



Newcastle Council  
of Voluntary Service



# Do we need to talk?

*Public Sector Procurement and Contracts: A Thought Piece*

June 2018



# Contents

Introduction	3
Setting the context	4
Reports from the frontline	5
Risky behaviours	8
Eliminate the negative	10
Social value	11
The Compact	13
What is happening in other areas?	14
Conclusions	16

## Introduction

This paper considers some of the potential and unintentional effects of public sector contracting and procurement. It takes a number of recent high profile examples from the voluntary and private sector and asks whether there are inherent risks in pursuing an income strategy that strongly prioritises public sector contract delivery during a time of austerity and deep cuts to public sector budgets.

In November 2017, in advance of the Chancellor's Autumn Statement, the Institute for Fiscal Studies reported that based on analysis of government spending since 2010 and projected spend up to 2020, public services will have experienced 40% spending cuts over the decade<sup>1</sup>. Since 2010 local authorities have seen cuts of 38% in central government grants<sup>2</sup>. However, public sector cuts and the impact of austerity have been distributed unevenly across England with the government's own figures showing that budgets in the North have been hit hardest<sup>3</sup>.

The latest NCVO Voluntary Sector Almanac 2018<sup>4</sup> reports that voluntary sector income from government in 2015/16 was £15.3 billion with most of this going to the largest charities, with an annual income of £10 million or more. These larger charities, however, make up a mere 0.43% of the total voluntary sector, while 82% of the sector is made up of organisations with an income of less than £100,000. This distribution of resources at the national level is reflected in research carried out across the region and

also at local level as illustrated by Newcastle CVS's report about the voluntary sector in Gateshead and Newcastle, GaN Canny 2018<sup>5</sup>.

The relatively small number of voluntary organisations with £10 million plus turnover is not matched by the size of their impact if things go wrong. In the view of a Charity Commission report on public trust and charities, the collapse of Kids Company in 2015 'tainted the sector as whole'<sup>6</sup>. The weaknesses discovered in Kids Company's governance went on to inform the latest iteration of the Charity Code of Governance, which is 'universal and applies equally to all charities, whatever their size or activities'<sup>7</sup>.

If a strategy of income generation based on public sector contracts holds potential risks for that particular organisation, does it also hold wider risk for the rest of the voluntary sector in terms of public trust, reputational damage and new, more demanding regulations and bureaucracy? If contracts do present both a localised and collective hazard to voluntary organisations, how can they be avoided? Is the Social Value Act a means to moderate negative impacts from procurement and commissioning? What role do local Compacts have?

Are flaws to be found in the governance of voluntary organisations? Or, do the demands of procurement processes and the drive from policy makers and politicians to prioritise contracts over grant aid influence chief executives and trustee boards to take risks that might ultimately prove fatal to the organisation for which they are responsible?

<sup>1</sup>[www.theguardian.com/uk-news/2017/nov/22/public-services-face-real-terms-spending-cuts-of-up-to-40-in-decade-to-2020](http://www.theguardian.com/uk-news/2017/nov/22/public-services-face-real-terms-spending-cuts-of-up-to-40-in-decade-to-2020)

<sup>2</sup><https://fullfact.org/economy/local-authorities-budgets/>

<sup>3</sup>[www.bbc.co.uk/news/uk-england-42049922](http://www.bbc.co.uk/news/uk-england-42049922)

<sup>4</sup><https://data.ncvo.org.uk/>

<sup>5</sup>[www.cvsnewcastle.org.uk/images/Publications/GaN\\_Canny\\_2018.pdf](http://www.cvsnewcastle.org.uk/images/Publications/GaN_Canny_2018.pdf)

<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/532104/Public\\_trust\\_and\\_confidence\\_in\\_charities\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/532104/Public_trust_and_confidence_in_charities_2016.pdf)

<sup>7</sup>[www.charitygovernancecode.org/en](http://www.charitygovernancecode.org/en)

## Setting the context

The advantages (specifically over grant aid) offered by the procurement of contracted services are often premised on the potential for efficiency gains and community benefit, along with the ability to grow markets and stimulate innovation<sup>8</sup>.

The market in public sector contracts had grown significantly since the introduction of Compulsory Competitive Tendering (CCT) in the 1980's. Though initially restricted in scope to construction and maintenance contracts, by 1997 CCT had been extended to local authority professional and white collar services.

The New Labour government further extended the remit of CCT, under the description of 'Best Value'. In 2002 the Treasury published a cross-cutting review of the voluntary sector's role in public sector service delivery, resulting in the government 'zealously pursuing an agenda promoting VCS engagement in service provision'<sup>9</sup>.

The coalition government continued to promote voluntary sector delivery of public service, however in practice, the Work Programme and Transforming Rehabilitation programme both failed to deliver the anticipated contract opportunities for the voluntary sector.

Responding at the local level to the ever present expectation of the voluntary sector to engage in procurement opportunities, Newcastle CVS has worked with voluntary

and community organisations on how to improve access to the growing market in public sector contracts.

In 2008 voluntary sector representatives made a presentation to the Newcastle Children's Trust Board about voluntary sector perspectives on commissioning, complete with recommendations on how to ensure more involvement from the voluntary sector.

Two years later Newcastle CVS supported a voluntary sector task group that reviewed guidance on commissioning and procurement best practice, again offering recommendations on how the Newcastle City Council and other commissioning bodies could improve how voluntary organisations can be involved in informing, bidding for and delivering contracts<sup>10</sup>.

The pursuit of contracts is however not without its risks.

---

<sup>8</sup><https://www.nao.org.uk/successful-commissioning/general-principles/principles-of-good-commissioning/>

<sup>9</sup>[https://www.innovation.cc/scholarly-style/dacombe\\_donahue\\_accreditation2final\\_v16i2a5.pdf](https://www.innovation.cc/scholarly-style/dacombe_donahue_accreditation2final_v16i2a5.pdf)

<sup>10</sup>Public sector commissioning practice and the voluntary and community sector, Newcastle Wellbeing and Health Forum Task and Finish Group, 2010

## Reports from the frontline

A review of charities at risk of financial difficulty carried out in 2016 by the Charity Commission looked at 94 sets of financial accounts<sup>11</sup>. The Commission highlighted the 'ongoing challenging financial environment as the underlying factor for many of the charities stated difficulties'. A dependency on public sector contracts and grants was singled out as a specific reason charities can find themselves in financial difficulty.

Lifeline Project, a Manchester based charity was set up in 1971 to provide support to local people with drug and alcohol addictions. In 2017 the charity unexpectedly announced its closure amid reports of 'frantic efforts being made to save the jobs of 1,300 employees'<sup>12</sup>.

The announcement was made just days after the Charity Commission began an investigation into claims of critically weak financial controls at the charity. Between 2011/12 and 2016 the charity's accounts record a massive increase in income, fuelled by an aggressive strategy of pursuing public sector contract opportunities.

Lifeline's accounts from this time show that almost all of its income was coming from contracts. It's 2015/16 Annual Report lists contracts held with public sector agencies across the UK, including Lewisham, Middlesbrough, Nottingham and Edinburgh. In one year Lifeline had increased its income by 45% to £61.7 million. Retaining and winning contracts was a key strategic goal for the charity although the Annual Report acknowledges the 'major financial risk for Lifeline remains a reliance on major public sector contracts'<sup>13</sup>.

Lifeline's sudden closure in May 2017 put at risk services to around 80,000 individuals. In Newcastle, Lifeline held the contracts to provide support services for people with drug and alcohol problems and also the stop smoking service, both commissioned by Newcastle Public Health. Lifeline also had offices in Sunderland and Durham.

Shortly after news of Lifeline's closure became public most of its services were taken over by Change Grow Live (CGL), another large national charity with a business model built around winning and delivering public sector services. Newcastle's drug and alcohol and stop smoking services were both taken over by CGL.

CGL's Annual Report for 2016/17<sup>14</sup> reported an annual income of £156 million with spending of £152.4m. Like Lifeline, CGL holds contracts with local authorities, the NHS and other public sector bodies, across the UK. In the Annual Report CGL's chair of trustees noted that in the previous year CGL had won and retained contracts worth £46.3 million. The report conceded however that contracts are becoming 'larger and more complex' and carrying 'increased burden of governance and compliance requirements'.

CGL are part of an exclusive but growing part of the voluntary sector occupied by 'super major' charities, which have an annual income in excess of £100 million and there are no signs that CGL is anything but stable and well run.

Another warning of what can happen is offered by the collapse of Carillion at the beginning of 2018. Like CGL, Carillion belonged to an exclusive club, the small

<sup>11</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/554358/amr\\_charities\\_with\\_audit\\_reports\\_identifying\\_that\\_they\\_may\\_be\\_in\\_financial\\_difficulty.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554358/amr_charities_with_audit_reports_identifying_that_they_may_be_in_financial_difficulty.pdf)

<sup>12</sup><https://www.theguardian.com/society/2017/may/18/drug-and-alcohol-charity-lifeline-project-collapses>

<sup>13</sup>[http://apps.charitycommission.gov.uk/Accounts/Ends91/0000515691\\_AC\\_20160331\\_E\\_C.pdf](http://apps.charitycommission.gov.uk/Accounts/Ends91/0000515691_AC_20160331_E_C.pdf)

<sup>14</sup>[http://apps.charitycommission.gov.uk/Accounts/Ends27/0001079327\\_AC\\_20170331\\_E\\_C.pdf](http://apps.charitycommission.gov.uk/Accounts/Ends27/0001079327_AC_20170331_E_C.pdf)

number of private sector companies, including Serco, Capita and G4S which have come to dominate the market in outsourcing of public sector delivery. At the time of its collapse Carillion held around 450 construction and service contracts; its sudden closure proof that high turnover is no defence if governance and financial controls are weak.

A joint Parliamentary Select Committee enquiry launched in the wake of Carillion's closure accused Directors of 'stuffing their mouths with gold'<sup>15</sup>. The joint report refers to questionable accounting practices, an unsustainable dash for cash and increasingly reckless pursuit of growth<sup>16</sup>. Since January, when receivers were appointed to oversee Carillion's winding up, both Capita and Interserve have issued profit warnings. Capita has gone on to cut shareholder dividends and issuing new shares in an attempt to shore up its debts.

The pursuit and accumulation of public sector contracts is not uniquely responsible for causing the sudden closure of voluntary organisations. 4Children, a national charity that became the government's official Early Years strategic partner, closed down suddenly in 2016. Similar to Lifeline, 4Children experienced a rapid period of expansion which included taking on loans worth £1.7 million.

In the end though, the 'loss of key contracts and funding pressures'<sup>17</sup> meant that when 4Children's chief executive and trustees 'looked at the horizon' they decided what they saw was a future 'too precarious' in an 'increasingly tight financial environment for

charities delivering council funded services'<sup>18</sup> and decided there was no option but to close.

Out of Contract<sup>19</sup>, a report published around the same time as Carillion's difficulties were becoming public, asks if it is time to move on from the 'love in' with contracting out of public services. Too often, the report claims, commissioning of public services has been a good deal for business but poor for taxpayers and that the 'intensification' of outsourcing since 2010 has been driven primarily by the twin policy drivers of austerity and the shrinking of the public sector.

The report asserts that in many instances, in a market for services worth up to £100 billion a year, contractors have *become* the public sector. Out of Contract questions the effectiveness of contracting out services and points to several instances of high profile delivery failure including security arrangements for the 2012 Olympics (G4S), court translation services (Capita), housing for asylum seekers (Serco, G4S) and assessment for welfare benefits and employment services (Atos, Capita).

Tizard and Walker, the report's authors, write that social enterprise, cooperatives, voluntary and community sector organisations all have a major role to play in public sector delivery. They worry however that involvement in competitive tendering has made the voluntary sector appear little different to the private sector and as a result, the 'wider social significance' of the sector is lost to commissioners and policy makers.

<sup>15</sup><https://www.politicshome.com/news/uk/economy/business-regulation/news/95198/carillion-bosses-%E2%80%98too-busy-stuffing-mouths-gold%E2%80%99>

<sup>16</sup>[https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/769/76905.htm#\\_idTextAnchor009](https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/769/76905.htm#_idTextAnchor009)

<sup>17</sup><https://www.theguardian.com/society/2016/sep/05/childcare-charity-4children-goes-into-administration>

<sup>18</sup><https://www.thirdsector.co.uk/4children-closes-65-job-losses/management/article/1407516>

<sup>19</sup><http://www.smith-institute.org.uk/wp-content/uploads/2018/01/Out-of-contract-Time-to-move-on-from-the-'love-in'-with-outsourcing-and-PFI.pdf>

A frequent reason cited by commissioners for taking the procurement route is European Union regulations. EU regulations are the Bogeymen of public procurement. Their sole purpose can often appear to be to add complexity to the process, limiting any flexibility and giving advantage to the largest, best resourced bidders with dedicated bidding teams. Freedom from EU public procurement regulations was perhaps the one Brexit dividend everyone looked forward to<sup>20</sup>.

A commonly heard complaint about commissioners and procurement officers is that they use EU regulations as a shield to avoid doing things that make the process easier for smaller (voluntary sector) bidders. Finding hard evidence for this is more difficult, however, and these complaints are perhaps just expressions of frustration within what has been, and remains, a difficult and increasingly competitive environment.

In fact, the Public Contract Regulations 2015 seeks to introduce greater flexibility into the procurement process. The new regulatory regime provides more opportunity for negotiation, for example, and a new light touch regime for certain social services (previously 'Part B' services).

However, even with the introduction of new flexibilities and a lighter touch regime, obstacles remain. Guidance on the new regulations produced by New Philanthropy Capital and aimed specifically at charities and procurement teams concludes that incentives for procurement officers remain unchanged and that their role to design and run processes that cannot be 'challenged in court'<sup>21</sup> make officers unlikely to seek out new and flexible approaches to procurement.

In addition, the report states that the tendency for commissioners and procurement officers to work within separate teams means that commissioners with an interest in running new and more flexible procedures may not have sufficient understanding of the constraints on their procurement colleagues.

What is less contested is the move among commissioning and procurement teams to bring together sets of smaller contracts into large single tender opportunities that may wish to encourage partnership arrangements but are as likely to be swept up by a single, large, well-resourced bidder.

The Tizard and Walker solution is to call for greater use of grant aid and for commissioners to provide greater space and flexibility for voluntary organisations and other not for profits to innovate and experiment. They also call on government to respect the voluntary sector's independence and for voluntary organisations' right to stick to their mission, to campaign and to challenge.

---

<sup>20</sup><https://www.ft.com/content/7fcd730e-2ddd-11e8-9b4b-bc4b9f08f381>

<sup>21</sup><https://www.thinknpc.org/publications/reforming-the-relationship/>

## Risky behaviours

Many voluntary sector managers and trustees might welcome Tizard and Walker's rallying cry for a new relationship between the voluntary and public sector based upon a more equal balance between grants and contracts. The Directory of Social Change's Grants for Good campaign states that grant funding is 'essential for communities to thrive'<sup>22</sup> and calls on government to reverse the steep decline in public sector grants. Otherwise this 'vital resource' could all but disappear by 2020.

Voluntary sector managers and trustees may feel they have no option but to consider public sector contracts, in order to maintain their organisation. A question then arises as to what degree might the organisational culture and strategies of private sector companies like Carillion, G4S and Capita influence charities that also choose to make public sector contracts a major part of their income generation strategies?

Research by the London School of Economics<sup>23</sup> reported that in the years leading up to the global financial crash in 2008, banks and financial services organisations became increasingly indifferent to assessing the degree of risk involved in internal decision-making.

As procedures intended to control organisations' exposure to risk were increasingly ignored, the trade-off between risk and the measures designed to assess and control risk became unbalanced as 'revenue generating functions [were] given star status'.

The LSE researchers found that risk control effectively became invisible both internally and externally 'until disaster struck'.

A 2015 paper<sup>24</sup> written by Ian Wardle, then Chief Executive of Lifeline Project, reflected on the growth experienced by third sector organisations providing drug and alcohol services. However, looking ahead to 2020, he predicted commissioners would begin 'disinvesting' in those services and as a result current service providers would face a much tougher financial environment.

If organisations were going to survive then trustees would need to develop, wrote Wardle, 'a model of innovation equal to the opportunities and uncertainties [that] will challenge many current assumptions'. Core to this model would be a 'financial strategy designed to secure the means to invest in the necessary scale of experiment and innovation'.

Wardle doesn't offer a definition of what the 'necessary scale' would look like in practice. While he echoes Tizard and Walker's call for innovation and experiment, he appears to depart company with them when he criticises other voluntary organisations with an attachment to the '[full] cost recovery' approach to governance and decision making. He dismisses voluntary organisations that are satisfied with 'conventional growth'.

The differences in the organisational cultures of the private and voluntary sector have become increasingly blurred as the government and policy makers, along with the voices within the voluntary sector<sup>25</sup>

<sup>22</sup><https://www.dsc.org.uk/grantsforgood/>

<sup>23</sup><http://www.lse.ac.uk/accounting/Assets/CARR/documents/Risk-Culture-in-Financial-Organisations/Final-Risk-Culture-Report.pdf>

<sup>24</sup>[http://www.lifeline.org.uk/wp-content/uploads/2015/11/20151111\\_Governance-as-the-True-Site-of-Third-Sector-Innovation-Lifeline-Project-Ltd.pdf](http://www.lifeline.org.uk/wp-content/uploads/2015/11/20151111_Governance-as-the-True-Site-of-Third-Sector-Innovation-Lifeline-Project-Ltd.pdf)

<sup>25</sup><https://www.dsc.org.uk/publication/business-and-strategic-planning/>



have called for the sector to adopt more professional and business like approaches. The Office for Civil Society's recent Civil Society Strategy consultation proposed extending the definition of civil society to include profit making businesses and private investors who share the 'mission of building a stronger society and improving lives'<sup>26</sup>. The strategy is content to overlook the key difference between the two sectors when it comes to what to do with profit or surplus generated during the financial year and how shareholder return and maximising financial return can affect boardroom decision making.

The potential risks to voluntary organisations of mimicking too closely the approach of Capita, Carillion and G4S, and adopting income strategies based primary on winning public sector contracts is illustrated by the fate of Lifeline Project. An NCIA working paper on outsourcing of public services<sup>27</sup> warned that social justice and accountability both risk becoming overlooked by the need to generate contract profits/surpluses. Procurement and public sector contracts, the Inquiry argued, introduces into the voluntary sector a culture of competition and commercial confidentiality. Contracting can force voluntary organisations to adopt unpalatable 'innovations' such as zero hour contracts or the need to subsidise contracts through use of financial reserves from charitable funding.

New Philanthropy Capital<sup>28</sup> has also warned of an increasingly dysfunctional relationship between the state and charities. With the government's austerity policies driving local

authorities and other public agencies to seek the lowest priced bids, the quality of services were suffering, NPC stated. Another report, based on a survey carried out by Charity Finance Group<sup>29</sup>, found voluntary organisations making significant losses on public sector contracts and in some cases subsidising the value of contracts by up to 16%.

---

<sup>26</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684363/OCS\\_consultation\\_PDFversion.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684363/OCS_consultation_PDFversion.pdf)

<sup>27</sup><http://www.independentaction.net/wp-content/uploads/2014/06/Outsourcing-and-the-Voluntary-Sector-final.pdf>

<sup>28</sup><https://www.thinknpc.org/publications/charities-taking-charge/>

<sup>29</sup><https://www.theguardian.com/society/2017/may/19/two-thirds-charities-subsidising-public-sector-contracts-survive>

## Eliminate the negative

It should be acknowledged that contracted public services have been delivered by voluntary organisations for many years, particularly in social services, which continue to be the area where most voluntary sector activity takes place<sup>30</sup>. However, the bureaucracy involved in procurement and contracting, and the impact of budgets cuts and austerity on staffing resources within commissioning and procurement teams, has seen an increasing number of negative reports and commentators calling into question whether contracting is an efficient way of securing voluntary sector resources in public sector delivery.

A meeting in January 2018 of voluntary sector leaders in Gateshead revealed that several of the organisations present were being given regular three month extensions to public sector contracts they were currently holding. In some cases, it was reported, the current extension was the second or third extension made to the same contract. This situation was directly affecting staff, leaving them uncertain about their jobs. The organisations were facing similar uncertainty, unable to effectively plan, set budgets and organise service delivery for the forthcoming financial year, which all had a direct impact on service users and beneficiaries. The situation was seen by some of those present as emblematic of a certain attitude among commissioners who were not sticking to their own commissioning timetables or the principles of the local Compact.

Procurement is one of the 'pillars' of the government's Industrial Strategy, launched in November 2017, which promises to improve procurement tools and make public sector

contracts more accessible to small and medium enterprises, including presumably voluntary organisations. However, the Industrial Strategy has been strongly criticised<sup>31</sup> for overlooking the role of social value in the procurement process.

---

<sup>30</sup><https://data.ncvo.org.uk/a/almanac18/scope-data-2015-16/>

<sup>31</sup><https://www.cips.org/supply-management/news/2017/november/bewildering-that-industrial-strategy-overlooks-social-value/>

## Social value

The Public Service (Social Value) Act became law in 2012. The Act requires public sector commissioners to consider how they can secure wider social, economic and environmental benefits through procurement of services. The Cabinet Office has described the Act as 'a tool to help commissioners get more value for money out of procurement'. The Social Value Act 'encourages commissioners to talk to their local provider market or community to design better services, often finding new and innovative solutions to difficult problems'<sup>32</sup>

In 2014 the Centre for Citizenship Enterprise and Governance<sup>33</sup> reported that two years after coming into force the Social Value Act had yet to live up to its promise. However, the report also contended that although social value questions only attracted on average 10% to 20% of the overall procurement score, the winning margin for contracts is 'usually less than 10-20%' and therefore 'all contracts will be won or lost on social value'.

In June 2018, the government, in response to mounting criticisms of outsourcing of public sector contracts and in particular the collapse of Carillion, announced that it would be rebuilding the trust between government and industry to ensure they retain the confidence of 'the people whom we all serve'.

To achieve this, and in order to get contracting right from the start, the government has said the Social Value Act will be extended so that contracts are not just awarded on value for money. Other

measures include making contractors publish KPI's on response rates and customer feedback and civil servants receiving training on managing contracts.

Government ministers also want to extend the market and encourage new entrants. However, this is likely to require more than strengthening Social Value. Just ahead of the government's announcement of its intention to make changes to the procurement process, MPs published a report that heavily criticised the Transforming Rehabilitation programme which contracted out probation services covering medium to low risk offenders<sup>34</sup>.

Both Gateshead and Newcastle councils have recently taken steps to strengthen and further embed social value and its outcomes into their commissioning and procurement processes. In March 2018, Gateshead councillors agreed to implement a Corporate Social Responsibility Pledge<sup>35</sup> to enable the council to engage its supply chain of third party providers in achieving the best outcomes for Gateshead residents.

Meanwhile, Newcastle City Council's Cabinet took steps in April 2018 to incorporate its Social Value commitments into the full scope of the council's commissioning and procurement processes to ensure social value is considered throughout all stages of service design and delivery<sup>36</sup>.

However, only a third of local authorities and 13% of all Clinical Commissioning Groups are estimated to use Social Value in their commissioning and procurement processes. For many charities and voluntary sector

<sup>32</sup><https://www.gov.uk/government/publications/social-value-act-information-and-resources/social-value-act-information-and-resources>

<sup>33</sup><https://www.local.gov.uk/sites/default/files/documents/download-pdf-social-value-bb6.pdf>

<sup>34</sup><https://www.theguardian.com/society/2018/jun/22/part-privatisation-of-probation-sector-is-a-mess-mps-say>

<sup>35</sup><http://democracy.gateshead.gov.uk/documents/s15073/Corporate%20Social%20Resp%20report%20ckd.pdf>

<sup>36</sup><https://democracy.newcastle.gov.uk/documents/s128153/Embedding%20and%20accelerating%20Social%20Value.pdf>

groups a less risky route to sustainability and growth lies with grant aid, coupled, if possible, with increasing earnings through activities like venue hire or trading services.

When assessing bids for tenders, Social Value may offer a means for commissioners to recognise and award points to particular elements within the bid that local small and medium enterprises (whether voluntary or private sector) are likely to be able to offer. However, even if all future contracts will be won or lost on the 10-20% awarded on social value, the procurement processes contain a number of other hurdles that must be overcome before officers begin to assess what the bidder will actually do to deliver the service.

The Pre-Qualifying Questionnaire (PQQ) itself can be littered with pass or fail questions that can undo a prospective bid. The PQQ process has been described as bureaucratic and burdensome; NCVO's list of ten procurement barriers voluntary organisations face<sup>37</sup> details disproportionate PQQ and Invitation to Tender (ITT) documents, including a 49 page PQQ and 99 page ITT for the Troubled Families initiative.

If Social Value becomes merely another question added to overlong and complex procurement documents then it may never effect the change that was expected of it.

---

<sup>37</sup>[http://www.ncvo.org.uk/images/documents/policy\\_and\\_research/public\\_services/ten-procurement-barriers-affecting-charities-and-social-enterprises.pdf](http://www.ncvo.org.uk/images/documents/policy_and_research/public_services/ten-procurement-barriers-affecting-charities-and-social-enterprises.pdf)

## The Compact

Can voluntary organisations rely on the Compact when challenging poor commissioning practice? Although many local authorities are signed up to a local Compact with the voluntary sector, its value in mediating a successful commissioning relationship has yet to be assessed.

A Compact Voice guide to commissioning and procurement<sup>38</sup>, published in 2013, described Compact principles as important to nurturing relationships through mutual understanding and openness. This can be, according to the guide, particularly important during the commissioning cycle to ensuring the involvement of a wide range of potential voluntary sector providers.

When it comes to challenging a procurement decision the Compact will have limited, if any, force on procurement officers, with any remedies requiring the involvement of the courts. There is however an example from Bristol of the Compact being used as the basis for mediation<sup>39</sup>.

In 2015 Bristol City Council was challenged by what was the current provider over its decision to award its Domestic Abuse and Sexual Violence service to a national provider. 'Compact brokerage' enabled both parties to avoid the excessive legal costs of taking the dispute to court and resulted in the council re-running the procurement.

<sup>38</sup>[http://www.compactvoice.org.uk/sites/default/files/understanding\\_commissioning\\_and\\_procurement\\_guide.pdf](http://www.compactvoice.org.uk/sites/default/files/understanding_commissioning_and_procurement_guide.pdf)

<sup>39</sup><http://www.compactvoice.org.uk/blogs/compact-voice/2016/03/22/talking-vs-litigation-compact-brokerage-predicted-save-%C2%A3500000-public>

## What is happening in other areas?

A number of areas, including Gateshead and Newcastle, are seeking to use commissioning and procurement in ways to enable commissioners to achieve social and economic impacts that are wider than the delivery of a single contracted service. For example, keeping as much public sector spend as local as possible, thereby giving more opportunity to local suppliers over national or transnational companies or charities.

### Preston City Council

Much attention has been given recently to Preston City Council's efforts to change its procurement practice and to make it work better for the city. In 2012-13 just 14% of the council's spend was going into Preston's local economy against a local authority local spending average of 31%.

In response the council and five other 'anchor' organisations; Lancashire County Council, Lancashire Constabulary, Community Gateway (Preston's largest social housing association and two further education colleges, (Preston's College and Cardinal Newman College) came together. Working with the Centre for Local Economic Strategies (CLES), the council and other anchors designed a framework to gain a better understanding of where their spending went. They then went on to identify ways to change local procurement practice so that more would be invested in the local economy under a community wealth project.

The six organisations had been spending a combined £750 million a year with just 5% going to local businesses or voluntary organisations in Preston. The anchor organisations reorganised their supply chains and introduced a social value framework. By 2014-15 the council alone had doubled its local procurement spend from 14% in 2013 to 28%.<sup>40</sup>

Among changes made to commissioning and procurement processes, the six anchors have broken contracts into smaller lots, explored development of more cooperative delivery of services and begun signposting voluntary organisations to procurement portals to increase awareness of contract opportunities while also holding regular 'meet the buyer' events.

### Plymouth City Council

Plymouth City Council and Northern, Western and Eastern Devon CCG (NEW Devon CCG) have created a strategic framework that sets out the context and principles intended to drive health and social care commissioning forward. Through the One System One Budget programme, commissioners are trying to mitigate the worse effects of competition in the procurement process.

While commissioning continues to be led by evidence of what works, the commissioners are also interested in anecdote and evidence of softer outcomes from activities that can contribute to improved health and wellbeing. Commissioners acknowledge that cooperation between providers will achieve

<sup>40</sup><https://thenextsystem.org/the-preston-model>

better outcomes than competition and that voluntary sector providers are likely to have a long standing interest and unique expertise based on their history of working in local communities.

Commissioners have recognised the need to relinquish some of their 'power'<sup>41</sup> and adopt more cooperative relationships with providers while recognising their shared endeavour in making people's lives better.

### **Leeds City Council**

Joseph Rowntree Foundation's (JRF) More Jobs, Better Jobs partnership with Leeds City Council and the City Region began in 2014. By creating more jobs the partnership aimed to connect growth with poverty reduction. The JRF forecast that reducing unemployment by half would boost the city's economy by more than £950 million a year and save the government more than £400 million.

The JRF claimed that in Leeds City Region nearly 50p in every pound leaks out of the area<sup>42</sup>. It described the council and other City Region partners as anchor institutions and that they represent a form of 'sticky capital' because they are unlikely to close or leave the area. The anchor institutions are often big spenders in local economy.

The JRF estimated that Leeds City Region is home to more than 70 large anchor institutions that include both public and voluntary sector organisations. By collaborating to address unemployment in the city region and adopting a commissioning and procurement framework to encourage creation of more and better jobs, the anchors expect to increase local spend and improve job opportunities.

---

<sup>41</sup><https://www.youtube.com/watch?v=LwoEeCdqlwk&feature=youtu.be>

<sup>42</sup><https://www.jrf.org.uk/report/maximising-local-impact-anchor-institutions-case-study-leeds-city-region>

## Conclusions

It is clear that the next few years will continue to present a challenging environment for voluntary and community organisations. Austerity, underfunding of public services and the scarcity created in local resources and support are all still with us. The government's own forecasts on the economic impact of leaving the EU finds no Brexit dividend and instead just varying degrees of harm to the UK economy, depending the eventual terms of the UK's departure.<sup>43</sup>

Social mobility in the UK has stalled<sup>44</sup>. Housing is in crisis and while the employment rate is reported at its highest since comparable records began in 1971<sup>45</sup> with signs of wage levels beginning to rise, about 8 million families are experiencing in-work poverty<sup>46</sup>. Inequality of opportunity between the richest and poorest persists and growth in life expectancy is grinding to a halt<sup>47</sup>.

The number of opportunities for public sector contracts can be expected to reduce as commissioners bring into single large scale contracts what were previously individual contracted services. This in itself will present challenges for small and medium sized bidders. Moreover, the proportional value of these new bigger contracts is likely to reduce as a result of public sector funding pressures and simply having less money available.

Despite this, public sector contracts will doubtless continue to be part of voluntary organisations' income options. There are few signs that competitiveness for grant

aid will reduce. New funding mechanisms such as social finance, crowdfunding and community shares continue to be of niche or marginal appeal. Public sector contracts may even increase in importance for voluntary organisations.

The examples offered in this paper seek to outline the dangers that prioritising income from public sector contracts presents to the sustainability of organisations. The dangers are potential twofold.

On the demand side, Social Value may provide opportunities for voluntary sector bidders to bring more than price and experience of service delivery to a bid. Equally, the Compact might mitigate some of the difficulties commissioning and procurement can present. However, if we describe commissioning as essentially an art and therefore subject to the skills and abilities of individual commissioners, procurement remains thoroughly a process and procedure that can be daunting or exclusionary to potential bidders.

To fill in a PQQ is to demonstrate to the procurement officer that your organisation is to all intent and purpose a mirror of the public sector organisation that is commissioning the service. As a service provider you will be expected to have the same or similar policies, insurances, IT security measures and other systems and procedures as the commissioning body; it is as if the commissioner had decided to award the contract to her or his own organisation.

It is a matter of degree but potentially

<sup>43</sup><https://www.theguardian.com/politics/2018/jan/30/brexit-would-damage-uk-growth-says-leaked-cabinet-report>

<sup>44</sup><https://www.gov.uk/government/publications/state-of-the-nation-2017>

<sup>45</sup><https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/april2018>

<sup>46</sup><https://www.jrf.org.uk/press/uk-poverty-2017-country-reaches-turning-point>

<sup>47</sup><http://www.ucl.ac.uk/iehc/iehc-news/michael-marmot-life-expectancy>



voluntary organisations that prioritise public sector delivery risk losing their roots in the voluntary sector and becoming part of an ersatz public sector. Add to this the inclusion of clauses into contracts preventing voluntary sector organisations from criticising the public sector and we begin to see Tizard and Walker's call for campaigning and challenge from the sector disappearing as any kind of realistic prospect.

On the supply side, the potential dangers of straitjacketing bureaucracy are matched by the 'dash for cash' as a focus on winning contracts potentially distorts the basis for decision making by trustees and directors. Lifeline and Carillion both illustrate what the final outcome of such strategies can be, leading an organisation to overreach its financial resources and capabilities.

Kids Company is yet another large charity that very suddenly and publicly closed down. The risks section of the charity's 2013 annual report<sup>48</sup>, acknowledged that 'Kids Company faces financial risks' but also that its business model is to 'spend money according to need'. The charity did, however, aspire to building reserves when circumstances allowed. Kids Company was in many respects an exceptional charity in its links to and the support it received from government ministers. However, the annual report conceivably illustrates a certain naive or hubristic attitude among those responsible for the charity.

If contracts are to remain part of the voluntary sectors income generation landscape then commissioners, public sector and voluntary sector leaders must work together. Collectively they need to ensure that Social Value and local Compacts have

the potential to act as a brake on a 'race to the bottom' where lowest price trumps all or where the bid presenting the least risk wins out over achieving wider social impacts and also market diversity.

The recent actions that Gateshead and Newcastle councils have taken to strengthen their commitments to Corporate Social Responsibility and Social Value are a positive step. This, combined with some of the approaches taken in other areas, such as Preston, Plymouth and Leeds, can offer a potentially more sustainable environment for local voluntary and community organisations.

The Compact clearly has a role too in maintaining and regulating fair and transparent processes and relationships between public and voluntary sector organisations.

Voluntary sector trustees and chief executives need to exercise caution in how they plan and shape the future of their organisation. The economic margins on public sector contracts are often small<sup>49</sup>. In some cases contracts are subsidised from the reserves of the voluntary organisation delivering the service. Public sector contracts can therefore offer decidedly shaky foundations. The examples of 4Children and Lifeline Project (also Tomorrows People and Age UK Newcastle) suggest that without sufficient oversight, exposure to risk in the form of over reliance on loans or contracts over a mixed income of grants, contracts, earnings and loans can become a hazard.

Voluntary organisations must guard too, against the creeping existential threat of becoming little more than an adjunct to the public and private sector. The constraining

<sup>48</sup>[http://apps.charitycommission.gov.uk/Accounts/Ends98/0001068298\\_AC\\_20131231\\_E\\_C.pdf](http://apps.charitycommission.gov.uk/Accounts/Ends98/0001068298_AC_20131231_E_C.pdf)

<sup>49</sup><http://blogs.lse.ac.uk/politicsandpolicy/what-carillions-collapse-tells-us-about-public-sector-outsourcing/>

effects of procurement bureaucracy on the one hand, while on the other, a pursuit of growth through public sector contracts threatens to lift certain voluntary organisations effectively out of the voluntary sector leaving them as little more than contract delivery agents with few or no ties to the social causes and impacts that the voluntary sector exists to achieve.

The outcome sketched out above might appear extreme nonetheless the cumulative effect of numbers of years of public sector commissioning and procurement has had an impact on the voluntary sector. For some organisations this has provided opportunities for growth and expansion; for others it has been a path to reduced capacity and in some cases closure.

As we move towards the end of the first decade of austerity it's time to focus on intelligent commissioning, creating the time and resources for partnership approaches and ensuring public sector procurement and contracts enable commissioners and service providers to make the best use of local assets.

We need to build on tools already to hand, including Social Value and the Compact and develop joint principles that enable voluntary organisations to deliver public services but to also remain firm to their charitable aims and objectives.

## About Newcastle CVS

Newcastle CVS gives people who struggle to be heard a voice, supports voluntary and community organisations to be resilient and sustainable and promotes a fairer society by influencing and challenging the debate.

Our established reputation, extensive networks and integrity and strength of approach makes us the go to source in supporting voluntary and community action.

We improve the quality of life in Newcastle and Gateshead by supporting the voluntary sector.

© Newcastle Council for Voluntary Service, 2018

This work is licensed under the Creative Commons Attribution-NonCommercial 4.0 International License. See: <http://creativecommons.org/licenses/by-nc/4.0>



Newcastle CVS  
Higham House  
Higham Place  
Newcastle upon Tyne  
NE1 8AF

Contact us: 0191 232 7445  
[information@cvsnewcastle.org.uk](mailto:information@cvsnewcastle.org.uk)  
[www.cvsnewcastle.org.uk](http://www.cvsnewcastle.org.uk)



Newcastle Council for Voluntary Service is a registered charity (number 1125877) and company limited by guarantee (number 6681475) registered in England and Wales | Our registered office is as above