



“Transformative capacity of 3rd sector a rhetorical storm in a fiscal teacup”

So says the Public Administration Select Committee in a report published on 9 July. In a frank and sometimes startling review of the Government’s policy of involving third sector organisations (TSOs) in public service delivery on account of their ‘distinctive strengths in transforming services’, the Committee finds that the case is not proven at present and calls for more empirical evidence to be gathered.

The Government’s Third Sector Action Plan in 2006 signalled a greater involvement for the third sector in delivering public services such as offender management, employment services, children’s services and education, health and social care and local government services. Despite a marked increase in contracted income for TSOs from £2bn in 2006 to £6.9bn in 2006, this still only accounts for 2% of total spend on public services.

The Committee set out to examine whether the claims that TSOs have distinctive characteristics, such as a unique focus on service users, specialist knowledge and expertise, ability to offer joined up delivery, ability to inspire users’ trust and the independence to innovate, really hold true.

Key witness, Martin Narey, Chief Executive of Barnardos said, “There is nothing that the voluntary sector can do that the public or private sector cannot do just as well. There is nothing special about us.. A lot of people think.. we have a monopoly of compassion, and it most unfair, we do not..” In his view, it was competition that drives improvement in services.

An examination of the evidence showed that, although there were examples of good practice in many service areas, particularly in building users’ trust and joined up working, the case was ‘not compelling’. The Committee felt that the benefits were derived, not from any inherent advantage of the sector, but from the way in which services are designed and commissioned. The report highlights the need to focus more effort on good commissioning practice, in particular understanding how to get the best outcomes for users and citizens.

The Committee highlighted some areas of poor commissioning practice which deter this, such as short-term contracts, unrealistic tender deadlines, and disproportionate legal contracts with inappropriate balance of risk and reward. There are, however, many practical steps that commissioners can take to ensure that those with something distinctive to offer can bid: simplifying tender processes, helping organisations to bid, in particular facilitating consortia and prime contractor arrangements, breaking up contracts into smaller lots. Stuart Etherington of NCVO said that TSOs acting as sub-contractors to larger corporates may be the shape of things to come.

The Committee recommends the way forward is for public sector organisations to beef up their commissioning functions, in particular by recruiting talented managers, soft market-testing service specifications before procurement; and specifically including any wider social benefits required in the core service requirement, rather than hoping they will come out in the bid process. The Committee recognises this will involve a significant cultural change. “A commissioning authority like NOMS is not judged on the generation of social capital or a spirit of voluntarism, it is judged on core outcomes such as prison accommodation, or prevention of reoffending. It is also judged on how much it spends. The challenge for government is to foster a culture where added value is routinely

taken into account in addition to core costs and outcomes and find the right incentives for commissioners to think about specifying wider benefits where these are appropriate." At the moment there is a lot of confusion about how far commissioners can go in developing the market and using social clauses under EU procurement rules.

Ultimately, the Committee concludes it must be right to judge all service providers on their merits. To do that, we need a vigorous mixed economy of provision capable of eliciting the various distinctive strengths of different organisations in different sectors. This report is something of a wake up call for any evangelists tempted to rest on their third sector laurels. Winning public service contracts will come through genuine innovation that provides a competitive edge, not through special treatment from commissioners.

The report has provoked an angry response from social enterprise leaders: writing in The Guardian, Nigel Kershaw, head of Big Issue Invest, wrote that the report was 'as heartening in its recognition of the breadth and variety of the sector as it was disappointing in its underestimation of our abilities'. He called upon the committee to 'wake up and smell the fair-trade coffee'!

If you are a commissioner and would like to discuss how to elicit the best bids from the market or your flexibilities to use social clauses under procurement rules, please contact us. Similarly, if you are a service provider considering a bid for a public service contract, we would be delighted to help.

Committee finds accountability deficit in public service contracts

In its July report, the Public Administration Select Committee highlighted the need to make public service providers more accountable for service delivery. It noted that public service contracts frequently do not contain a requirement to operate a complaints procedure. Many service users do not know how or to whom to complain about service performance. The role of the Local Government and NHS Ombudsman in relation to contracted out public services is confusing. The Committee calls for a strengthening of accountability mechanisms, including controversial proposals already under development to extend the ambit of the Human Rights Act and the Freedom of Information Act to contracted out service providers. These proposals, if implemented, will surely increase the regulatory burden and costs for service providers.

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