



## Introduction

Local government spends over £40 billion of our taxes each year on external goods and services. Ensuring Best Value in procurement strategies has been pushed up the agenda in the last couple of years. Procurement covers all of the processes involved in requesting, ordering, auditing, and paying for goods and services from an external provider.<sup>1</sup> This edition of Local Work considers the central issues of partnership with the third sector through procurement and commissioning with the aim of modernising public sector provision.

## Role of the Third Sector and Social Enterprise

Central government is driving forward an agenda which is designed to improve and modernise public services, develop a strong third sector, encourage active citizenship and support regeneration and sustainable communities. As a result, there has been growing support for the development and creation of social enterprises.<sup>2</sup> The Social Enterprise Unit (SEnU) within the Small Business Service (SBS) defines a social enterprise as "a business with primarily social objectives whose surpluses are reinvested for that purpose in the business or the community, rather than being driven by the need to maximise profit for shareholders and owners".<sup>3</sup>

The Social Enterprise Unit (SEnU) believes that successful social enterprises can play an important role in helping deliver on many of the government's key policy objectives. Social enterprises can help to drive up productivity and competitiveness; contribute to socially inclusive wealth creation; enable individuals and communities to work towards regenerating their local neighbourhoods; show new ways to deliver public services and help to develop an inclusive society and active citizenship.<sup>4</sup>

## The Third Sector as service deliverers

Concepts such as the empowerment of citizens and consumer-led choice have become increasingly accepted as foundations of public policy. Whilst, these ideas are not likely to alter substantially in the coming years, it is likely that they will intensify and accelerate, with service delivery being a key means by which this acceleration will take place.

The government does recognise this potential, but to what extent is the government giving a serious helping hand to the sector. In July 2000, Sir Ian Byatt chaired a taskforce charged with reviewing local government procurement in England. Its report, *Delivering Better Services for Citizens* was published in June 2001, followed eventually by 'Draft National Procurement Strategy for Local Government' in 2003. A key aim in the strategy was to increase partnership between local authorities and a range of public, private and voluntary sector suppliers, creating a mixed economy of service, greater value and economic, social and environmental benefits. Improving procurement procedures was central to the aim of modernising service delivery, and guidelines were issued to local authorities to develop a register of current contracts and schedule of contracts to be awarded, alongside a 'how to do business with the council' guide.

Social enterprises are already well established in providing essential public services such as housing and social care. But a recent report<sup>5</sup> found that poorly written contracts placed services at risk of wasting public money. Ed Mayo, CEO of the Consumer Council and Stephen Bubb, CEO of the Association of Chief Executives of Voluntary Organisations (ACEVO) stated "a spare change mentality, sudden death contracts, and bureaucratic reporting conspire to leave charities, their staff and their volunteers in the grip of endemic insecurity. The result is stress, waste, and greater cost.

# MODERNISING PUBLIC SECTOR PROVISION: PROCUREMENT & THE THIRD SECTOR

No 61, January 2005



By Jerry Spencer & Sarah Brennan, Liverpool Plus

Important services can't be run on hand-to-mouth funding. We want contracts that mean better services for the public, not wasted money for taxpayers".

The third sector has grown extensively throughout Europe and has become a significant and respected element in the delivery of public services. In some countries (France and Italy for example) the third sector is guaranteed a share of public sector contracting and given tax advantages.

The UK government is trying to stimulate demand by setting targets for levels of procurement from the third sector, but not otherwise intervening in the market except at the margins (in reforming charitable law for instance). This is a poor return for the third sector's long-held demand for a commissioning culture based on long-term planning and financial sustainability. There is a major opportunity for renewing and expanding the role of the voluntary and community sector across the policy and delivery agenda. But any increase in procurement from the third sector will depend on public sector organisations rejecting the 'lowest price' culture in favour of 'whole-life' costs, added-value or broadly-defined 'most economically advantageous' criteria.

### Removing barriers and misconceptions

One of the major barriers in developing a market for the third sector is the perception that the added-value offered by voluntary and community sector organisations cannot legally be incorporated into standard contracts or purchasing. In contrast to common belief, however, community benefit clauses are legal if they still offer value-for-money (defined as the optimum combination of whole-life costs and quality or fitness for purpose); don't disadvantage other contractors and are included in contract notices and specifications; have a fit with corporate policy, strategies and EU rules; and do not discriminate between one group or another.

Furthermore, public organisations have a legal duty to promote the well-being of their communities and service-users (the 'well-being' power), which offers scope for amending contract specifications in ways that recognise the social benefits offered by third sector organisations. Value-for-money has also been redefined on the basis of 'whole-life-costs', which again can offer scope for innovative contracting. However, unless social benefit clauses are built into contract specifications, and unless procurement officers and budget-holders use added-value indicators, when awarding contracts and measuring performance, it is likely change will only proceed slowly.

Some local authorities have begun to introduce community benefit clauses. For example, one local authority realised that a contract for repairing and maintaining residential properties would bring the contractors staff into direct contact with tenants. The contractor was required to take steps to accommodate any special needs among the tenants, such as languages, disability or access for people working anti-social hours;

equality clauses were built into the specification. Nottingham, Bristol, Coventry, Sheffield and Tower Hamlets are other good examples of local authorities developing equality clauses in procurement contracts.

For instance, Bristol City Council spent £324m with 19,000 suppliers in 2002/03 and wanted to rationalise and improve procurement practice. They began by conducting a comprehensive analysis of their supplier base. They opened discussions and negotiations with key suppliers, including third sector organisations. They wanted to move organisations from a lobbying/activist mindset to an entrepreneurial culture and backed up the aspiration with a 'social enterprise business development program' and a range of targeted actions delivered by a dedicated Kick Start team.

The project drew in funding from the European Social Fund (ESF) and the local Business Link (Business West). This funding allowed for an audit of social enterprises to measure and increase their capacity to win contracts (especially but not exclusively related to the Council's move to e-procurement). It used the establishment of an e-procurement system to review processes and introduce common portals and standards amongst a range of public and quasi-public organisations in the area (e.g. NHS Trusts, HE/FE Colleges, Fire Service etc).

### The unique role for the Third Sector

The third sector is able to offer 'value-added' delivery in terms of both service-delivery and the related intangibles such as increased community empowerment. The Treasury report on 'The Role of the Voluntary and Community Sector in Service Delivery' explored the value-added by the voluntary and community sectors. The report indicated that the third sector could offer at least five features that made it distinct from similar providers in either the public or private sector. These are:

- 1) Specialist knowledge, experience and/or skills often from direct experience of the user perspective;
- 2) Ways of involving people in service delivery;
- 3) Independence from existing and past structures/models of service, with more scope to offer innovation;
- 4) Trust, where this might be an important determinant of service delivery;
- 5) Freedom to offer responsive services, which are not driven by budgets or targets.

Other studies have highlighted other benefits such as greater public control of local delivery, empowerment of staff and service-users, direct accountability to service-users and opportunities to achieve wider social or economic objectives and key positive features. Wider academic studies have found that third sector organisations can be used to combat social exclusion, produce socially useful production, enhance local democracy and participation of local community members and help strengthen local economies.<sup>6</sup>

In order for these types of benefits to be taken into account within traditional procurement environments, social enterprises need to be demonstrably active in modernisation and highlight where they 'over-perform' or offer new benefits such as:

- 1) meeting previously unmet market needs in creative ways, especially where the public sector has acquired new and unfamiliar responsibilities;
- 2) creating education, awareness-raising and promotional activities as part of service delivery;
- 3) offering tangible measures of social inclusion;
- 4) creating multiple social benefits such as a health initiative recruiting the long-term unemployed or using local resident volunteers in ways that enables and empowers;
- 5) meeting legal requirements that the mainstream sector find difficult to deliver alone, bridging between the public and private sectors on racism, for instance;
- 6) delivering services in ways that directly involve the user and create increased accountability and engagement.

### Developing the opportunities

The development of a strong public service third sector will depend on the level of political will, free resources and trust between the third and public sectors. The challenge of increasing public sector procurement requires action to create supply opportunities by challenging existing purchasing arrangements and service provision. Admittedly this process can be threatening or impose increased workloads on frontline officers and service managers and may therefore be a point of local contention.

A major determinant will therefore be the extent to which local stakeholders can create a framework for purchasing and service provision, which empowers procurement officers and departments to seek and justify change. Clearly the extent to which this can take place is dependent upon the extent to which an enterprising and entrepreneurial culture within the public sector can be created. This will require strong links with business change managers and the best value process. Furthermore, where openings and opportunities exist or can be created, a major challenge will be to ensure that policies and priorities are reflected in processes, for instance ensuring detailed guidance on procurement policy includes social enterprise.

Though the local authority is a prime target because of its spending power and greater openness, other public and quasi-public agencies should not be ignored. The main areas of opportunity may include Primary Care Trusts (PCTs), Registered Social Landlords (RSLs) and schools with their own budgets. The difficulty is that, such organisations have little knowledge of the role of social enterprises and how they can help public sector agencies achieve their missions. Liverpool Plus are currently working with a partnership who are looking to develop social enterprises to deliver school meals and, as

expected, the main barriers remain fear of change, bureaucratic and institutional inertia and the need to build a powerful desire for change amongst stakeholders.

### Actions to improve demand

The third sector probably has very little understanding of how public agencies undertake purchasing and contracting. Positive outcomes require creating a detailed picture of procurement and purchasing needs and arrangements, awareness-raising, meetings with procurement and purchasing officers, buyer-supplier events and so on, which government is pushing for as part of best practice.

A key activity should also be market making. In its report 'Competitive Procurement' the Audit Commission stated "...authorities should be open minded about who provides services including in their discussions potential suppliers from all sectors... When the market is weak, authorities are encouraged to see if they can develop the market and help new entrants especially if small and medium enterprises, social enterprises and voluntary sector bodies are to be encouraged to bid for contracts" (2002; 9).

Market making can provide a huge stimulus to the involvement of social enterprise and the third sector in public service delivery. Within the public sector, market-making may consist of a review of contracts and contracting processes in order to identify and remove any barriers to tendering, especially in areas where the third sector possesses obvious advantages, such as, the ability to offer local community engagement. Market making may also entail an improvement in the type of language used within contract specifications; making bottom line or key performance indicators clearer; or building social benefit clauses (as mentioned previously) into the core specification. Some also argue that flexibility needs to be introduced into the tendering process. This means that bidders are encouraged to offer alternative solutions and optionally priced proposals. Social enterprises and other third sector organisations have also claimed that a contract notification service would greatly increase their bidding potential.

Market making shouldn't just take place at the primary level of contracting, but also further down the supply chain where contracts with significant value are being let. The public sector could specify the downstream involvement of local third sector suppliers in joint-venture partnerships or large contracts with the private sector. There are organisations seeking to involve themselves in this way by partnering up with major private sector contractors who find added value in involving locally based, community-owned organisations with a high degree of local knowledge, expertise and buy-in. 'Trade Local' databases have been quite successful in overcoming the private sectors objections to this being part of contracting.

## Actions to improve supply

Action on the demand-side of public procurement and public service enterprise will create the market for the third sector. Much work however, lies in enabling third sector organisations to take advantage of the opportunities. First steps may include a 'public procurement forum' involving third sector suppliers or champions, to develop a common approach to market making. Such a forum could encourage different services, agencies and authorities to pool resources for 'joined-up' procurement or identify unmet needs that the third sector could deliver.

'Fit-To-Bid' or 'Fit-To-Supply' initiatives can be funded from a variety of public funding streams and are proving highly successful in increasing local, competitive and sustainable procurement. Liverpool Plus have worked with the Faculty of Business and Law at Liverpool JMU to provide a series of short courses; Public Contracting for Business Ready Enterprises; Ensuring Public Contracting is Right for You; Winning and Keeping Public Contracts; and Break Through to Public Contracting. Another example of innovative procurement strategies is Haringey LBC's which includes a business database, contracts and opportunities website, training and mentoring for local businesses and a policy of encouraging large suppliers to use the database when sub-contracting.<sup>7</sup>

Four interlocking strategies can help develop local economies where third sector delivery of public services is commonplace. They are:

- 1) Increasing the amount of direct public sector procurement from the third sector;
- 2) Using social enterprises to manage or provide public services ("public service enterprises");
- 3) Unlocking assets to support growth and investment in service improvements ("asset-based development");
- 4) Increasing downstream purchasing ("supply chain initiatives"), especially by private sector partners.

Possibilities exist in stimulating the formation of third sector consortia or clusters, although recent research carried out by Liverpool Plus<sup>8</sup> suggests there are significant barriers; third sector organisations are often territorially embedded and anxious about opening up their organisations to outsiders in a bid to increase business.

## Conclusion

This is a challenging area for local authorities, social enterprises and the third sector, but an extremely important one. "Social enterprise should be seen not as a side show to the 'real' economy but an integral part of it".<sup>9</sup>

There is considerable scope for increasing the role played by the third sector in purchasing and service delivery. Government has created the framework and issued guidance encouraging public bodies to use third sector organisations in this way. EU directives - often cited as barriers to change - offer few hurdles where there is the political will and resources to support change. The new Centres of Procurement Excellence set up around the country to improve public procurement in ways that meet government's broader policy agendas are beginning their work.

Progress requires both the public sector and the third sector to want and be prepared for change: bureaucratic inertia, entrenched politics and cultures of patronage and dependency all have to give way to a more entrepreneurial and invested approach to public service modernisation, which delivers sustainable economies and communities and significant social benefits beyond the narrow confines of the contract.

- 1) CLES Glossary 2004
- 2) See previous edition of Local Work - Understanding Social Enterprise No.57 by Ben McCall, Allison Ogden-Newton & John Pearce. Contact CLES for past copies, [www.cles.org.uk](http://www.cles.org.uk)
- 3) Social Enterprise: A Strategy For Success SenU, 2002. Downloadable pdf available at [www.sbs.gov.uk/content/socialenterprise/documenta.pdf](http://www.sbs.gov.uk/content/socialenterprise/documenta.pdf)
- 4) [www.sbs.gov.uk/default.php?page=/socialenterprise/default.php](http://www.sbs.gov.uk/default.php?page=/socialenterprise/default.php) SEEnU, 2004
- 5) Surer Funding, published by acevo, 2004. Available from [www.acevo.org.uk](http://www.acevo.org.uk) or [www.philanthropycapital.org](http://www.philanthropycapital.org)
- 6) Placing The Social Economy, Amin, Cameron & Hudson, Routledge, London 2002 pp 19-20
- 7) See [www.trade-local.co.uk](http://www.trade-local.co.uk)
- 8) Reference to this can be found in the Liverpool Plus (2004) Conference Report, Clusters and Network Event, [www.liverpool-plus.co.uk](http://www.liverpool-plus.co.uk) within the 2004 conference report available online at [www.liverpool-plus.org.uk](http://www.liverpool-plus.org.uk)
- 9) Public procurement and social enterprises, renewal.net, 2004 [www.renewal.net](http://www.renewal.net)



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