achieving the benefits that third sector providers can bring to public services will only happen if they submit good quality and well structured bids. Offering constructive feedback on why a bid was unsuccessful is vital in allowing a third sector organisation to improve its bidding technique and increase its chances of being successful in the future.

Checklist Questions

- 12.1 Have you informed all bidders that **feedback is available**? ³¹
- 12.2 On unsuccessful bids, do you offer feedback that is as helpful as possible and **designed to promote future improvements**?
- 12.3 If relevant, have you **agreed transition arrangements in advance** with third sector providers?
- 12.4 Have you factored the **transition period** into your project timescales?

Reviewing

13 Contract management

Involving the third sector in agreeing contract management arrangements can reduce frustration on both sides and lead to increased efficiency and effectiveness of service delivery.

Barriers faced by third sector organisations in this area include over-complex reporting requirements, inadequate notice of changes to service requirements and undue expense or difficulty in implementing such changes.

Checklist Questions

- 13.1 Do you seek **early third sector supplier involvement** in the design of contract management procedures? ³²
- 13.2 Are **contract management** arrangements made **clear in the tender** documentation (so that tenderers can allow for the resources and costs involved in their tender price)? ³³
- 13.3 Is **reporting proportionate** to the size and complexity of the contract? ³⁴
- 13.4 Where third sector providers are jointly commissioned, do you have a **standardised reporting procedure**?
- 13.5 Are your reporting requirements focused on **measuring the key Outcomes**? ³⁵
- 13.6 Do you have a simple and pre-agreed **change control process**? ³⁶
- 13.7 Do you **encourage and incentivise** third sector providers to come forward with ideas for **better ways of working** (which can lead to benefits for both parties)? ³⁷
- 13.8 Does the contract documentation provide an opportunity to **resolve disputes** in a way that is accessible to smaller third sector providers?

14 Service evaluation and feedback

Reviewing and assessing whether strategic objectives and user needs have been met in the most effective manner is the completion of the commissioning process. Actively encouraging the involvement of service users and providers in this process can provide valuable insights and the third sector can play a key role here through its expertise and reach.

Checklist Questions

- 14.1 Do you have mechanisms that fully **involve service providers** – for example, third sector provider forums?
- 14.2 How do you take into account **service user feedback**, and does this include looking at soft outcomes? ³⁸
- 14.3 Do you have third sector engagement in **service review panels**?

Third Sector Checklist Template

The checklist questions are intended to be used in whatever way best suits your own individual commissioning frameworks and practices. For example, you could use the checklist to:

- ▶ Develop a policy for working with the third sector
- ▶ Measure how far your current practices reflect the good practice guidance outlined in the checklist questions
- ▶ Develop an action plan for greater third sector engagement
- ▶ Evidence the steps you are taking towards greater engagement with the sector
- ▶ Provide practical guidance throughout a commissioning and procurement process

The template overleaf is one methodology for using the checklist. This template, populated with all of the checklist questions, is available in a Word document from the Voluntary Norfolk website should you wish to download it, use it as it is, or amend it for your individual use.

Illustrative examples

Checklist Question	Actions already taken	What new actions do we need to take?	Lead person	Key milestone dates
Q 3.3. <i>Is there useful information about third sector providers held by the local infrastructure organisation that you could be accessing?</i>	<i>e.g. We have good relationships with our local infrastructure organisation and know they hold data.</i>	<i>e.g. We need to establish a named link and contact person in the infrastructure organisation so we can both access information held by them, and use their existing channels of communication to publicise procurement opportunities.</i>		
Q 7.1 <i>is your procurement timetable long enough to encourage bids from smaller providers, partnerships or consortia?</i>	<i>e.g. We know the market and that there is likely to be significant interest amongst smaller third sector providers</i>	<i>e.g. We will develop a timetable that extends the statutory minimum timescales in order to encourage bids from smaller providers</i>		

References and Good Practice Examples

¹ Care Services Improvement Partnership (CSIP)

CSIP was established in 2005 by the integration of a number of initiatives supporting the development of health and social care services.

CSIP is a partnership of four national programmes delivered through eight regional development centres. The RDCs and national programmes are jointly commissioned by the Department of Health and the Strategic Health Authorities (SHAs) and work in three ways:

- ▶ to develop capacity and capability locally to achieve improvements in delivery;
- ▶ support policy implementation; and
- ▶ support the development of policy.

They work with communities, systems and organisations that are engaged with the health and social care needs of older people, people with mental health problems and learning disabilities, people in the criminal justice system and children, young people, their families and carers.

For more information go to www.eastern.csip.org.uk

² Best practice – Norfolk’s LAA

The engagement of the third sector in Norfolk’s LAA is described as a Case Study by the National Council for Voluntary Organisations (NCVO). See www.ncvo-vol.org.uk/sfp and follow the link to Norfolk County Council and Voluntary Norfolk (June 2008)

³ Policy context

Office of the Third Sector, Cabinet Office (2006) *Partnership in Public Service Services: an Action Plan for Third Sector Involvement*

http://www.cabinetoffice.gov.uk/third_sector/documents/public_service_delivery/psd_action_plan.pdf

Examples of other key policy drivers, many of which we refer to later on, are:

- ▶ Office of Government Commerce (2004) *Think Smart ... Think Voluntary Sector – Good Practice Guidance on Procurement of Services from the Voluntary and Community Sector*
<http://commercial.homeoffice.gov.uk/documents/thinksmart.pdf>
- ▶ HM Treasury (2004) *Releasing resources for the frontline: Independent Review of Public Sector Efficiency (The Gershon Review)*
http://www.hm-treasury.gov.uk/spending_review/spend_sr04/associated_documents/spending_sr04_efficiency.cfm

- ▶ National Audit Office (2005) *Working with the Third Sector*
http://www.nao.org.uk/publications/nao_reports/05-06/050675.pdf
- ▶ Office of Government Commerce (2006) *Social Issues in Purchasing*
www.ogc.gov.uk/sustainability_social_issues_in_purchasing.asp
- ▶ Office of the Third Sector, Cabinet Office (2006) *Social Enterprise Action Plan – Scaling New Heights*
www.cabinetoffice.gov.uk/third_sector/social_enterprise/action_plan
- ▶ Improving Financial Relationships with the Third Sector: Guidance to funders and purchasers (HM Treasury)
http://www.hm-treasury.gov.uk/spending_review/spend_ccr/spend_ccr_guidance.cfm
- ▶ Department of Health *Welcoming Social Enterprise into health and Social Care– a resource for social enterprise providers and commissioners*
http://www.socialenterprise.org.uk/documents/Healthy_Business.pdf
- ▶ Communities & Local Government (2007) *Strong and Prosperous Communities*
<http://www.communities.gov.uk/publications/localgovernment/strongprosperous>
- ▶ HM Treasury/Cabinet Office (2007) *The future role of the third sector in social and economic regeneration*
http://www.hm-treasury.gov.uk/media/9/8/pbr06_3rd_sector_428.pdf
- ▶ Audit Commission (2007) *Hearts and Minds: Commissioning from the Voluntary Sector*
www.audit-commission.gov.uk/reports
- ▶ CLG (2008) *The National Procurement Strategy for Local Government – Final Report: Towards public service transformation*
www.communities.gov.uk/localgovernment/efficiencybetter/nationalprocurementprogramme/nationalprocurementstrategy/
- ▶ National Audit Office, Funding Decision Tool
http://www.nao.org.uk/guidance/better_funding/intro.htm
- ▶ Department of Health, Third Sector Commissioning Task Force (2006) *No Excuses. Embrace partnership Now. Step towards change! Change*
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4137144

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4137145
- ▶ Department of Health, (2007) *Joint strategic needs assessment*
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081097
- ▶ Department of Health (2007) *Commissioning framework for health and well-being*
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_072604
- ▶ Department of Health (2008) *Third sector strategic funding and investment review*
http://www.dh.gov.uk/en/Aboutus/OrganisationsthatworkwithDH/Workingwithstakeholders/DH_081175

- ▶ Department of Health, World Class Commissioning Programme
<http://www.dh.gov.uk/en/Managingyourorganisation/Commissioning/Worldclasscommissioning/index.htm>

4 National Programme for Third Sector Commissioning (NPTSC)

The NPTSC is a two-year project aimed at raising the awareness of the third sector, and its role in shaping and delivering public services, for commissioning and procurement staff in correctional services, employment services, children's services, education and training, health and social care, and other local services.

Awareness training on the benefits of third sector involvement will also be available for councillors.

A further outcome is improved third sector bidding capacity, particularly among smaller organisations.

For more information go to www.idea.gov.uk and follow links to the National Programme.

5 BREAK case study

Source: Cabinet Office/Office of the Third Sector (2007) *Partnership in Public Services: the public services action plan – One year on*.

6 Norfolk's voluntary and community sector

Source: The Guild (Oct 2006) *The Sector Counts: Researching the impact of Norfolk's VCS for the Local Area Agreement*. Research commissioned by Norwich & Norfolk Voluntary Services (now Voluntary Norfolk)

7 Norfolk's Local Area Agreement

As part of its commitment to the third sector, Norfolk's LAA (2008-2011) includes, as one of its National Indicators, NI 7 *Environment for a thriving third sector*. Local statutory agencies can be influential in shaping the environment in which independent third sector organisations can operate. This could be, for example, through their approaches to partnership working, consultation, funding relationships, or the way that public services are commissioned and procured.

8 National Service Framework for Mental Health

The 15% target is part of the self-assessment which is completed by Local Implementation Teams and submitted to the Strategic Health Authority.

9 Engaging the sector across the board

Box 4 is adapted from work being developed by France Kemp, Assistant Director, Norfolk Children's Services on Commissioning.

10 The importance of grants

Grant aid is an essential part of the local funding mix and plays a vital role in supporting and maintaining a healthy third sector. For some organisations – often smaller voluntary and community groups, only grants will enable them to achieve outcomes that matter for local people.

Different types of grants that can achieve different purposes. A grant can be

- ▶ a stepping stone and initial lifeline for a small organisation just starting out;
- ▶ is in keeping with the voluntary ethos. It won't discourage volunteers from taking part, who might otherwise not want to volunteer to deliver services defined by the local authority as part of a paid for contract;
- ▶ can create opportunities. It enables groups to take a risk and to innovate – to have a good idea and be able to try out something new;
- ▶ can lever in extra support from other sources e.g. charitable trusts;
- ▶ provides an opportunity to empower local people through grant-making panels;
- ▶ can be very flexible and often made at low cost, proportionate to the size of group it is supporting;
- ▶ build and strengthen local linkages and relationships through what can be a less formal and more trust-based funding relationship;
- ▶ can enable the organisation to meet the needs of the community and stay close to its missions and values;
- ▶ can underpin a variety of initiatives in regeneration and community development work, including those aligned to the Local Area Agreement;
- ▶ enable the voluntary and community sector to maintain its independence;
- ▶ can help an organisation take things to the next level. For example, it can move them to a position where they might be able to deliver a contract for the local council.

Source: NAVCA (2007) *Sustaining Grants – why local grant aid is vital for a healthy vcs and thriving local communities*

¹¹ **Funding mix – a strategic approach**

An example of grant giving, and its alignment to wider strategic objectives, operates in Worcestershire. Here it sits as part of a three-pronged approach:

- ▶ **Shopping** – contracting with the third sector to deliver a public service
- ▶ **Investing** – building capacity for future benefit e.g. infrastructure organisations providing training to front line organisations; consultancy on service needs for hard to reach groups
- ▶ **Giving** – contributing to the goals of third sector organisations to enable them undertake a variety of roles that support vibrant communities.

All of these principles are interlinked, and are seen as a cohesive package. 'Shopping' addresses the need to engage the third sector in delivering public services; 'investing' supports capacity building within the sector, and the representative/advocacy role of infrastructure bodies, and 'giving' recognises the importance of third sector groups and organisations within local communities.

For more information contact: Jenny Murray jmurray@worcestershire.gov.uk
or Julie Bishop jbishop@worcestershire.gov.uk

¹² **Grant funding to support pilots**

Pilots are often seen as a way of stimulating the market to create new ways of providing a service. Pilots can be undertaken in a number of different ways such as under a grant funding arrangement, through joint working (with each party funding their own activities), or through a contract for services where the size or nature of the contract means that it does not need to be competitively tendered under the EU procurement rules or advertised under the EU Treaty.

Source: bestprocurement (2007) *Social Enterprise and the Public Sector: A practical guide to law and policy*

¹³ **Specifications – consulting with key stakeholders**

Consult service users and key third sector stakeholders on their requirements so that these can be included in your specification. Consider including representatives from key stakeholder groups in the team developing the specifications to ensure all views are considered.

Source: Cooperatives-UK & Anthony Collins Solicitors, (2004) *Proactive procurement: Achieving quality services and implementing policy objectives by procurement from social enterprises*

¹⁴ **Specifications – reflecting the third sector's added value**

Social outcomes, such as local regeneration, social inclusion, improved health and community cohesion, may increase opportunities for the third sector to demonstrate its ability to add value whilst not excluding any other type of provider from bidding if it feels it has the capacity and skills to deliver all aspects of the contract.

Example: a housing and neighbourhood investment contract with Sheffield City Council asked tenderers to submit proposals for how they would approach a range of social considerations, which included:

- ▶ the delivery of general community regeneration objectives,
- ▶ how they would deliver the project in partnership with social enterprises active in the Sheffield area,
- ▶ how they would ensure a mixed economy in subcontracting arrangements,
- ▶ how they would ensure that local suppliers are not discriminated against when subcontracts are awarded,
- ▶ the provision of training courses and work experience for 14-19 year olds.

Source: bestprocurement (2007) *Social Enterprise and the Public Sector: A practical guide to law and policy*

Other examples of how the third sector's added value could be reflected in the specification include asking providers to:

- ▶ provide innovation in service delivery
- ▶ ensure close service-user involvement
- ▶ provide educational, awareness raising, regeneration or environmental improvements
- ▶ access the potential labour force of long-term unemployed

¹⁵ **Local knowledge**

Potential providers will be expected to demonstrate a good level of local knowledge and understanding of local context and local needs. This could be demonstrated, for example, through having a Norfolk base (even though they may be part of a larger national organisation), or having a local governance structure involving local people, or being an active member of a local provider network or partnership arrangement. National organisations delivering local services could also be expected to be members of Voluntary Norfolk.

In Lincolnshire, the Commissioning Policy being developed by the Children and Young People's Partnership, proposes that:

'If there are services which we require and there is no local provider we will invite providers based outside the County, perhaps national organisations, to tender for work in Lincolnshire. If appropriate we will require such providers to establish local management committees involving local people and may require them to promote and float new local agencies to work in the county longer term.'

¹⁶ **Value for money and whole life costs**

Government policy is that 'value for money' (VFM) is not 'the lowest price' but the optimum combination of whole life costs and quality to meet users' requirements. Whole life costs should take into account the social, economic and environmental costs and benefits of a service over its whole lifespan.

The office of Government Commerce is advocating that "VFM should always be assessed over the whole life of the contract. This should...take into account all costs and benefits to society as a whole including the environmental and social benefits and costs, not simply those directly relevant to the purchaser."

Source: Office of Government Commerce (2008) *Value For Money*
[http://www.ogc.gov.uk/documents/VFM\(1\).pdf](http://www.ogc.gov.uk/documents/VFM(1).pdf)

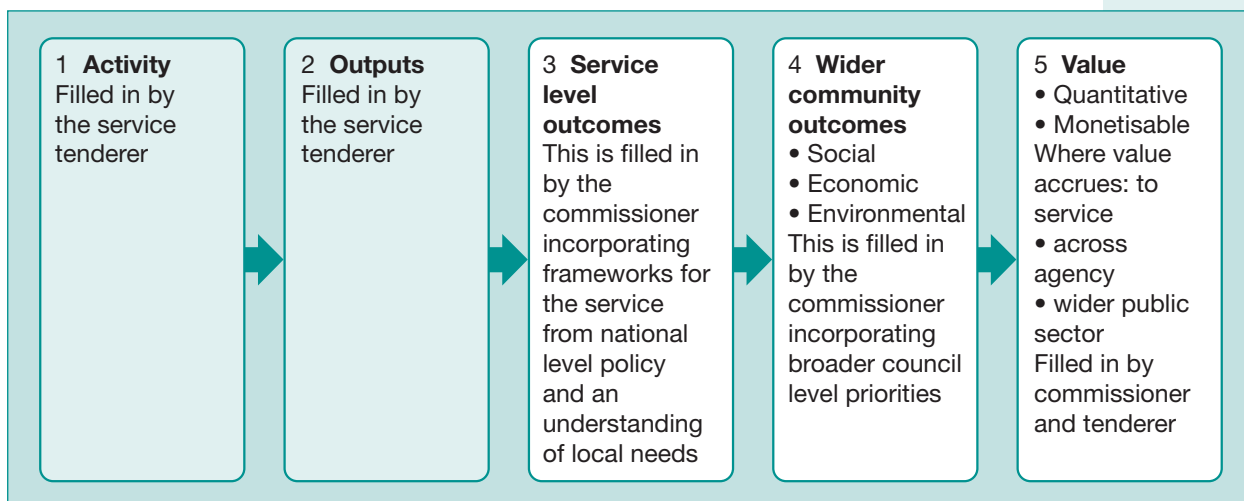
¹⁷ **Outcome based specifications**

Highly prescriptive specifications can prevent third sector organisations (and indeed any other type of provider) from using their knowledge and experience to design cost effective and viable solutions to required policy requirements.

Commissioning for outcomes can:

- ▶ help to drive innovation from service providers
- ▶ give providers opportunity to demonstrate their value and benefits better than more output-driven service specifications, and
- ▶ enable impacts to be measured as savings.

The Finance Hub has developed a model to help commissioners think through the process of what 'need' is to be met by commissioning a particular service. This model advocates being clear and precise about the needs that *have* to be met in order to meet national service frameworks and local needs, and those which would *add value*, allowing more openness in exactly how a provider might meet them. The table overleaf illustrates this model.



Source: Finance Hub and ACEVO (2008) *Impact Briefing: putting Impact at the heart of the tendering process*

In this model, the *activities* and *outputs* are described by the provider in its tender submission (the shaded columns 1 and 2 above). The commissioner specifies the *outcomes* (column 3 above) and any wider *community outcomes* that they want to see as ‘*added value*’ (columns 4 and 5). This model encourages innovation by allowing providers to explain how their activities and outputs will achieve such outcomes. Therefore, in the invitation to tender sent out to providers, the *activities* and *outputs* sections are left blank for providers to make their case.

This model has been put into practice by Camden Borough Council in a tender for the provision of mental health day care services. Bidders were asked to complete the table (overleaf) in the invitation to tender, focussing on the *activities* (column 1 below) they would deliver as part of their service delivery method and the resulting *outputs* (column 2 below). Bidders were instructed that the *outputs* should clearly result in the delivery of the specified and mandatory service *outcomes* (column 3). Bidders were provided with sample *indicators* for the service outcomes (column 4) for them to amend or delete as appropriate. Bidders were also required to use an Outcomes Star to measure the change created by their service delivery method. The Outcomes Star is looked at in more detail at Reference 38.

1 Activity	2 Outputs	3 Service outcomes	4 Suggested Indicators	5 Way of Measuring
		Enhanced psychological well being	<ul style="list-style-type: none"> • Service users report increase in well-being • Service users report reduced isolation • Service users are integrated in to mainstream services and are independent of day care 	<p>OUTCOMES STAR:</p> <p>OTHER:</p>
		Enhanced physical well-being	Service users report eating well, reduce dependence on alcohol, drugs or smoking and take more exercise	<p>OUTCOMES STAR:</p> <p>OTHER:</p>
		Enhanced well being for service users with complex needs/multiple diagnoses	<ul style="list-style-type: none"> • Awareness of problem • Reduction in consumption of drugs or alcohol • Maintenance of abstinence from drugs, alcohol 	<p>OUTCOMES STAR:</p> <p>OTHER:</p>
		Service users finding meaningful employment, training or voluntary activity	Number of service users finding satisfactory employment, training or voluntary activity	<p>OUTCOMES STAR:</p> <p>OTHER:</p>
		Improving educational outcomes for service users	Number of service users attaining qualifications, e.g. NVQ2 or higher	<p>OUTCOMES STAR:</p> <p>OTHER:</p>
		Better and more stable accommodation situation for service users	<ul style="list-style-type: none"> • Service users claiming housing benefit without support • Decrease in numbers of service users who are homeless 	<p>OUTCOMES STAR:</p> <p>OTHER:</p>

¹⁸ Social clauses

Social Clauses are requirements within contracts which allow the contract to provide added social value through fulfilling a particular social, environmental or economic aim and allow commissioners to achieve broader outcomes than just the main deliverables of a contract. For example, a social clause in a parenting service contract in an area of multiple disadvantage could require

that local parents are recruited to deliver the service and have the opportunity to achieve relevant qualifications. The benefits of social clauses include reaching and benefiting hard to reach groups or socially excluded people, helping to deliver on wider priorities, making more effective use of public monies and bringing real added value to contracts beyond simply service delivery.

However, the Office of the Third Sector (2006, *Social Enterprise Action Plan*) has acknowledged that there are barriers to the use of social clauses by purchasers and has tasked the North East Regional Centre of Excellence (NECE) to piloting the use of social clauses in live procurement exercises in four local authorities and to develop a range of standard templates for key social outcomes.

Whilst social clauses can offer many benefits, for the 'additionality' being sought through social clauses to be fully achieved when the contract is delivered, they must be given sufficient weighting in the contract specification and evaluation criteria and during contract monitoring.

Source: Office of the Third Sector:

http://www.cabinetoffice.gov.uk/third_sector/public_services/social_clauses.aspx

¹⁹ **Length of contracts**

"For public service delivery a sensible length of contract to generate results would normally be a *minimum* of three years"

Source: OGC and Home Office (2004) *Think Smart Think Voluntary Sector!*

Short term contracts can lead to the diversion of valuable third sector resources into bidding for government funds and away from the development and delivery of better services. Annual funding can put the sustained care and support of service users at risk as well as create considerable levels of uncertainty for both funding bodies and providers and limiting the ability of the third sector to engage in longer term planning, borrowing and investment. Longer-term funding (more than one year) can reduce VCO dependency, allow greater flexibility to carry out core functions, and produce clear benefits for client groups.

Source: HM Treasury (2006) *Improving Financial relationships with the third sector: guidance to Funders and Purchasers*

²⁰ **Consortia approaches**

A consortia, or partnership approach to delivering the contract, may achieve greater outcomes than having one provider. It can bring a mix of relevant, but different and complementary skills than might otherwise be available through just one provider.

However, the length and complexity of the stages involved in forming a consortium should not be underestimated. This includes the impact on the resources of smaller third sector organisations.

²¹ **Preferred providers**

The Alliance Herefordshire has developed a process of accreditation, Acqua, for third sector organisations to confirm their fitness for purpose for delivering

services. Once accredited, third sector organisations are admitted to a register of approved third sector providers, which is owned and administered by the Alliance.

Eligibility to provide services in Herefordshire is via the Register of Approved Providers. All third sector organisations funded by Herefordshire Primary Care Trust, Herefordshire Council's Directorate of Adult and Community Services Directorate of Children and Young People's Services, to deliver health and social care services, whether by grant or under contract, and which are not currently subject to national registration, are required to be on the Register of Approved Providers.

Source: <http://www.allianceherefordshire.org.uk/pages/register.asp>

²² **Tendering thresholds**

If your organisation has set a financial value above which a tender process is mandatory and this 'threshold' is particularly low, this could prevent small or inexperienced third sector providers from bidding to deliver services.

²³ **Part B services**

Many services that are provided by the third sector are classed as Part B services under the EU procurement rules. Part B services include education and vocational health services, health and social services and recreational, cultural and sporting events. As the full EU procurement rules do not apply to Part B services public sector organisations should take full advantage of their ability not to follow the full requirements of the EU procurement rules when this is not necessary.

Source: bestprocurement (2007) *Social Enterprise and the Public Sector: A practical guide to law and policy*

²⁴ **Procurement timescales**

Many smaller or new third sector organisations find the tendering process complicated and expensive. This can be compounded by the use of the minimum procurement timescales which are mandatory under the EU Procurement Directives for procurements undertaken through the full EU rules.

As the timescales stated for the completion and return of Pre Qualification Questionnaires (PQQs), and the completion and return of tenders are only the *minimum*, there is flexibility to extend the timescales to encourage bids from smaller providers, partnerships and consortia. If the procurement falls under Part B services, or is under the EU procurement thresholds, there is no formal time constraint. Particular care should therefore be taken to allow sufficient time for tenderers to develop their tender and submit their tender application.

²⁵ **Financial information**

Smaller third sector organisations may be put off from bidding if the financial information requested is overly rigorous. Guidance from the Office of Government Commerce states that accounts should be requested only for the last 2 years, so as to not exclude new organisations. Guidance also states that if 2 years accounts are not available other forms of appropriate

financial information can be accepted such as statements and references from banks and accountants, management accounts, financial projections and capital availability.

Source: Office of Government Commerce (2001) *Supplier Financial Appraisal Guidance* – gives further information on alternative forms of evidence of financial stability

²⁶ **Quality standards**

Smaller third sector organisations may find the cost and time involved in attaining externally recognised and validated quality systems, such as ISO9001 a barrier to them competing for contracts, particularly if they are new to tendering procedures and requirements.

The quality standards required should be proportionate to the financial value of the contract and the complexity of the contract. In the case of lower value contracts that may be more accessible to small third sector organisations, it may be more appropriate to consider alternative types of quality standard.

For example, PQASSO, the Practical Quality Assurance System for Small Organisations, was designed specifically for small and medium-sized organisations. Its flexibility and adaptability to organisations of varying types and sizes has made it a firm favourite in the sector. Designed as a work pack, it helps an organisation identify what it is doing well and where improvement is needed. Designed primarily as a self-assessment tool, PQASSO Quality Mark is an optional accreditation by peer review launched in November 2007.

For details of other quality standards used within the voluntary sector see the Performance Hub website:

<http://www.performancehub.org.uk/page.asp?id=49>

Another example is the the Supporting People Quality Assessment Framework (QAF) which sets the standards expected in the delivery of Supporting People services and identifies methods of passporting evidence of achievement.

www.spkweb.org.uk/Subjects/Quality_and_monitoring/Quality_assessment_framework/

²⁷ **Allocating and agreeing risk**

Regular and open discussion of risk factors between funding bodies and third sector organisations is critical to the delivery of value for money.

The provider of the service controls the *output* or the *outcome* and bears the risks of failing to deliver the required outputs or outcomes. Such outputs should be fully agreed between purchaser and provider before the funding arrangement is entered into.

As neither the purchaser nor the provider can normally control *demand* for a service, the provider should not be expected to bear all the risk, particularly if the purchaser has estimated the demand without consulting the provider. Purchasers and providers need to agree what the demand for a particular service is likely to be and the arrangements for sharing and/or dealing with unexpected demand.

Source: HM Treasury (2006) *Improving Financial relationships with the third sector: Guidance to Funders and Purchasers*

²⁸ **Transfer of Undertakings (Protection of Employment) Regulations (TUPE)**

Lack of understanding of the requirements and obligations under TUPE could prevent capable third sector providers from bidding for contracts.

Similarly, the rigour and expense of a **due diligence** process to assess organisations considering collaborative arrangements is thorough and rigorous and can impact on the resources of third sector organisations.

²⁹ **Contract conditions**

Third sector organisations are most frequently deterred from bidding by over complex and demanding contract conditions, which may differ between public sector organisations or even between departments within the same organisation. Third sector organisations often do not have in-house legal services and may not be prepared to take the risk of accepting contract conditions without taking legal advice. This all adds considerably to the cost of bidding.

Source: OGC and Home Office (2004) *Think Smart Think Voluntary Sector!*

³⁰ **Evaluation models**

The evaluation criteria should be clearly stated at the outset and the intention behind different criteria and their relative importance clearly explained.

Two evaluation models, both of which do this, can be seen overleaf. One is from Suffolk Supporting People ('a') and one from Birmingham City Council ('b').

a. Suffolk Supporting People Tender

The evaluation criteria and weightings model (below) shows how criteria such as local knowledge, partnership working, innovation and service user involvement will be measured. Including these issues in the specification, and the evaluation models will ensure the provider best able to meet the outcomes is selected.

		Tender Document 70%		Tender Presentations 10%		Service User Evaluation 20%	
Quality	Details of Proposed Service	12.50%	Providing a service to meet the SP Five Year Strategy	4%	Timing of service delivery (working hours and access to service)	3%	
	Management and Operation of the Service	7.50%	Achieving continuous improvement in the service	4%	Creativity and innovation of service delivery	3%	
	Skills, Knowledge and Experience of Working with Service Users and providing Housing related Support	5%	Proposal to manage the transition of the services (from existing service to the new holistic service)	2%	Service User involvement in the monitoring of services	3%	
	Assessment of Needs and Risks and Support Planning	5%			Delivering activities that meet service users needs	3%	
	Partnership Working and Information Sharing to Achieve Effective Outcomes	5%			Service User involvement in the design & continuous improvement of service	3%	
	Knowledge of the Locality	5%			Instances of disputed service withdrawal	2%	
		40%			Measuring individuals progress	3%	
Value for money	Price and Volume tendered Hourly Rate and Volume of Hours	20%					
	Front Line Service Capacity – number of clients to be provided with the service and % of resources on direct provision	5%					
	Sustainability of pricing - overall viability of bid, all identified service costs in Appendix 9b costed, realistic staff salaries for geographical area	5%					
	30%						

b. Birmingham City Council

This illustrates a weighting model where price accounts for 40% of the evaluation score and quality accounts for 60%. In this example, the bid with the highest price is given the highest overall ranking because it scored the highest on quality. Therefore bidder 'C' with the highest price but highest quality would have been recommended for award of the contract.

Overall quality/price evaluation example:				
Prior overall weighting model				
Tenderer	A	B	C	D
(a) Quality Score	302	354	405	322
(b) Adjusted Quality Score (% of highest score)	75%	87%	100%	80%
(c) Quality Weighting	60	60	60	60
(d) Weighted Quality Score (b)* (c)	45	52.2	60	48
(e) Price	£1,560,000	£1,690,000	£1,840,000	£1,540,000
(f) Price Score (% of lowest price)	99%	91%	84%	100%
(g) Price Weighting	40	40	40	40
(h) Weighted Price Score (f)* (g)	39.49	36.45	33.48	40
(i) Total Weighted Score (d) + (h)	84.49	88.65	93.48	88
(j) Overall Ranking	4	2	1	3
The tender with the highest total weighted score is recommended for acceptance				

Source: Birmingham City Council (2003) *Evaluating Tenders on Quality and Price*

³¹ Feedback

It is a requirement under EU procurement directives to provide feedback and it should always be given if requested, even for contracts below the EU threshold. Organisations unfamiliar with the public sector may not know that they can ask for feedback. Poor quality, or non-existent feedback, can reinforce a belief, already common amongst suppliers, that the public sector selects its suppliers on the basis of lowest cost, not on the basis of Value For Money.

Source: Office of Government Commerce and Small Business Service (2005) *Smaller Supplier... Better Value?*

³² **Third sector supplier involvement**

Providers may have valuable input on how service delivery can best be measured, or experience of contract management arrangements which they have used successfully with other clients. See Box 4 on levels of engagement.

³³ **Contract management arrangements**

This includes arrangements for reporting, regular meetings, change control and dispute resolution procedures, and any mechanisms/incentives for the supplier to propose better ways of working.

³⁴ **Proportionate reporting**

It is important not to burden third sector providers with onerous reporting requirements relating to processes or frequent contract review meetings – these can be both expensive and ineffective. Encourage the use of exception reporting. If contracts are too closely controlled then the flexibility that is one of the benefits of working with the sector can be lost.

³⁵ **Measuring key outcomes**

See Reference 17 (Outcome based specifications) and Reference 38 (Measuring Soft Outcomes).

³⁶ **Change control processes**

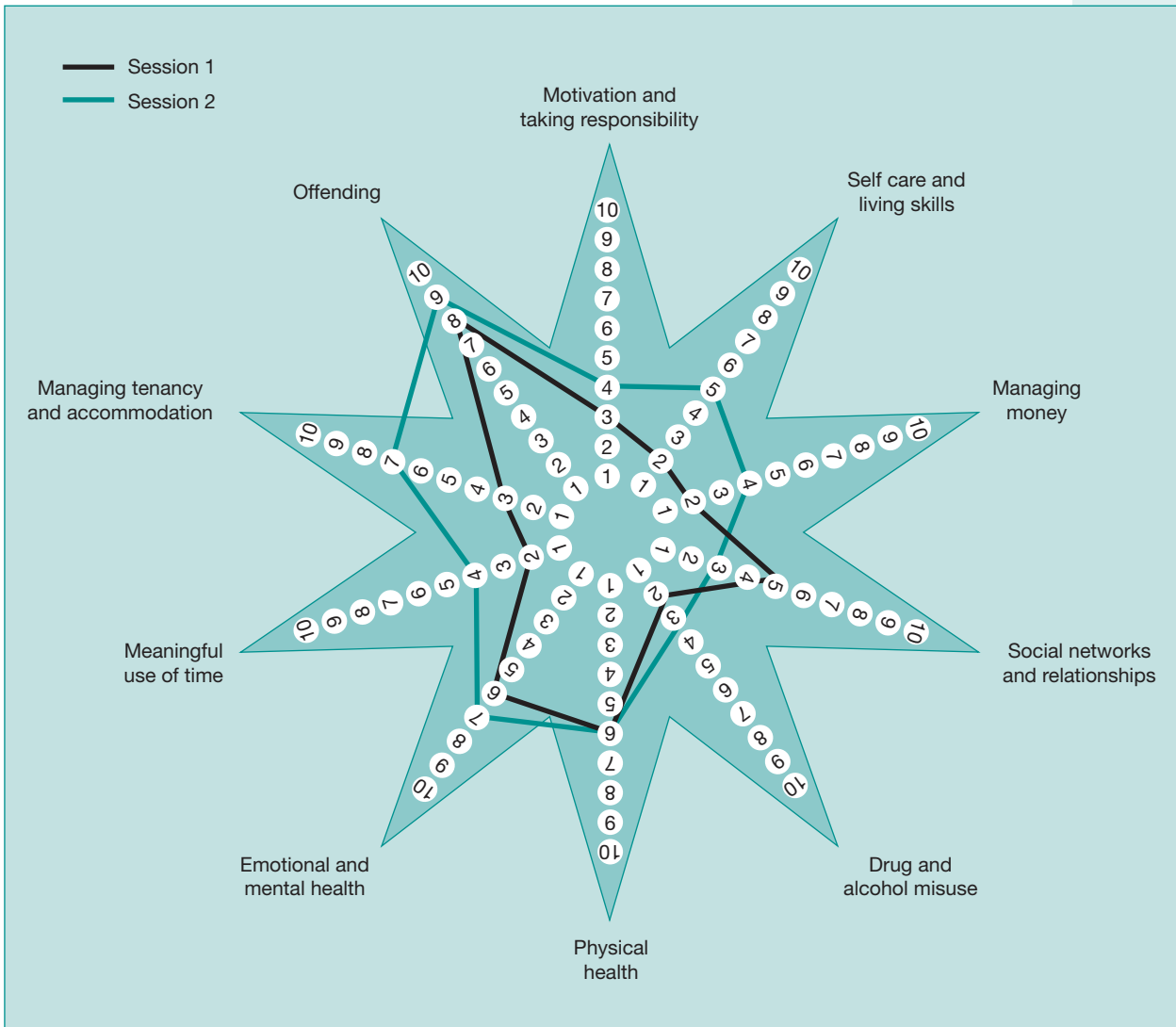
It is important to be sensitive to the impact that changes in contract requirements can have on third sector providers. It is important to take account of supplier comments on the changes required and allow realistic timescales for the implementation of any changes.

³⁷ **Encourage and incentivise for better ways of working**

It is often only after a contract has been awarded and the provider has been delivering the service for a while that they are able to identify improvements or cost savings. Evaluate proposals thoroughly and harness good ideas.

38 Measuring soft outcomes

The use of soft outcomes is particularly valuable when the focus is on how people's lives can be changed as a result of services. The Outcomes Star provides a tool for measuring soft outcomes. The illustration below relates to helping homeless people to stabilise their lives and includes areas like mental health, physical health, alcohol and drug misuse, self care and living skills. To see change over time services users are interviewed and their progress tracked along the points of a star. (The inner line shows the position at the first interview; the outer line connects the points on the star to show progress at the second meeting.)



Appendix 1

Relationship between the Guide and the Compact

Background to the Compact

As the major framework for partnership working between organisations in the public sector and third sector, it is vital that Commissioners use the Norfolk Compact in conjunction with this Third Sector Guide for Public Sector Commissioning. In addition the Compact is increasingly used as a tool to boost third sector involvement and to ensure best practice in all working relationships between the sectors.

All main public sector organisations in Norfolk are signatories to the Norfolk Compact and have therefore agreed to adhere to the principles and undertakings contained in the Codes of Practice for the Norfolk Compact. As Commissioning now constitutes a major function in the working relationship between the two sectors it is particularly important that all commissioners have a comprehensive understanding of the Compact and work in accordance with those principles and undertakings. The Norfolk Compact applies to all stages in the commissioning cycle as detailed in the Guide. A Dispute Resolution Procedure is in place to address any breach of the Norfolk Compact as a result of an action by either a commissioner or a third sector organisation.

The Compact Way of Working

The Compact states the necessity to engage with the third sector, at the earliest opportunity, in programme design. This is applicable equally to the design of commissioning programmes or policies as to other public sector activities. The Compact builds relations that change how partners behave and work together. Programmes that are jointly designed or partnerships that are based on trust and mutual respect show a commitment to getting it right together for mutual advantage. This is a Compact way of working.

Links between Norfolk Compact and the Commissioning Guide

Full cost recovery is one of the Compact principles and it is therefore important that commissioners recognise the cost of services, including the overheads that relate to the activities they have commissioned. This follows HM Treasury's cross-cutting review that concluded it is legitimate for third sector organisations to include the relevant element of overheads in their cost estimates for providing services.

With regard to contract and payment terms the Compact states that payments to third sector organisations can and should (where appropriate and necessary) be made in advance of expenditure, rather than in arrears, in order to achieve better value for money. Within the Guide the Checklist

Questions reference the requirement for payment terms to include flexibility in order that this issue can be addressed.

The Compact principles of simplicity and proportionality should apply to all stages of a financial relationship. This means that commissioning processes should be as simple as possible and in proportion to the amount of money involved. All smaller third sector organisations will have issues of capacity which may well place them at a disadvantage with regard to commissioning processes. The Compact states that a well-managed application or tender process allows the third sector to access opportunities to deliver. If organisations have enough time to apply they will be able to make a well-informed and considered application or tender. They will also benefit from not having to spend disproportionate resources on application processes. In the same way the principle of proportionality should also be applied to monitoring and evaluation clauses within the commissioning process.

One of the Checklist Questions refers to the length of contracts and the Government has made a commitment to local three year funding as a minimum from April 2008. In support of this commitment the Compact states that longer term planning and financial arrangements represent better value for money than one year agreements by providing greater financial stability and by reducing the amount of time and effort wasted on applying for new funds or renegotiating contracts. Within the Norfolk Compact, the statutory sector is committed to improving the long-term sustainability of third sector organisations by, for example, investing in multi-year roll-forward funding and capacity building.

Dennis Mawson
Norfolk Compact Officer
dennis.mawson@voluntarynorfolk.org.uk 01603 883828

Appendix 2

Glossary

Best Value

A legal requirement of all local authorities to make sure that they deliver value for money across their services. This is implemented by carrying out reviews, consultations and monitoring of BV performance indicators.

Commissioning

The cyclical process of assessing need, specifying the standards to be met (including Outcomes to be achieved), planning how to use resources, securing service delivery, then evaluating the service and reassessing need. This applies to all services, whether they are provided by a local authority, other public agencies or by the private or third sectors.

Effective commissioning is undertaken in collaboration with partners.

Contestability

The process of ensuring that there is a viable market of alternative providers by reducing barriers to market entry and encouraging competition.

Full Cost Recovery

Full cost recovery aims to ensure third sector organisations – including charities, voluntary and community organisations and social enterprises – receive payment for the full costs of services they deliver on behalf of public funders. This means securing payment for both the direct costs of service provision and any overhead costs legitimately incurred in support of the service. Failure to recognise the full cost of delivering a service could result in third sector organisations subsidising public services and eroding their charitable reserves. This can threaten value for money through short term risks to the quality and effectiveness of a service, and longer term risks to choice and competitiveness in public service markets if organisations collapse or withdraw due to financial difficulty.

Joint commissioning

Where two or more agencies, or different specialism within the same agency, work together to create a clear picture of the needs of the local population, pool resources, and join up services so that they deliver better outcomes than they would on their own. This should lead to more integrated delivery and better value for money.

Procurement

The process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. Procurement may be through open tendering, select list or approved providers list.

Social Enterprise

A business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or the community, rather than being driven by the need to maximise profit for shareholders and owners. Social enterprises can include; consumer cooperatives, mutuals, housing associations, trading arms of charities, worker and consumer co-operatives, community businesses, development trusts, social firms, intermediate labour market projects and social businesses.

Third sector

The Government regards the third sector as a key partner in a mixed economy of public service provision, alongside the public and private sectors. The sector comprises organisations that:

- ▶ are non-governmental;
- ▶ are 'value-driven' – that is, that are primarily motivated by the desire to further social, environmental or cultural objectives rather than to make a profit *per se*; and
- ▶ principally reinvest surpluses to further their social, environmental or cultural objectives.

It includes the voluntary and community sector, social enterprises and community interest companies. The Government also use the term to refer to Housing Associations/Registered Social Landlords.

Value for money

In the context of a procurement process, it means choosing the bid that offers 'the optimum combination of whole life costs and benefits to meet the customer requirement'. This is not the lowest initial price option and requires assessing ongoing revenue/resources costs as well as initial costs.

Voluntary and community organisations

The size, scope and capacity of voluntary and community organisations (VCOs) are quite diverse. In relation to delivering public services, VCOs can be categorised as follows:

Small, community-based groups that are providing specific services on a modest scale, primarily under grant funding arrangements. Most of these have neither the capacity nor the desire to compete for service contracts. They may focus more on their advocacy role and on representing user views on service design.

Small to medium-sized voluntary organisations that are already delivering, or want to deliver, services; but some find it difficult to compete for contracts because they lack the skills and experience to formulate successful bids.

Large national or regional voluntary organisations that are already delivering services under contract.

Voluntary and community sector

An 'umbrella term', referring to registered charities as well as non-charitable non-profit organisations, associations, self-help groups and community groups, which operate on a non-profit-making basis, to provide help and support to the group of people they exist to serve. They may be local or national and they may employ staff or depend entirely on volunteers.