



the care forum

Response to Bristol City Council's Draft Commissioning Strategy for Voluntary and Community Sector Infrastructure Support Services and the Consultation Programme

December 2009

Summary

The Care Forum is a provider of specialist health and social care infrastructure support services. It is publishing this response to meet its infrastructure service obligation to the health and social care voluntary, community and social enterprise (VCSE) sector in Bristol.

The Care Forum supports the intended benefits of the draft commissioning strategy:

- a more sustainable VCSE sector in Bristol;
- a stronger voice for the VCSE sector;
- improved continuity of funding and service planning for infrastructure support services.

We are committed to the proposed objectives of raising standards, enabling communication and collaboration, providing a voice and promoting strategic involvement.

This response has two main aims: to seek answers to a number of questions raised by the draft strategy and the consultation programme; and to inform the VCSE and statutory sectors working in the field of health and social care of the potential impact of the draft commissioning strategy.

Whilst The Care Forum's focus is the health and social care sector, the majority of our concerns are relevant to all VCSE sector organisations.

It is hoped that our response will enable:

- expansion of the capacity of the sector to engage with the consultation on the commissioning strategy for voluntary sector support services;

- the VCSE sector to put its point of view from an informed position on the whole strategy and all the options;
- the VCSE sector to evaluate the commissioning strategy, the consultation programme and the impacts of both on the sector's sustainability and vibrancy;
- take up by partners of the government's recommendation to foster consortia commissioning with the VCSE sector wherever appropriate.

This paper sets out our concerns about the commissioning process, the commissioning strategy and the consultation programme.

The key concerns are that:

- the commissioning process, in which the outputs and a preferred delivery option are already specified, is not outcomes led;
- the proposed support service model is not costed;
- the links between the needs assessment and the outcomes are not clear;
- and the purchasing decision is planned to take place during the consultation period.

We consider the impact on the voluntary and community sector of the commissioning process and of the proposals in the draft strategy and suggest that the result may be:

- A reduced and less thriving sector receiving less funding
- A less independent voice for the VCSE sector.

Finally The Care Forum makes a number of recommendations to the Council including:

- re-working the draft strategy into an outcomes-led commissioning strategy and an engagement plan;
- encouraging a variety of voluntary sector bids from which commissioners may select the strongest bid on the grounds of effectiveness, efficiency, equity, equality, quality and value for money.



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1. Introduction

The Care Forum is a provider of specialist health and social care infrastructure support services. It is publishing this response to meet its infrastructure service obligation to the health and social care voluntary, community and social enterprise sector (VCSE) in Bristol.

The Care Forum supports the following intended benefits of the draft commissioning strategy:

- a more sustainable VCSE sector in Bristol; a stronger voice for the VCSE sector;
- and improved continuity of funding and service planning for infrastructure support services.

We are also committed to the proposed objectives of:

- raising standards,
- enabling communication and collaboration, and
- providing a voice and promoting strategic involvement.

This response has two main purposes:

1. To respond to Bristol City Council and raise a number of concerns to them as part of the consultation programme;
2. To inform local VCSE and statutory sectors working in the field of health and social care of the potential impact of the draft Bristol infrastructure support services commissioning strategy.

It is hoped that this response will enable:

- a. expansion of the capacity of the sector to engage with the consultation on the commissioning strategy for voluntary sector support services;
- b. the VCES sector to put its point of view from an informed position on the whole strategy and all the options;
- c. the VCES sector to understand the commissioning strategy, the consultation programme and the impacts of both on the sector's sustainability and vibrancy;

- d. take up by partners of the government's recommendation to foster consortia commissioning with the VCES sector wherever appropriate.

Below are our concerns about the commissioning process, the commissioning strategy and the consultation programme followed by recommendations to improve the process for all stakeholders.

2. Concerns about the commissioning process

- a. The VCSE infrastructure commissioning strategy was drafted before there was an agreed draft of the **third sector strategy**. It is stated that the context for this draft commissioning strategy is the council's **Enabling Commissioning Programme** which is not yet available.
We are concerned that if these are not agreed we may not be able to judge whether or not the commissioning strategy is best designed to drive the delivery of what is needed.
- b. The proposed 'layers of service', the 'handholding' service, the 'development' services and the enquiry and triage service are all new. Since the outputs and the delivery option have been specified and if new services are to be included for the same circa £400k budget, it would be helpful to see a cost analysis of the draft strategy and specifically of the three proposed delivery options, the new services and any decommissioning of services.
- c. Negotiations by the council are only now underway with other large commissioning agencies to request that they pool their budgets for VCSE sector support services. It is not clear that key partners particularly the health trusts were engaged in the drafting of this commissioning strategy, or that they have had the chance to consider how the significant current **benefits and savings from delivering some support services across trusts and local authority boundaries** may be sustained.
- d. We suggest that **the commissioning timetable** is unrealistic when the implications for those services that may be decommissioned or where organisations may be merged in terms of TUPE (Transfer of Undertakings of Protection of Employment Regulations 2006) and redundancy funding are taken into account.
- e. There is no proposal for how to fill the **funding gap** between the point at which the one main provider is commissioned (October 2010) and the point at which it can itself procure subcontracted services using a world class commissioning process. We are concerned to know how the council proposes to fund VCSE infrastructure support services in this interim period.

- f. **The constitution of the service specification group** is currently three VCSE and seven statutory representatives, and the **participation in the service specification group** is contingent on knowing that one's organisation will never want to provide a consortium, one provider, subcontractor and/or lead agency service for the duration of the contract. We are concerned that when the tender documents are published and a voluntary sector organisation (VSO) that has been a member of the service specification group decides that it would like to bid, it might be precluded from doing so by procurement regulations. We would also like to see the service specification group constituted 50:50 statutory and voluntary sector members.

3. Concerns about the commissioning strategy

- a. The central tenet of **outcomes-led commissioning** is specifying the desired outcomes and leaving potential providers to specify the service delivery options, appropriate outputs and the pricing within a given amount of funding. Outcomes-led commissioning is advocated nationally by the Audit Commission and the Department of Health's 'world class commissioning'. This method of commissioning was successfully modelled by Children and Young People's Services to commission the CAMHS and Community Children's Services; there is no evidence that the learning points have been acted upon in drafting this commissioning strategy.
- b. The voluntary sector in Bristol has been party to training in outcomes-led **commissioning**. This training was delivered to Bristol Partnership members by GOSW, and for VCSE sector partners and managers in Children and Young People Services through the Centre for Public Innovation. It has been cascaded through the children and young people voluntary sector funded by the Children's Workforce Development Council Partners Programme.
- c. We are concerned that the draft commissioning strategy predefines the outputs, the roles of the service to be commissioned and states a preferred service delivery option in what should be an outcomes-led process. They were already specified before the consultation period had commenced, contrary to national good practice and guidelines. We would also like clarification of the terms used in the strategy such as *model, benefits, outcomes, priorities, objectives, outputs* and *delivery goals* that are used interchangeably in the text.
- d. **Increased skills around partnerships to win contracts, and specialist services to provide tailored support to VCSE sector groups** are desired objectives of the consultees and the commissioners respectively. On page 9 of the draft strategy the commissioners state, 'More partnering developments and consortia/coalitions will be needed to respond to these [funding] opportunities'. We are concerned that the preferred delivery option model will preclude partnership working and joint bidding between providers of specialist services. The preferred option is a subcontracting

model and not the government preferred Partnership working model for delivery by the Third Sector.

- e. It is established practice that where commissioners are seeking to cut costs, procurement officers advise **the ‘bundling’ of services** into one large tender which then tends to preclude small organisations from bidding, especially when the consortium option is not overtly supported. We are concerned that this bundling of services will not support the ongoing sustainability of infrastructure organisations.
- f. The Care Forum is concerned at the **implications of a strategy that stipulates the council’s preferred delivery option** based on ease of contract management, reduced costs and reduced risk, and particularly so given the potential shortcomings of the uncosted preferred delivery option. By bundling all of the support services under one provider rather than nurturing continuing strong partnership working between different departments, agencies and organisations, the preferred delivery option may have the effect of contradicting both the council priority to deliver a thriving third sector (LAA NI7) by supporting specialised local market capacity, and the government’s desired objective of fostering collaboration alongside competition. It is not clear from the strategy whether the council plans to provide a parallel or integrated grants scheme; and how contestability will be assured if only one provider bids.
- g. **The contract time length is ambiguous.** The council is proposing a time period of three years for this contract with a potential further two years under conditions which are not made transparent. We would prefer that the council commits to a contract for five years. Commissioners can terminate a contract with notice for a range of reasons specified in the contract including the funding source ceasing and underperformance, so these need not be reasons for limiting the length of contract.
- h. We are not confident that **the proposals in the strategy are designed to deliver the variously termed objectives contained in the draft strategy.** As there is no cost analysis of the different proposals, not even of the council’s preferred option, we are concerned to know whether the model and the preferred delivery option will be **cost effective.**
- i. If a transparent procurement process is followed that allows for full cost recovery by the lead provider and also by the subcontracted providers, the preferred option may lead to an **increase in the management, core and commissioning costs** for each part of the service that is subcontracted. For all of those services that the one provider delivers itself - over and above the services that it is currently delivering – may entail additional premises, management and administrative capacity, and additional costs may accrue to cover the additional commissioning process

undertaken by the one lead provider. The end result will be a reduction of funding available for service delivery.

- j. Consultees are asking for a **one-stop shop**. The council's one provider preferred delivery option precludes the consortium option of the provision of a one-stop shop. No evidence has been provided to demonstrate that a one-stop shop for VCSE sector infrastructure services run by only one provider is the best option. There is no evidence of learning from existing good practice. It would be useful to test the market for a cross-sectoral shared web portal, free phone number and email address.
- k. **Duplication of training services**, as reported by consultees, can be avoided through the co-ordination of contracting across the council and a systematic, corporate commissioning framework. Collaborating to provide rather than duplicate VCSE sector support services is a successful focus of activity for the sector, including joint events and training where the topic is generic to the sector. Where there is evidence of duplication of training provision this can be remedied through co-ordinated commissioning and contract management.
- l. In its contribution to identifying gaps on services and achieving better outcomes, **Innovation** is identified as a benefit on page 3 of the strategy. We are unclear from the draft strategy how the proposed support services model and service delivery option would encourage or build in capacity for innovation at all levels of provision. It would be helpful if a clear indication could be expressed in the body of the strategy of how the council will **work in partnership** with the VCSE sector and what all statutory partners are proposing to **offer to the voluntary sector** to ensure a thriving third sector. What gaps will individual statutory partners fill in the contracted services, and what monitoring and review capacity will they resource?
- m. **The links between the needs assessment and the outcomes** are not explicit and therefore **the relationship between stated objectives and the preferred delivery option** is not transparent. For example, the objective to support service-led organisations in the city may be thwarted by a preferred delivery option that is designed to decrease the number of providers that are themselves member-led organisations.
- n. We are concerned that the council is proposing to **control the main provider choice of subcontractors for aspects of the service provision**. This level of control may mean that the performance monitoring requirements of the one main provider from its subcontractors may be disproportionate. We ask that the council is explicit about the criteria it would use to assess whether or not it would approve the main provider's selection of subcontractors, i.e. on what grounds it might veto a subcontractor.

- o. It would appear that **other partner agencies with an interest in the outcomes of the support service such as NHS Bristol would not control any part of the monitoring process** as this would have been outsourced to the one main provider, and that subcontractors would not have any direct accountability to statutory funding agencies. We seek confirmation from Bristol City Council that this would be the commissioners' intention.
- p. With a systematic performance management framework and adequate capacity in the commissioning agency, all grants and contracts may be managed to reach the desired outcomes if the budget is realistic. But we are not clear whether the council has costed in the proposed contracting of **performance management** to the one provider plus an additional amount for the performance management of subcontractors by the one provider or whether the savings to the council, from ceasing to manage a range of contracts and managing only the contract with the single main provider, will be passed on to the single main provider.
- q. If the efficiency savings made by the council by managing fewer contracts are not added to the total amount of funding for the commissioned support service, then this amount will have to be subtracted from the services budget and services curtailed commensurately. In other words, this would effectively become a **funding cut**.
- r. At present, the infrastructure organisations can distance a particular challenge from their individual interests by acting collectively. We are concerned that **conflict of interest** is a risk with the one provider preferred delivery option. If the only local dedicated infrastructure organisation is the council's one main provider they will not be able to provide independent advice and support should the voluntary sector or a voluntary sector organisation want to challenge the council.

4. Questions about the consultation programme

- a. **Consultation sessions at the needs analysis stage and now at the commissioning strategy stage have not been advertised with adequate notice.** The notice given for the consultation sessions on the commissioning strategy went out the week before a school holiday, less than two weeks in advance of the first event. We are concerned that not everyone who wished to take part was able to do so. This process was non compliant with the COMPACT and as such is damaging to the development of trust and transparency in the relationship between the council and the VCSE.
- b. As part of a '**market analysis**' the deadline for expressions of interest in being the one main provider and/or a subcontracted provider lies in the middle of a consultation programme purportedly on three service delivery options. This may have the effect of pre-empting the results of the consultation programme. Similarly, potential providers are invited to a meeting also in the middle of the consultation

programme to share their offer and 'build a provider coalition'. But this request for 'cards on the table' is in a context of direct competition induced by the preferred one provider delivery option. We consider that it is not possible to make a fully informed judgment about the best method of purchasing in order to deliver the outcomes before either Bristol's third sector strategy or the voluntary sector infrastructure strategy is finalised. We would like assurances that VSOs would have an equal opportunity to state their interest in bidding as a coalition, joint provider or consortium.

- c. Because the preferred delivery option is competitive there is a risk that **advice to the sector** may fall on those individual infrastructure organisations that are wanting to support a commissioning process that exemplifies government advice, world class commissioning, local commissioning best practice, and the fruits of a good deal of previous public funding locally to develop collaborative working and the basis for consortia tendering.
- d. **Having published its preference and invested in building capacity around only one preferred delivery option, the council gives the impression of having decided the final strategy in advance of the Cabinet Key Decision timetabled for February 2010.** We request that in the interests of fairness, council resources are committed to supporting the other two delivery options: the consortia option and the commissioning of separate specialised services.

5. Impacts on the voluntary and community sector

The Care Forum suggests that the following impacts may be of concern:

- a. The draft strategy as it stands threatens to undermines the community **leadership capacity** which is one of the outputs that the council is seeking. Leadership requires some kind of consensus between those leading and those led. The vehicle for this leadership, the Consortium Forum, will be compromised if the competitive option is adopted. The trust, fairness and transparency needed for leadership to work effectively will be threatened.
- b. To **reduce a complex and thriving voluntary sector support service sector** in the city to one main provider with a reduced, indeterminate number of subcontracted organisations may diminish the complexity and sustainability of the voluntary sector as a whole if its specialist support does not survive. Within the resources available, examples of co-operative working, complementary funding and separate specialist spheres have to date been worked out without recourse to competitive bidding against partners, subcontracting or the duplication of services.
- c. It will also **undermine the current equal relationship between partners** who specialise in distinct spheres of operation with some shared generic interests – rather as different health trusts have different and shared interests, or different

neighbourhood partnerships.

- d. The draft commissioning strategy acknowledges the **increased demand on current infrastructure support providers** (page 3), the greater than national average number of VSOs (p.5) and many more voluntary sector employees (p.7) in the city. The model proposed aims to reduce further the council's community development capacity by reducing the cost of the support services to the council, and also - as a result of the costs of subcontracting - reducing the operational budgets available to specialist infrastructure support organisations.
- e. **The proposed model will impact on the existing effective joint working of health and social care infrastructure support in Bristol and its neighbouring authorities in Avon.** The Care Forum is a specialist infrastructure organisation accountable to the health and social care voluntary and statutory sectors in Bristol. Currently The Care Forum provides similar services in four local authorities across Avon, supporting VSOs to engage with the commissioning process and to deliver services which reduce health and social care inequalities.
- f. The health trusts and the health and social care departments of the local authorities are statutorily required to provide participation and engagement services for planning, designing and implementing services. If the strategy and consultation programme is not proven to be the best fit for the services commissioned by the health and social care department in Bristol, then the cost benefits of having cross-border and cross-agency services delivered by one provider may be diminished and the joint working between NHS and 'health and social care' may be threatened in Bristol.
- g. Most importantly, voluntary sector infrastructure organisations in the city need to **model best practice** in commissioning if we are to expect other voluntary sector organisations to come to the mark. If voluntary sector organisations are not supported by their commissioning agencies to model national guidance and best practice, then who will hold the commissioners to account?
- h. **We request that this draft strategy and its accompanying consultation programme are amended to provide a best practice model of voluntary sector infrastructure support in Bristol in whichever configuration proves itself in the bidding process as the most effective one to deliver the agreed outcomes.**

6. The Care Forum's Recommendations

The Care Forum recommends that:

- a. the draft VCSE sector strategy is consulted on and adopted by Bristol Partners prior to the agreement of a final draft of the infrastructure support service commissioning

strategy;

- b. the council reworks the strategy into an outcomes-led commissioning strategy and an engagement plan which encourage a variety of voluntary sector responses from which commissioners, procurement officers and disinterested partners including the VSOs may select the strongest proposal on grounds of effectiveness, efficiency, equality, quality and value for money. This reworked strategy should then be put out for a fresh, Compact-compliant period of consultation;
- c. all the benefits of the preferred delivery option can be built into many possible delivery mechanisms. Therefore the outputs and the delivery options need not be stated in the final commissioning strategy; these are matters for the bidders, who will be able to view the needs analysis and the estimated costings, to describe in their tender submission documents;
- d. the reworked strategy should make a systematic link between the results of the needs analysis and the formulation of the outcomes so as to ensure that the outcomes will deliver what both the council and the sector needs;
- e. the reworked strategy should provide both for support to be offered to VSOs, and to allow sufficient time for consortia and other bids to come forward;
- f. the council should undertake a full cost analysis of the desired outcomes so as to provide a robust evidence base upon which to build an informed commissioning strategy;
- g. the health and social care element (of what is a larger health and social care infrastructure support capacity in Bristol) of the service budget referred to in the commissioning strategy be removed from this particular commissioning process;
- h. If (g) above is not agreed, officers from NHS Bristol be invited to play an ongoing and active part in the VCSE sector infrastructure support project board.