

5 Influencing the process

One of the key success factors for the Collaborate SNAP consortium in Suffolk was the time invested in dialogue with local SP commissioners. Their experience demonstrated that the commissioning environment is not a given. Most commissioners are keen to involve the voluntary sector in discussions about how the commissioning and procurement process will take place. There are opportunities to influence it at most stages in the process. This worksheet outlines how.

AT A GLANCE

- Invest in dialogue with SP commissioners
- Influence the commissioning process at each stage
- Develop relationships with other potential allies
- Encourage commissioners to ensure smaller providers are treated fairly



Based on the East Region Commissioning Framework set out in the evaluation of the Essex SP Value Improvement Project

Understanding the process

All SP commissioners are working their way through a process (see opposite) although the exact form it takes will differ according to local circumstances, and commissioners will be at different stages. The government has encouraged them to involve the voluntary sector in the process (see next page).

By the time a tendering process is announced, a lot of key decisions that could affect the potential for a successful collaborative bid will already have been taken. One of the key messages from the Collaborate project is the need to get involved as early as possible in discussions about the initial design and configuration of services and of the commissioning/procurement process itself.

Attempts to influence are most likely to succeed if you start by recognising change is going to happen. You also need to share with commissioners a determination to ensure the best possible services are provided to the greatest possible number of people who need housing-related support. You should be aiming to develop a shared vision of what a really good network of services would look like, with commissioners seeing local providers as allies both in defining and achieving the vision.

Attempts to defend every aspect of the status quo are likely to look like naked self-interest and risk being discounted. Your aim, instead, should be to ensure commissioners are aware of the real benefits of a partnership approach and a strong local provider sector, and that this is reflected in the commissioning and procurement processes.

Few, if any, smaller providers will have the resources or the contacts to influence all stages of the decision-making process on their own. Consequently, collaboration in a common cause can pay off by sharing the work, and by pooling contacts and networks.

Potential allies in making the case for independent, local services might include:

Councils of Voluntary Service – they will have an interest in maintaining a strong local voluntary sector, but are sufficiently detached for commissioners to perceive them as above individual provider interest. They are also likely to have a seat on important bodies like the Local Strategic Partnership which sets the overall policy framework for delivery of the local area agreement and the sustainable community strategy, and possibly on the SP Core Strategy Group (or equivalent);

‘The Government believes that all commissioners of services should:

- develop an understanding of the needs of users and communities by ensuring that, alongside other consultees, they engage with third sector organisations as advocates to access their specialist knowledge;*
- consult potential provider organisations, including those from the third sector and local experts, well in advance of commissioning new services, working with them to set priority outcomes for that service;*
- put outcomes for users at the heart of the strategic planning process;*
- map the fullest practicable range of providers with a view to understanding the contribution they could make to delivering those outcomes;*
- consider investing in the capacity of the provider base, particularly those working with hard-to-reach groups;*
- ensure contracting processes are transparent and fair, facilitating the involvement of the broadest range of suppliers, including considering subcontracting and consortia-building where appropriate;*
- seek to ensure long-term contracts and risk sharing wherever appropriate as ways of achieving efficiency and effectiveness; and*
- seek feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.’*

Source: Partnership in Public Services – an action plan for Third Sector involvement; Office of the Third Sector, 2007

Regional and National Membership Bodies – some regions and cities may have regional membership organisations for SP providers, such as Space East, ROCC and HLG. Others may have a significant presence from other national specialist bodies such as Sitra, the National Housing Federation, Women’s Aid Federation, Imkaan and Homeless Link. There may also be strong generic membership bodies operating at a regional level. They will be interested in seeing a vibrant and sustainable voluntary and community sector in the region, and could be linked into regional structures such as the regional implementation groups. They will also know of how other authorities in the region have gone about tendering for SP services;

Other commissioners – many organisations providing SP-funded services will also be delivering services for other commissioners. Anything that destabilises the SP provider base may well have knock-on effects for these services. Similarly, SP-funded services have grown up alongside a network of provision funded by other commissioners. Decisions about reconfiguration should therefore not be taken in isolation. They need to be part of a strategic and collaborative process that takes account of and complements the activities of other commissioners;

Councillors – find out which councillors are involved in the SP governance arrangements, and lobby them. As well as the usual arguments about the value of local connectedness (see below), one approach that has been found persuasive here has been the local pound. In other words, every penny spent on independent local services is recycled into the local economy, creating trade, jobs and opportunities. On the other hand, a portion of any money paid to large national or regional providers is likely to go out of the area to cover head office and other costs.

The following sections set out some ideas on ways of influencing the process at each stage of its development.

Setting strategic direction, engaging with stakeholders, analysing the need and market

One of the main barriers to engagement by the voluntary sector in the delivery of public services has been identified by the Audit Commission as a ‘*Lack of early and effective dialogue with the sector in the development of policy, programmes and strategies, leading to poorly packaged or unattractive procurements*’. The sector created the services that are funded by SP and

should have much to contribute to the discussion about what is needed and what it should look like.

One of the successful Collaborate partnerships identified a good commissioning process as one that:

- puts service users at the centre;
- demands that providers demonstrate local knowledge and networks;
- defines what it means by partnership working;
- enlists expert help in writing specifications;
- breaks tenders down into manageable lots;
- recognises that quality costs money.

A collective effort to influence the process along these lines at this stage will set the tone for a commissioning process that properly recognises the value a strong local provider network can deliver.

Identifying what services to buy

This is the stage when a picture begins to form of what really good services might look like for the priority needs that have been identified. It is important that voluntary organisations with experience of working with these needs get involved in these discussions, engage their service users and help shape a shared vision.

Commissioners should determine:	Procurement department is there to ensure:
<ul style="list-style-type: none">• The specification• Evaluation criteria• Assessment weightings• Timescales	<ul style="list-style-type: none">• The legality of the process• Paperwork – format of tenders etc• All tenders treated equally• Adherence to timescales and process
<i>‘Decide what you want and then instruct procurement to get it for you’</i>	

It is also at this stage that decisions start to take shape about how the services to be commissioned should operate, referred to in the diagram as the ‘*delivery model*’ and ‘*support pathway*’. There will often be a number of options here, and commissioner preferences for delivery models can have a big influence on how easy or hard it is for smaller local providers to be part of the tendering process.

Ultra large-scale, county-wide contracts can make it very difficult for even consortia of smaller providers to compete, effectively restricting competition to a few large-scale providers, despite the lack of a clear business case.

Any assessments of impact and risk carried out by commissioners at this stage should include looking at the impact on the existing network of providers. The loss of a SP contract is likely to have a big impact on a small organisation with only a few funded projects, whereas the impact on a larger organisation with a bigger portfolio of activities would be marginal. Risk assessments should take into account collateral damage – the effect on small providers’ ability to deliver other aspects of their work, either for SP or other commissioners.

Determining whether preferred services can be bought

At this stage it is worth re-stating the case about the value of a strong local provider sector, and how a partnership approach can sustain diversity. Invite commissioners to back up any warm statements on partnerships with some clear messages and actions. These can include commissioners:

- emphasising that local connectedness and a partnership approach will be key evaluation criteria;
- defining what they mean by partnership, and that they expect more than a box-ticking approach where large providers involve one or more smaller organisations as a means of winning brownie points;
- setting up meet the partners or speed dating sessions where providers can get to know each other. This was done successfully by Lancashire SP and was one reason the successful consortium got together. In Lancashire’s words ‘*Do not assume that they will meet without your involvement*’;
- offering procurement training to potential bidders.

Deciding how best to buy the services

This is the stage where the procurement team will probably enter the picture. Procurement teams are professionals in both purchasing and in ensuring purchase decisions are made in a fair, transparent way. They also ensure compliance with the relevant EU regulations and procurement standing orders. Procurement teams buy a large range of goods and services, much of the time where the main driver is to get the lowest possible price for a standard specification. They are not (usually) experts in the human services market.

TO ENSURE FAIR TRADING, COMMISSIONERS SHOULD:

- Designate the sub-contractors within the main contract;
- Ensure that the terms of the sub-contract are fair, and that it is attached to the main contract as part of the overall contract documentation;
- Ensure that smaller partners are involved in ongoing contract management processes;
- Provide a right of appeal to the commissioner if a sub-contractor believes it is being unfairly treated;
- Ensure that the contract contains a right of reversion so that if the commissioner finds a sub-contractor is being unfairly treated, it can withdraw that element of the contract from the main contractor and contract directly with the smaller partner.

It is important that SP commissioners drive the procurement process, with the procurement team providing technical support. There is, however, a fair amount of anecdotal evidence emerging that in some areas, procurement teams have dominated the process, with SP teams finding it difficult to challenge pronouncements made by technical experts. The box above summarises the advice for commissioners that one successful consortium derived from their experience.

Other key lobbying points at this stage should note that commissioners should:

- involve service users and other experts in the design of service specifications;
- ensure that contracts are packaged in manageable lots;
- consult on the proposed procurement process to ensure it doesn't contain over-burdensome requirements for bid documentation or unwittingly put barriers in the way of partnership bids. One Collaborate partnership was unable to put in a partnership bid because the procurement process had been organised in such a way that it could only have done so by bidding against one of its own members for its core business;
- consult on the proposed scoring system and ensure it reflects earlier commitments. In particular, partnership, local connectedness and added value should not be confined to one part of the scoring framework, but should be used as pervasive criteria for assessing the quality of answers in all sections of the bid.

Purchasing and contract management

Another of the barriers the Audit Commission identifies to the engagement of third sector organisations in the provision of public services is:

'Complex and costly pre-qualification and tendering procedures with unrealistic timescales, prescriptive specifications, and excessive contract terms. Means invitations can be consigned to the "too difficult" pile'.¹

Consortia and partnership bids have a more complex task than single bidders, in that they have to put the partnership together at the same time as constructing a bid. Commissioners who want to encourage good quality partnership bids should set timescales to allow this to happen. Many procurement processes use the timescales set down in EU regulations. It is, however, important to remember that these are minima, not upper limits, and that more time can be allowed if the commissioner thinks it will result in better bids.

Realistic timescales can be particularly important if there are likely to be significant TUPE requirements on the successful bidder. Commissioners

¹ 'Hearts and Minds: Commissioning from the voluntary sector' – Audit Commission, 2007

should ensure that those tendering are provided with information on the likely TUPE requirements.

Commissioners should also be urged to find ways of involving service users in the evaluation of bids.

Commissioners should be encouraged to make explicit arrangements to ensure smaller partners are treated fairly in any-sub-contracting arrangements. They should ensure the main contract reflects the fact it has been awarded on the basis that the smaller partners are part of the service delivery mix. They should adopt a Fair Trade approach to managing the contract rather than taking the line that supply chain management is purely a matter for the main contractor.

Finally, once the contract has been awarded, commissioners need to help successful bidders deal with TUPE issues, and allow time in the early stages of a contract for any issues to settle down. Partnerships will need to develop common systems – for example monitoring and quality – and get them right. They will also need to manage change.

Partnership-working means that organisations that have been used to operating autonomously will need time to adjust to working in different ways and, possibly, in different areas at a larger scale. The lead agency will be taking on much of the monitoring and quality management role that previously would have rested with the commissioner. All these arrangements too will take time to settle down.

In particular, where new centralised access and referral arrangements have been created this will almost certainly produce new information on patterns of need that should be reflected in changes in the service. Lancashire SP allowed their floating support consortium's lead agency to hold back some hours of support so that these could be redistributed once patterns of need had become apparent.



Other resources

The commissioning and procurement process is explained in more detail in a companion volume to this resource kit, *A Provider's Guide To Procurement*; Sitra, 2008.

Commissioning housing-related support for health and wellbeing; CSIP/ICN & CLG, 2008.

Needs analysis, commissioning and procurement for housing related support; CLG & CSIP/ICN, 2008.

It is also worth reading the advice that commissioners are getting from official sources on procuring services from the voluntary sector, and using this as to help structure your attempts to influence things at a local level.

Partnership in Public Services – an action plan for third sector involvement; Office of the Third Sector, 2007. See www.cabinetoffice.gov.uk for more details.

Hearts and Minds: Commissioning from the voluntary sector. Audit Commission, 2007. See www.audit-commission.gov.uk.

About Collaborate

Collaborate was a year-long project run by hact, funded by Communities and Local Government and delivered in partnership with Sitra and NHF, featuring six partnerships in Suffolk, Liverpool, Durham, Rotherham, Redbridge and Southend. The project aimed to demonstrate how diversity can be maintained and particularly how smaller SP providers could thrive within the emerging SP environment, by developing collaborative approaches to tendering and delivering services, between themselves and with larger organisations. Hact helped project partners in two ways:

- Through practical help and facilitation, working through some of the issues involved in developing collaborative models;
- Through financial support of the costs of building capacity of some of the smaller partnership members, as well as some of the legal and expert support costs.

In exchange, all the participating organisations contributed to an evaluation and facilitated learning process between the partnerships, so their insights could be shared with the wider sector.

About hact

Hact pioneers housing solutions to enable people on the margins to live independently in thriving communities. We use our expertise and resources

to identify emerging issues, test ideas, support multi-agency solutions and share learning that changes policy and practice.

About this resource kit

This resource kit has been produced as one of the ways of sharing the learning from the Collaborate project. It consists of eight worksheets, which provide information about strategic development, different collaborative approaches, how to influence procurement processes, developing collaborative bids and implementation issues (see list below).

Though focused on small providers, the learning has relevance for all in the SP sector. Hact doesn't intend to suggest that collaboration is the only option for small SP providers. Some may choose to leave the market. Others might persuade local commissioners to exempt them from the normal commissioning process.

For many providers, however, SP is a vital part of their income and leaving the market is not an option. Sooner or later, their service will be subject to reconfiguration and tendering, probably as part of a much larger contract. Some form of collaboration may represent their best chance of staying in the market – and possibly in existence. It may also, if the experience of some successful Collaborate partnerships is a guide, be a stimulus to developing better services and ensuring a diversity of provision for service users.

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Collaborate resource kit

Worksheets:

- 1 A strategy for change
- 2 Large/small partnerships
- 3 Consortia
- 4 Developing positive relationships
- 5 Influencing the process**
- 6 Legal issues
- 7 Writing the bid
- 8 Implementation