



Edinburgh Voluntary Organisations' Council Input to The Scottish Government in response to its Consultation on the proposed Procurement Reform Bill

[EDINBURGH Voluntary Organisations' Council](#) (EVOC) is the Capital's CVS or Council for Voluntary Service and a party to Edinburgh's [Third Sector Interface](#).

As an Interface body, EVOC is submitting this response on behalf of Edinburgh's Third Sector. In order to capture views of the local voluntary sector EVOC has held conversations with agencies through a variety of means, and this response summarises the salient points from those exercises. Given the interests of EVOC's constituency the comments related to some but not all aspects of the Bill. Consequently the following addresses concerns raised by Third Sector organisations with particular attention paid to small, local voluntary agencies, bearing in mind the contribution this element of the voluntary sector makes to innovation, prevention, community capacity building and both individual and community resilience.

EVOC welcomes the opportunity to share the Third Sector's thinking on Procurement Reform with the Bill Team taking this crucial reform through the legislative process. We have not sought to respond to particular questions within the consultation, but attempt to raise a small number of strategic points which we hope will be of interest.

Reform

Procurement Reform, in our view, serves Public Service Reform. It must be seen in the context of the range of reforms currently under way including the Integration of adult Health and Social Care, the Community Empowerment Bill, and the national review of Community Planning.

Similarly, it is our view that a strong and stable Economy has instrumental value – in supporting and enabling a strong and stable Society. Economic outcomes in isolation from social outcomes are not a valuable end in themselves, but a means to a higher end. Put differently, Economic sustainability serves Social sustainability.

More particularly, procurement clearly has significant bearing on economic growth. Our view is that procurement can be used in more creative ways and, most significantly, offers a mechanism to promote social value. Healthy and thriving communities and individuals in turn foster long-term economic progress. Procurement ought to reflect the primacy of positive outcomes for people. Economic gain can do little more than add further support to current economic trends which notably include widening gaps across Scottish society. Such an emphasis sits well with the integration of health and social care services, preventative spend and community capacity building and empowerment. Seen in this way, procurement reform would – as some feel it must – support wider public service reform in line with the recommendations of the Christie Commission.

Effective, Transparent, Proportionate

We support the intention to introduce a general duty to “conduct procurement in an effective, transparent and proportionate manner”. Embedding these principles in the legislation with some degree of obligation would go a considerable way towards realising whole systems value for money.

A persuasive case can be made that disproportionate and opaque procurement processes (particularly in ‘human’ services) are necessarily ineffective – adding unnecessarily to costs, creating uncertainty amongst providers and service-users, and potentially leading to greater costs in the long term.

In particular, experience of procurement locally has shown a strong need to establish clearer criteria and guidance around when a purchaser should employ a competitive tendering approach, in order that the exercise is proportionate. As procurement has been practiced to date the total costs of the range of inputs from both purchaser and bidders presents a considerable challenge to achieving whole systems value for money. Simply externalising costs to another part of the system is not a saving for Scottish society. Measures to evidence proportionality would furnish all parties with the confidence that resources are deployed effectively and efficiently.

Considerable concerns emerge around the issue of transparency. Levels of confidence in the process and procedures show scope for improvement and there is a clear desire on the part of the Third Sector to require a greater openness across the piece. Questions emerge in relation to the quality of decision making, an appropriate understanding of the balance between quality and cost in assessing bids, and criteria that can be applied less transparently than is desirable.

The bulk of voluntary sector service provision is focussed on local need, and health and social care services in particular – designed to respond to identified need. At the European level social care services are acknowledged to be different in nature from other forms of procurement, recognising that purchasing care is not like purchasing pencils, that local responsiveness is essential to effective service delivery, and the near complete absence of cross border interest in such contracts.

Common sense would indicate the substantive differences between large scale construction contracts (for example), and health and social care provision sensitive to local need and conditions. In this sense a ‘one size fits all’ approach does not necessarily deliver on whole systems value for money, insofar as standardising across the board would lead to a greater burden being placed on SMEs and particularly Third Sector organisations. Similarly, purchasing authorities may face a disproportionate requirement to employ purchasing mechanisms which are demonstrably not fit for purpose.

Experience suggests that large health and social care contracts are comprised of ‘bundles’ of services ‘rolled up’ together, with the intention of taking advantage of economies of scale. With regard to small local voluntary organisations a number of issues require attention in this respect.

Aggregation is intended to deliver economies of scale – but the ‘rolling up’ of contracts can disadvantage smaller, local Third Sector organisations. The irony here is that those small, local organisations are – in fact – the very ones most likely to be able to respond to need

quickly and effectively (especially as needs change.) Put differently, it is our view that procurement for 'human' services must operate 'at a human scale.' The long-term, whole systems impacts of disaggregating services to allow for locally appropriate variations could – to use the jargon – shape the market in ways that benefit people rather than purchasers.

Involving People

Recent developments in commissioning (think strategic commissioning) show a welcome move towards involving people meaningfully in decisions which affect the services they receive. This impacts positively on communities and which facilitate more active engagement in policy and strategy development. CoProducing services has long been a feature of Third Sector provision and considerable expertise exists in developing services in partnership with the people using them. Procurement reform has the potential to pick up on such commitment and intelligence. The value of a role for people who use services should not be underestimated, nor should the contribution people can make to realising wider objectives around empowerment, prevention and outcome-based procurement.

The lessons learned in Edinburgh offer valuable insights into the importance of involving people in terms of ensuring continuity and appropriate outcomes; as well as into the variable capacity of purchasing authorities to address the complexities of procurement processes. In particular, with regard to health and social care services, legislating for the participation of service users in procurement can build on those lessons and promote wider policy objectives recommended by the Christie Commission to deliver better value.

The experience locally is that procurement exercises show a clear tendency not to value CoProduced Third Sector services. Legislative measures are needed to sustain and promote the development of CoProduced services and which link procurement to community empowerment.

Enabled to engage

We support the introduction of a general duty to consider the impact of procurement processes on the ability of Third Sector organisations to compete. To do so timescales need to recognise differentials in capacity across potential providers, and particularly for local Third Sector agencies with small staff teams, high service demands and few opportunities to grow skills in bidding for tenders. To build on the memory and intelligence located in the Third Sector more time is needed to participate, in order that agencies are not disadvantaged by capacity and to allow for consortia bids.

The added value that can be achieved by service delivery via trusted local Third Sector organisations is difficult to quantify – to coin a phrase, value beyond measure. With an increasing understanding of the preventive impacts of services delivered 'at human scale,' it would be timely to consider opportunities within Procurement Reform legislation to recognise the unquantifiable benefits of service delivery that treats people holistically, values our uniqueness, and enables benefits that go above and beyond narrowly-defined service specifications.

Community Benefit

An issue that EVOC has been promoting locally is the appropriate locus for considerations of community benefit within procurement. While we are supportive of more and more creative use of Community Benefit Clauses – within all types and sizes of procurement exercises –

we are of the view that community benefit should go much further than a mere bolt-on to an otherwise unchanged contract specification.

The move from contracts specifying activity to contracts which concentrate on higher-level outcomes is well understood. The next step would be to define contracts in terms of broader and longer-term impacts – especially in the context of ‘human’ services. Thus, rather than defining a contract specification in terms of numbers of ‘service episodes,’ we are moving towards defining outcomes for individuals. Equally, we better understand the limits of (for example) defining a park maintenance contract in terms of how long the grass is rather than saying clearly that the contract seeks to enable *use* of the parks.

In the context of strategic commissioning we call this shift Commissioning for Social Value rather than simply using ‘add-on’ Community Benefit Clauses (good and useful, though they may be.)

Living Wage

There is a live debate currently on the role legislation plays in shaping our society. Our view is that a reasonable middle point must be found between expecting that new laws on their own will ‘make good society,’ and the view that legislation can change nothing until cultures change.

Having said that, it is our view that contracts requiring purchasers to pay a Living Wage – to everyone who is employed across the whole supply chain – can do a great deal to ensure that staff are valued and appropriately remunerated. Procurement Reform legislation can appropriately recognise the wider benefits of such a requirement to the local economy, to people’s ability fully to participate in the life of our communities, and to the well-understood ‘multiplier effect’ of wages paid at the lower end of the income spectrum.

Conclusion

In Summary:

- EVOC’s key points remain strategic rather than specific, in response to particular questions in the consultation;
- This submission comes on behalf of Edinburgh’s Third Sector – supporting, not negating any submission that other Third Sector organisations may have made;
- Procurement Reform must support wider Public Service Reform;
- To be effective, Procurement must be transparent and proportionate;
- The Third Sector has a particular role to play, and brings added value to the purchaser-provider relationship beyond the deliverables normally specified in service contracts;
- Human services should be delivered ‘at human scale,’ allowing scope for the well-understood benefits of CoProduction;
- Purchasing is an ethical act – we should harness the power of positive purchasing – recognising whole systems value for money.

Ends

To discuss the content of this submission, in the first instance, please email Colin Murray: Colin.Murray@evoc.org.uk or phone: 0131 555 9100.