

Comment

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To help us collect everyones views, could you please respond to this survey as either: Voluntary or Community Sector Organisation

Please enter your postcode: NE61 1PY

Question 1

Is the introduction of the Commercial Strategy clear and concise? No

Question 2

Do you have any comments on this section ?

In many ways the Introduction sets the scene for an impressive change in the way the Council commissions services through its emphasis on the local and social economy. This would be broadly welcomed by the voluntary and community sector. However, it might be concise but it is not clear. It starts with a reference to radical shifts in commissioning and ends with a reference to "commissioning and procurement strategy". It is almost as if commissioning and procurement are treated as the same thing. And they are. Commissioning is defined in the Glossary on p53 as "Another word for procurement, this means the process of buying or purchasing goods or services". The conflation of these two terms taints the whole document and, as a consequence, it is fundamentally flawed. It is regrettable that the original title of "Commissioning Strategy" was not retained. Commercial Strategy is an unusual choice for a public body's prime strategic policy on financial relations with outside bodies given that it is not primarily motivated by commercial considerations. In many respects the Council shares values in common with the voluntary and community sector. Working well together to deliver agreed outcomes for the benefit of Northumberland, is what we should be about and the responses to this consultation should be viewed in that spirit. It is unfortunate that the Council's Executive Committee on January 11 was presented with a substantially different version of the Strategy than the one being consulted upon. They approved it some 15 days before the consultation on this earlier draft formally ended. It is hoped that further improvements will be made in response to the comments provided and that the Council will revisit the Strategy. Needless to say this response is refers to the 60 page version linked to the consultation.

Question 3

Is the Vision of the Commercial Strategy clear and concise? Yes

Question 4

Do you understand and agree with the Council's strategic aims and vision? Yes

Question 5

Do you have any comments on this section ?

The Vision promises a great deal. The concern is whether the strategy sets out the framework to deliver it. "...ensuring local supply chains ...are used as much as possible..." is a laudable ambition but if the "much is possible" turns out to be "not a lot" then nothing will have changed.

Question 6

Is this section clear and concise? No

Question 7

Do you fully understand and agree with the changes planned for the way forward in commissioning and procurement? No

Question 8

Would you like to comment on potential problems you may foresee?

This is again confusing because although commissioning is well defined in the section which goes on to hope for "a whole range of options" to achieve a mixed economy in the delivery of services, an important element of commissioning is completely ignored - namely giving a grant to an organisation to bring about desired outcomes. This is a long and established way of efficiently commissioning services and has substantial advantages to both the commissioner, the grant recipient and the end use. The essence of a mixed economy to the VCS is a sensible mixture of contract and grant commissioning. In this respect we whole heartedly endorse the stated position of the lead member of the Coalition Government which is based on sustaining the grant funding of charities and community groups by respecting the difference between grants and contracts and using contracts, rather than grants, only where there is a clear justification. It is worth quoting in full the strategic basis for this approach: "Grants are a vital part of the funding mix for voluntary organisations. They fill the gap between what the state can't do and what the public is less likely to give to. In particular, they provide a lifeline to smaller charities and community groups who might otherwise lose out in the increasingly sophisticated competition for private donations. However, in recent years the very concept of grant funding has become fatally confused with the payments that some voluntary organisations receive for providing public services under contract. It is vital that Government understands that contract funding can never be a substitute for grant funding. While contracts are all about the state buying from the sector, grants are all about the state giving to the sector. As such, grant funding has a double worth that goes beyond the financial value of the grants themselves: firstly, as a mark of humility on the part of politicians that others may be better placed to use public resources; and, secondly, as a proof of political trust in the institutions of civil society." A Stronger Society: Voluntary Action in the 21st Century Policy Green paper no5 p 34. There is a clear distinction for the purposes of the EU procurement rules between letting a contract and providing grant funding. Contracts are subject to the rules; grant funding is not and so grant funding cannot be challenged on the grounds of breaching EU procurement rules. This has huge benefits for the Council but seems to have been overlooked. Careful drafting of grant agreements is essential to distinguish them from contracts. The sector would be happy to advise. Enlightened procurement officers in other authorities are fearful that the current financial constraints will do nothing to encourage more imaginative approaches which take into account social and

environmental gains. For these to work these gains must be part of the evaluation & monitoring processes. We have been advised in the past by the procurement unit that specific social clauses may show within the tender document but only if they are pertinent to the performance of the contract. It will require a major shift in thinking for most contracts to be part-conditional on social and environmental gains. This surely should be our aim? There is a real fear in the current climate that procurement officers will be far too thin on the ground to encourage anything other than larger, fewer contracts. This of course has been the mantra of the last few years and does nothing to favour local suppliers. Pushing boundaries for fear of expensive legal challenges is not something a risk averse authority would usually entertain. Experience during the last few months has shown the main activity in relation to VCS-held contracts is not how to procure more services but how to decommission some already held. It is about doing less rather than doing things differently. The present cost cutting climate will inevitably encourage higher weightings to the price element of bids - usually working against the interests of new entrants. There are relatively few references made to a potential major provider of services hitherto supplied by NCC - Town & Parish Councils. Potential suppliers from all sectors will need more clarification. a) How does this commissioning process link in with the commitments contained in the Local Councils/NCC Charter? b) is the transfer of services to Local Councils outside this Strategy?

Question 9

Do you have any other comments on this section ?

Category management: Whereas we welcome members of the Commercial team gaining a greater understanding of different aspects of procurement activity we are confused by the VCS & Social Enterprise being included in the list of these "activities". If the intention is also to ensure that members of the team are better informed about the sector then that too is welcomed. We would be very happy to contribute to their learning process as we would of commissioners. We are also confused by the absence of two very substantial areas of commissioning – children's services and culture, heritage and sport – both categories of enormous importance to Northumberland and to which the VCS makes a massive contribution. Does their omission mean that they are not subject to all the processes described in this policy? More explanation of the different roles performed by commissioners of services compared with procurement officers and their relationships would be very welcome. Social impact bonds are referred to on number of occasions in the draft strategy and the sector is well placed to deliver on these. This certainly would not be limited to those third sector organisations calling themselves social enterprises. It must be recognised that these are early days for SIBs. The one successful model most commonly referred to is the Peterborough Prison pilot concerning reduced re-offending by prison leavers. This is being delivered by a charity, St Giles Trust (an organisation incidentally whose grant income was two and a half times its contract income in 2009-10). Investing early to prevent extensive public costs down the line is something the VCS is familiar with and has been doing for many years. The description given on p14 implies that the Council would need to create a new organisation to deliver this type of social outcome whereas the reality is that they often already exist.

Question 10

Is this section clear and concise? No

Question 11

Does the diagram on the revised commissioning approach make sense to you? Yes

Question 12

Do you have any comments on this section ?

The NB at the bottom of p18 is confusing even if procuring and commissioning are used interchangeably. I am not sure what the difference is between strategic procurement and discrete service area procurement. Assuming we are talking about procurement in the way most understand the word (the stage in the commissioning cycle that involves buying the goods or service and leads to the award of

a contract) then in most circumstances service areas will not have the power to “procure a specific partner”. They will of course have the legal right to offer a grant to a specific partner.

Question 13

Is this section clear and concise? Yes

Question 14

Do you have any comments with regard to the Category Management Approach?

See response to start of question 9

Question 15

Do you have any other comments on this section ?

VCS Innovation Group: not sure members of this group would describe themselves as representatives of anything other than their own organisations but their role, as described, seems to be acting for the sector as a whole. If they had a representative role then their appointment would be expected to be through the normal channels. It is not for the Council to select voluntary organisations to act on behalf of the sector but for the sector to do so.

Question 16

Is the Commissioning / Procurement Programme useful information? Yes

Question 17

Do you have any other comments on this section?

It is useful in that it seems to confirm the absence of important categories. See response to start of question 9

Question 18

Is this section clear and concise? No

Question 19

Are the descriptions on commissioning / procurement processes clear and concise? Yes

Question 20

Do you agree with the level of spend for the authority to go out to tender at £50k? No

Question 21

Do you understand the Public Contract Regulations 2006 and the County Council's Finance and Contract Rules or should we provide more information/web links within this document? Yes

Question 22

Do you understand the definition of 'local' for Northumberland County Council? Yes

Question 23

Is the internal guidance for Directors and Heads of Service on how to procure easy to follow? No

Question 24

Do you have any comments on this section?

If, as you argue, procurement and commissioning are the same thing I am not sure why there are sections for both. If one is a subset of the other, which we argue, I can appreciate why you have both. It refers to all procurement activity minimising identified and assessed risks. We take issue on this. Intelligent commissioning is about sharing risks and allocating them in an appropriate way between the purchaser and supplier. It is suggested that that over time "individual procurement" (by which I assume means individual Services procuring) will decline but until that time is reached certain threshold conditions have to be met. What the section on EU Thresholds omits is that EU procurement rules divides services into two categories: Part A and Part B. Contracts for Part B services are not subject to the full EU procurement rules. VCOs usually provide Part B services which include: legal, transport, health & social, cultural & sporting, training and others. The £156,442 threshold quoted does not apply to Part B services and so the room to manoeuvre is therefore substantial. There is a view among procurement officers that the Public Contracts Regulations 2006 give very little leeway for action when it comes to promoting the local economy. We would challenge this particularly over Part B services. However, the Council's own constitution, or at least its interpretation, might well be constraining with its effective call for all spend above £50k to be subject to a public tendering exercise. Assuming a contract is for 3 years this would mean the full process would kick in for a purchase cost to a supplier of less than £17k /year. A clear and laudable ambition of the strategy is to advance the local economy by using commissioning to maximise community benefits. What is not sufficiently clear is that this cannot be readily achieved by overtly advantaging local companies employing local people, evidencing higher local spend. ..it would be unlawful. But there are measures the Council could take to increase the ability, capacity and likelihood of local suppliers to bid for public contracts. Efforts have already been made in this regard but much more could be done and the sector would be very happy to contribute ideas. Inviting Service Groups to consider the three elements of sustainable procurement has our full support but only if they are advised as to how these might be assessed, scored and subsequently monitored. We assume these elements would be scored as part of the "quality" of any tender submission and so their influence would be affected by the weighting allotted to quality rather than price. Or is the proposal to make the sustainable elements a gateway requirement which all must initially cross? I had the impression that the Council's draft Sustainable Procurement Policy was in for radical reworking if not abandoning altogether and starting again. So I was surprised it was still referenced in its original form. If it is now policy I would be interested to read the report on its consultation findings.

Question 25

Is this section clear and concise? Yes

Question 26

Have you reviewed Northumberland County Council's Sustainable Procurement Policy? Yes

Question 27

If you are a business or organisation, do you consider your own social, economic and Yes

environmental responsibilities or would you like more advice on this?

Question 28

Have you heard of the Procurement Centre initiative? Yes

Question 30

Do you understand whole life costing – do you think there should be more information regarding this? Yes

Question 31

Do you have any comments on this section?

There are 2 questions in question 30 so I am not sure to which you will allocate Yes We fully support the intentions of this section and particularly welcome the sections on Equality and Diversity and Fairtrade. It introduces the idea that procurement legislation limits the freedom to bring about local social gain but remains silent over how grant funding could by-pass this. In those circumstances where the Council is looking to build supplier capacity and a diverse market, a grant funding approach, rather than a competitive procurement approach, could often be more appropriate. Listing the ways in which the local agenda could be promoted through procurement despite the constraints is useful. In this regard I would recommend the 8 principles of good commissioning produced by IDEA's national programme for third sector commissioning particularly the one concerning "investing in the capacity of the provider base, particularly those working with the hard-to-reach groups". Describing a movement like Fairtrade, the origins of which are deeply embedded in the voluntary and community sector, without indicating where it fits in to the procurement process and whether it is intended to make contracts conditional on some Fairtrade commitment, is confusing.

Question 32

Is this section clear and concise? No

Question 33

Do you have any comments on this section?

Not quite sure who is responsible for contract management. It implies it is the service doing the commissioning being advised by the Commercial Team. Is that correct?

Question 34

Is this section clear and concise? Yes

Question 35

Do you agree with e-Procurement and think it is a positive development in procurement? Yes

Question 36

Do you have any comments on this section?

The link to Quotations and Local Agenda Policy does not allow access to outsiders

Question 38

Have you read our Quotations and Local Agenda Policy? No

Question 39

Is the 'Glossary of Terms' clear and concise? No

Question 40

Are the 'Useful Websites' informative? Yes

Question 41

Are there any acronyms in this document which require explanation? Yes

If yes, please explain.

The reason I said No to the Glossary question is that I don't agree with some of the definitions for reasons I have explained. Generally it is useful. Happy to share our glossary sources as well as additional useful websites.

Question 42

Are the web links throughout this document useful? Yes

Question 43

Do you wish to make any other general comments regarding this document?

1) At no point in the 62 pages is there any reference to the Northumberland Compact, an agreement between the Council & other public bodies and the voluntary and community sector. It provides a framework for the relationship between the two sectors and this includes contracts and the procurement process. It has a Funding and Procurement code. In addition the Commissioner for the national Compact has published some very useful advice designed for commissioners in national and local public sector bodies: The Compact and Procurement Law and Commissioning Guidance. 2) How is success to be measured? We have found it very difficult to obtain accurate baseline figures for total spend in particular categories of service or type of provider (local, VCS etc). This needs to be addressed urgently if the policy is to be implemented successfully.