

Improving strategic commissioning in the culture and sport sector

Guidance paper 3

Building capacity in the Third Sector

**This is the third of three detailed guidance papers to support
'Understanding commissioning: a practical guide for the culture and
sport sector'**

Building Capacity in the Third Sector

Third sector organisations are significant providers of culture and sport in communities.

There are great benefits of the third sector delivering public services but also barriers and challenges in the commissioning process which make it more difficult for third sector organisations to participate. Particular commitment is required to enable the third sector to engage effectively in commissioning for public service delivery and to realise the benefits for communities.

This section sets out the 'Eight Principles of Good Commissioning' developed by the Office of the Third Sector, and uses this framework to describe the current experiences and perceptions of commissioners and third sector organisations and key considerations for improvement.

1. Introduction and Policy Context

Public, private and third sectors all have key roles to play in public service design and delivery. In commissioning services, some might argue that the process should be 'sector blind' – designed in a totally neutral way which invites all players to participate on exactly the same terms. Government policy, however, for many very positive reasons, favours a greater involvement of the third sector in public services and advocates special efforts to promote and increase this engagement. Different government departments have embraced this with varying levels of activity and the Department for Culture, Media and Sport fully recognises that the third sector is a vital resource in culture and sports provision. It is important to learn from the policy and practice developing nationally and locally in other sectors, as well as from experiences within the sector, in order to build knowledge, skills and experience to increase engagement of the third sector within the commissioning aspect of modernising public services.

The third sector can be **defined** as independent, self-governing, non-governmental organisations that are value driven and which principally reinvest their surpluses to further social, environmental or cultural and sporting objectives. It includes voluntary and community organisations, charities, social enterprises, trusts, cooperatives and mutuals. Housing associations are also included within the third sector. It is sometimes referred to as the 'social economy', 'civil society' or, more narrowly, as the 'voluntary and community sector' (VCS).

The third sector is diverse and has organisations which provide a voice for under represented groups, campaign for change, support the creation of strong, active and cohesive communities, promote enterprising solutions to social and environmental challenges and assist in the transformation of the design and delivery of public services.

In **culture and sport** the diversity of organisations includes play projects, history and heritage societies, sports clubs and leagues, leisure trusts, theatres and arts organisations, festivals, music societies, reading groups and activities spanning the spectrum of age ranges, cultures and abilities.

The sector as a whole has a history of innovation, championing the vulnerable or marginalised, challenging poor social practices or conditions and creating change in public policies. Over the past decade, the reform of public services has posed new challenges and opportunities for the sector. In some aspects, the reform of public services has taken on and sought to 'mainstream' some of the strengths of the third sector – being closer to customers and communities, involving people in service design and decision making and reaching out to all sections of the community.

One of the key developments in the past ten years was the development of **the Compact**. Established in 1998, the Compact is an agreement between Government and the voluntary and community sector in England. It recognises shared values, principles and commitments and sets out guidelines for how both parties should work together. Although the Compact is not legally binding and is built on trust and mutual goodwill, its authority is derived from its endorsement by government and by the voluntary and community sector itself through its consultation process. Five Codes of Practice underpin the Compact. They cover: Black and Minority Ethnic (BME) Voluntary and Community Organisations; Community Groups; Consultation and Policy Appraisal; Funding and Procurement; Volunteering. The Commission for the Compact was established in April 2007 and is an independent body responsible for overseeing the Compact. The Compact was reviewed in November 2008 and it is recommended that it remains a voluntary agreement and that it is combined into one document taking account of the new local performance framework, Local Strategic Partnerships, Local Area Agreements and the Comprehensive Area Assessment. It remains as a baseline of good practice and the principles for the public and third sector working together. Locally, the public sector negotiates a local Compact with the third sector based on their mutual requirements. These are important local agreements.

Funding for third sector organisations has also changed, reflecting the agenda of accountability, value for money, the focus on performance and outcomes. In the late 1990s, organisations receiving **grants** from public sector bodies increasingly were asked to have **Service Level Agreements** which would define more precisely the service to be offered, usually in terms of both inputs and outputs. This developed into **Grant Aid Contracts**, with both the service level and other terms and conditions of grant aid being defined, including such things as the make up of management committees and legal issues, financial procedures, equalities and employment policies. These requirements apply to specialised funding streams for regeneration or larger nationally funded programmes. Public service reforms led to the greater use of **Commissioning**, particularly for health and social care services. Many of

the lessons learned in health are transferable to other service areas and are being drawn upon to inform third sector policy.

The **Office of the Third Sector** (OTS) was created in May 2006 and is located in the Cabinet Office to recognise the importance of the role the third sector plays in society and the economy and to drive cross-government action to ensure better partnership with the sector. That year also produced the **Public Service Action Plan** to help facilitate an increase in public service delivery by the third sector. It focused on four areas: Commissioning; Procurement; Building on the sector's capacity; Innovation.

Through the Action Plan, a **National Programme of Third Sector Commissioning** was set up. The Improvement and Development Agency (IDeA) is managing the programme which will provide guidance, training and awareness raising amongst commissioners and the third sector over the next three years.

The Action Plan also set out the **Eight Principles of Good Commissioning**, and these principles and the findings of the IDeA Baseline Study for the National Programme of Third Sector Commissioning are explained more fully in Section 3.

2. Benefits and challenges

Within commissioning there needs to be openness and opportunities for different types of organisations to participate in the process. Just as equality doesn't mean simply treating everyone the same but is about responding to specific needs, so in this process there is a need to give time and commitment to engage those organisations who are less able to participate but offer great potential benefits. This is often referred to as capacity building.

Working with the third sector as a deliverer of public services brings many **benefits** including:

- third sector organisations are close to communities, especially those considered hard to reach, and have skills and experience of working with the most disadvantaged in the community
- they are an independent voice, acting as a check or balance to the mainstream
- they can be flexible and responsive to changing needs
- investing in local organisations can have a multiplier effect in the local economy – local public money invested locally supports local jobs and suppliers and supports economic regeneration from within
- it is a means of harnessing community energy and ideas to develop their own solutions and action and empowering local people to make a difference
- the benefits can be broader than those initially conceived as outcomes and the concept of 'social accounting' can be used to demonstrate

added value. Social Return on Investment (SORI) is one such means of measuring social and environmental returns that come from local engagement. For example, a locally run sports league for young people, as well as the direct and indirect benefits to the participants, may produce many additional benefits such as increasing parental networks, social and fundraising activities and bringing different communities together.

- third sector organisations can deliver high quality, focused and innovative interventions based on a detailed understanding of local and individual needs and can be successful where other interventions may have failed

The pace of change towards commissioning has meant challenges for all sectors but these are greatest for the third sector. Some of these are developed in more detail under the Eight Principles of Good Commissioning in Section 3, but some of the **challenges** facing the involvement of third sector organisations in commissioning include:

- the resources involved in the commissioning process can be considerable in terms of time and expertise. Releasing staff, volunteers or Board members for meetings and to write detailed documentation can be difficult, especially for small organisations with very tight budgets and commitments to deliver services under grant aid contracts as well as raise funds for ongoing survival
- the size of contracts can be prohibitive and the trend in some service areas to move to regional contracts severely disadvantages local groups
- calculating the full costs of service delivery is challenging for third sector organisations. The concept of 'Full Cost Recovery' has been developed in the third sector to help organisations identify more precisely the costs of delivering services, including full overhead costs, which will include an evaluation of volunteer time. For small organisations, Full Cost Recovery may mean they are uncompetitive against larger organisations, requiring a decision as to whether to bid or to make a conscious decision not to seek to recover full costs
- Demonstrating social return requires skills and expertise that both third sector organisations and commissioners need to learn
- Financial risks involved in managing contracts can be greater than organisations can manage or have implications for the personal liabilities of management committees or trustees
- Commissioners also lack skills in developing needs assessments and specifications to meet identified needs and can lack skills or commitment to look at the broadest possible range of providers or to develop the provider market
- The relationship between the public and third sector may have a chequered history and there will need to be a mature discussion about roles, relationships and expectations in the commissioning climate and good communications about what is involved
- Some organisations fear 'mission drift' and loss of independence if their activities are increasingly led by the commissioning process

- Time is often the greatest challenge. The longer the lead in to the commissioning process, the potential for better quality engagement and solutions, with third sector organisations able to contribute to the needs assessment and options appraisal, develop consortia or collaborate with other bidders and develop the creative community led solutions at which they are best.

3. Eight principles of Good Commissioning

The eight principles were outlined in the 2006 Action Plan for Third Sector Involvement, produced and championed by the Office of the Third Sector in the Cabinet Office. They are:

1. Understanding the needs of users and other communities by ensuring that, alongside other consultees, you engage with third sector organisations as advocates to access their specialist knowledge
2. Consulting 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
3. Putting outcomes for users at the heart of the strategic planning process
4. Mapping the fullest practical range of providers with a view to understanding the contribution they could make to delivering those outcomes
5. Considering investing in the capacity of the provider base, particularly those working with hard to reach groups
6. Ensuring that contracting processes are transparent and fair, facilitating the involvement of the broadest range of suppliers, including sub-contracting and consortia building, where appropriate
7. Ensuring long-term contracts and risk sharing, wherever appropriate, as ways of achieving efficiency and effectiveness
8. Seeking feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs

The IDeA has commissioned research to establish a baseline against these eight principles for both commissioners and third sector organisations. They received 162 responses to the survey from commissioning organisations, 417 responses from third sector organisations and supplemented these with focus groups and individual interviews. An additional focus group was conducted with BME third sector organisations. The baseline findings are included here alongside some key issues for commissioners and third sector organisations. The baseline gives an indication of where the commissioning process is nationally and could be used to benchmark locally and help you assess where you are now.

Principle One: Engaging with third sector organisations as advocates to understand user and community needs

Baseline:

- 87% of commissioners agreed that the third sector understands hard to reach clients
- 21% said they always consult third sector organisations at an early stage in the commissioning process

Key issues for commissioners:

- Engaging third sector organisations from the outset in the needs assessment process will enable early participation in the whole process and draw on the expertise of the sector in reaching communities
- Third sector organisations can be commissioned to undertake some of the needs assessment work, including conducting focus groups or interviews in the community and surveying particular groups of residents
- Especially where there is a lack of diversity among commissioners and senior managers, there is a particular need to involve BME organisations

Key issues for third sector organisations:

- Organisations need to be aware of the asset they have in their community constituency or client base, many of whom may be in contact with them because of the unsuitability or inaccessibility of mainstream services. Demonstrating skills and methods in collecting and analysing needs and articulating these clearly to commissioners will be important in securing early engagement on professional terms.

Principle Two: Consulting in advance to set priority outcomes

Baseline:

- 49% of commissioners said that they involve third sector organisations at an early stage in commissioning 'always' or 'often'
- 63% of third sector organisations thought that public sector commissioners do not understand the contributions that third sector organisations can make in planning and delivering public services

Key issues for commissioners:

- Perceptions in third sector organisations is that their involvement is often tokenistic, they are invited so that the commissioner can 'tick a box', but they are not listened to.
- There may need to be initial training and awareness raising of the sector's potential contribution for those leading and participating in the commissioning process

- Priority outcomes will have cultural variations, so involvement of BME groups is vital to understanding these
- 'well in advance' is good practice anyway – this should be a well planned and managed process throughout

“The way that we work includes the participants in shaping the projects they are involved with, This also extends to what they want/need to do next. If the commissioners really want to build work around the real needs of disadvantaged people, then we should take advantage of their input and interest at this stage when they are engaged rather than reacting to consultations and surveys that don't always seem real them. This means longer term planning so that continuity of projects and opportunities for personal development are not missed.”

Community Arts organisation in Leicester

Key issues for third sector organisations

- Larger organisations and umbrella bodies need to support the involvement of smaller organisations. Where organisations may have been in competition for funding in the past, this process may mean that there are more opportunities available through greater collaboration within the third sector, pulling together strengths, expertise and client bases.

Principle Three: Focusing on outcomes

Baseline:

- 47% of commissioners said that they most often used outputs as targets or standards when commissioning services
- 36% said they most often used outcomes
- 11% said they most often used 'other' targets or standards – this was most often specified as a mix of outputs and outcomes

Key issues for commissioners:

- Local Strategic Partnerships should support the identification of outcomes amongst all partners, linked to their community strategies and LAAs, and support sub-regional and regional collaborations to build better understanding and encourage greater consistency of approach
- The baseline study suggests that upper tier local authorities and central government departments are more likely to use outcomes with Primary Care Trusts and 'Other Commissioners' more focused on outputs. Sharing knowledge and experience through the LSP and national learning networks is required.

- Commissioners should consider how they can define outcomes and then leave the means of achieving those outcomes open to the commissioning process rather than being over prescriptive. This will give opportunities for innovation and creativity.

Key issues for third sector organisations:

- Individually and collectively, organisations should share knowledge and experience on identifying outcomes and, in addition, explore some of the social accounting tools and methods to demonstrate wider outcomes and benefits
- Participating in the learning with other partners from the public sector, through the LSP or other networks will also support the move to more common understandings of what is meant by outcomes and how they can be demonstrated

Principle Four: Understanding the range of providers

Baseline:

- 29% of commissioners said that they were aware ‘to a considerable extent’ of the providers in their area and how they can contribute
- 57% said they were aware ‘to a fair extent’
- 18% had carried out a mapping exercise in the past year
- 82% agreed that ‘access to a diverse provider base makes it easier to commission high quality services

Key issues for commissioners:

- The mapping process can be carried out on a regular and systematic basis, possibly by an annual ‘census’ or on-line database to keep an updated picture of the organisations in the area and their key services and characteristics. The value of this would extend beyond commissioning.
- An ongoing programme of building contact and relationships with third sector organisations through visits to see the work in action and opportunities for regular dialogue will be a beneficial way of building understanding of the sector. Regular ‘informal but systematic’ contact can be the most beneficial.
- Very small organisations, including those run entirely by volunteers, have an important role. In culture and sport services, many of the clubs, groups and societies fall into this category and they can form a majority or substantial part of the local provision, so careful consideration of their role and contribution is essential
- Consider local organisations which may be outside the local authority boundaries but which are used or could be used by local residents

Key issues for third sector organisations

- Regularly summarising and reporting on activities and achievements, bringing these to the attention of commissioners and senior managers and invitations to see the organisation's work in practice – not just at showcase events or annual meetings, but on a 'normal' day – will help build greater awareness of the work of the organisation, the value added aspects, the relationships with clients, the contribution of volunteers and innovatory practice.
- Umbrella organisations have a key role to play in helping in the mapping process and building relationships

“As small low capacity companies, the possibility of delivering a whole tender is unlikely, but we are the ideal partner for many parts of a tender. For example a tender to deliver services to reduce NEET young people in the city may have parts that are about impacting on high numbers with specific interventions such as career advice or volunteering opportunities, but we what are good at is high quality interventions with hard to engage young people and a programme to tackle NEET should include that. So it is important that consideration is made when putting together the commission that there is scope for both kinds of work.”

Community Arts organisation, Leicester

Principle Five: Investing in the capacity of the provider base

Baseline:

- 67% of commissioning organisations agreed that their organisation 'sees a role for itself in investing in the capacity of our provider base'
- 38% provided capacity building support for providers in the third sector and others 'on a regular basis'
- 50% of third sector organisations said that they had never received capacity building support around commissioning
- Among third sector organisations who had received capacity building support around commissioning, 19% said it was very helpful and 47% said it was fairly helpful

Key issues for commissioners:

- Capacity building support can take the form of general information giving about the commissioning process; specialist support, training and guidance; targeted support for organisations working with hard to reach groups; support in building consortia; pump priming grants and working with local Councils of Voluntary Service (CVS).

- A 'diagnostic session' with third sector organisations is one means of identifying capacity building requirements and how they are best delivered. Some organisations need basic awareness raising and support whilst others already have some experience and expertise from which they want to build and develop.

Key issues for third sector organisations:

- In many areas there is a lack of BME support organisations to provide advice and training for BME third sector organisations and this, or other gaps, needs to be addressed by the sector, potentially in collaboration with commissioning bodies
- Getting together with other organisations, in advance of any specific commissioning, to explore how joint working could contribute to the process and considering some models and mechanisms for collaboration around outcomes will help prepare for the process, rehearse questions and possibilities and give greater confidence to be proactive and make suggestions within the process
- 'Futurebuilders' and 'Capacitybuilders' funds are available to support organisations develop their capacity to deliver public services

“Timescales are always too short. As a small organisation we need to plan ahead to survive.”

Community Arts organisation, Leicester

Principle Six: Fair and transparent process

Baseline:

- 41% of third sector organisations did not agree that procurement processes were generally fair and transparent. Only 20% agreed that they were, while the remainder were unsure
- 80% of commissioners agreed that their procurement processes, and the bureaucracy around them, could be difficult for third sector organisations to negotiate
- 80% of third sector organisations agreed that 'most public sector organisations seem to prefer to commission services from larger organisations'
- 52% had worked in partnership with other third sector organisations before and 29% had been part of consortia with different types of agencies

Key issues for commissioners:

- There is a simple challenge for commissioners to make the process clear, accountable and open from the outset, setting out the timetable, methodology and decision making processes and being open to

- scrutiny. There are legal and financial rules and regulations to be followed but these should be explained and not used as camouflage
- There is a perception that commissioners prefer to work with larger organisations and those who are a 'known quantity' to them, such that smaller and newer organisations don't get a look in. Commissioners need to genuinely address this issue

Key issues for third sector organisations:

- The earliest possible engagement in the process is essential – to understand, question and, if necessary, challenge the process to make it more open and accessible

“We are currently tendering against a specification. We had no sight of the specification before we submitted the PQQ (Pre-Qualification Questionnaire). If this had been available before (even in draft form), we would have had time to think about consortium working, which will be the most effective way to deliver services under this specification. As it is, we have two weeks to do the tender, which gives no time to meet with potential consortium members, so we are tendering completely blind with no idea of how the service we are offering could complement and enhance other potential tenderers. It seems that this process will end up with a load of proposals thrown onto the floor, with the commissioners piecing together a jigsaw of services which fit together, rather than the organisations that have the specialist knowledge and expertise being able to develop effective consortia to deliver services.”

Community Arts organisation, Leicester

Principle Seven: Long term contracts and risk sharing

Baseline:

- 44% of commissioners said the average length of a contract commissioned by their organisation was three years or more
- 46% of third sector organisations agreed that delivery of services under contract required them to take on more financial risk than they could manage
- 71% of third sector organisations agreed that public sector contracts rarely offer full cost recovery
- 81% of third sector organisations thought that the public sector did not understand the impact on the third sector of switching from grant-based funding to contract-based funding through a commissioning process

Key issues for commissioners:

- the amount of work involved in preparing for short-term contracts may put off suppliers from any sector so longer-term is generally better for all, including commissioners
- Seeking to transfer the risk to contracting organisations, such as through outcome-based payment may prohibit third sector engagement who are less able to take such risks
- Understanding the implications of full cost recovery and social value added and including considerations of these in the criteria for cost analysis of evaluating tenders will open up the process for third sector involvement

Key issues for third sector organisations

- Commissioning raises important issues for the trustees, board members and management committees of third sector organisations. They need full information and financial and legal advice on the implications of commissioning. Capacity building for trustees is generally needed
- Legal and financial advice in the process will be essential
- Consortium working may be one way of sharing financial risk, but the assessment of risk must be understood by all partners in the consortium

Principle Eight: Reviewing the effectiveness of the commissioning process

Baseline:

- 21% of third sector organisations said that their feedback on commissioning was always or often sought by the public sector
- 27% of third sector organisations said their feedback had never been sought
- 40% of commissioners said that they always or often sought feedback from providers
- 51% of commissioners said they always or often sought feedback from service users and local communities

Key issues for commissioners:

- This is a new area of work for most people and needs to be reviewed to learn and improve the processes. Feedback from users, communities and providers should be sought and the process should encourage scrutiny – before, during and afterwards

Key issues for third sector organisations

- Recording and sharing experiences within the sector, with the LSP and with commissioners generally and on specific contracts will support the sector in being proactive and in improving the commissioning climate

4. Preparing the Culture and Sport third sector for greater involvement in the commissioning process

Opportunities and challenges exist for both commissioners and third sector organisations. Both groups of people and organisations need to invest in more exploration of these opportunities and challenges. This is ultimately about better outcomes for local people – a shared agenda between the public and third sector – so there is a mutual interest in getting it right.

Planning and communication are at the heart of commissioning. Many actions and advice are included in the analysis in the previous sections, but, in summary, some **key actions** to take the agenda forward, relevant to both commissioners and third sector organisations are:

- **Connect at a strategic level** with the Local Strategic Partnership, on the assessment of needs and identification of priority outcomes and on the development of the strategic relationship with the third sector
 - o Ensure third sector partners and organisations are aware of the LSP and participate in the preparation of the Sustainable Community Strategy
 - o Consider strategic outcomes across the board and explore those to which culture and sport can make a contribution and impact
 - o Support a strategic approach to commissioning in the LSP
 - o Encourage those involved in commissioning to work together to plan and learn from each other
 - o Engage third sector organisations in the Needs Assessment
 - o Ensure under-represented groups have a voice in the strategic process, particularly children and young people

- **Use the ‘Eight principles of Good Commissioning’** as a tool to structure dialogue, planning and action
 - o Communicate the principles across the sector and within your own organisation and the LSP
 - o Use the baseline work for benchmarking locally – to gauge where you are and measure improvement
 - o Offer training or awareness events for third sector organisations and your own staff – separately or jointly
 - o Check and challenge regularly that the principles are being applied

- **Build relationships** between public and third sector culture and sport organisations through regular ‘informal but systematic’ contact as well as more formal meetings and communications
 - o Establish appropriate local forums with sporting and cultural organisations to ensure communication and consultation is effective

- Consider establishing a culture and sport partnership as part of the LSP or identify the best ways of working through existing partnership structures
- Map the third sector in your area and keep records up to date
- Visit organisations to see their work in practice and understand their contribution and challenges
- **Build awareness** about the commissioning process and be open to scrutiny and suggestions for improving the process from the beginning
 - Increase understanding of both commissioners and third sector organisations to improve the process
 - In addition to general awareness raising, be open about specific commissioning processes in preparation, including those in sectors such as health, children's services, adult services or community safety where culture and sport organisations can contribute
- **Build the provider base**, especially taking account of the needs of small organisations, community and voluntary bodies and BME organisations
 - Address the specific skills and capacity needs of organisations, including specific support for voluntary management committees and trustees
 - Describe community needs to organisations and encourage them to design and develop creative solutions based on their experiences and in depth knowledge of communities
 - Be open to and encourage consortium building amongst organisations – bearing in mind that previous funding regimes may have engendered a sense of competition, but commissioning can lead to greater collaboration and sharing strengths and resources
- **Break down barriers to involvement** in commissioning by opening up opportunities and checking for risks or unnecessary detail which might overburden and exclude some potential providers
 - Use political and managerial leadership to build trust between the council and the third sector
 - Challenge prejudice in your organisation about using the third sector
 - Assess risk and benefit when commissioning and be aware that transferring too much risk will exclude many organisations
 - Avoid building in unnecessary burdens or obstacles in the process and the contract

- **Plan** in an open and timely manner to enable quality engagement of all parties. **Time** is a key determinant of third sector involvement.
 - o Build in adequate time for small organisations, in particular, to participate in the process
 - o Consider options such as 'Advance Notice to Tender' and draft specifications to enable third sector organisations to consider the brief, contribute to the specification and build consortia or partnerships

- **Communicate** throughout the process.
 - o Ensure openness and transparency about the process and the decision making
 - o Give honest and fair feedback to organisations
 - o Evaluate and learn from feedback

See also separate library of case study material.

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May 2010