



Public Policy Strategies

Open Public Services - an overview of issues & implications for the voluntary & community sector

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1. The Open Public Services White Paper was published last summer. It was followed up with a listening exercise. Essentially, it provided a single narrative for the many pre-existing commitments set out in the Coalition Agreement. In doing so, the White Paper identified a number of key principles which the Coalition Government saw as underpinning their reforms:

- Wherever possible increasing choice;
- Power should be decentralised to the lowest appropriate level;
- Public services open to a range of providers;
- Ensuring fair access to public services; and
- Public services accountable to users and taxpayers.

2. In March the Cabinet Office published what it called an update paper. This provided a comprehensive update across the reforms as well as advocating new policy developments most notably in promoting greater choice for service users and decentralisation from the town hall to neighbourhoods.

What are the key drivers, what is different from before?

3. The debates over the Big Society will be familiar to you. What is it? Does everyone – even within the Conservative Party - agree what it is or indeed what it should be? Is it just, a cover for the spending cuts? Can agree that the Coalition Government and, that includes the Orange Book Liberals in the Coalition, want a smaller state? Not just a smaller state in terms of expenditure. But what the Tories often described in opposition as creating the ‘post-bureaucratic state’. Many of the Open Public Services principles derive from that ‘post-bureaucratic state’ narrative which, goes beyond the provision of public services to deregulating the economy and promoting a more liberal society. Less rules, more incentives. It was notable for its endorsement of behaviour economics and nudge theories; though oddly they did not feature in the White Paper.

4. It certainly meant decentralisation. But Local Government was disappointed as ‘localism’ in the eyes of the Coalition does not always mean the ‘town hall’; though was that not the case with New Labour? No the starting point for decentralisation is providing individual choice. Where that is not possible then decentralisation to the neighbourhood level, is the second best option. And if not there, then that’s where state commissioning of public services kicks in.

5. The consensual approach to encouraging community empowerment through partnership as set out in Hazel Blears’ White Paper has made way for a series of community rights. Not only on public services but also in areas such as the council tax and planning.

6. New Labour very much wanted to encourage the greater use of private and third sector providers, instead or at least as a competitor to direct delivery by the public sector. But direct delivery was still part of the script. Now, the only mention of 'in-house' provision under the Coalition is the desire to see this capacity if not outsourced, then 'spun out' into mutuals, independent of the state. So, whereas under the New Labour much of the debate was over whether, the state or external providers should be the preferred deliverer of public services. Under the Coalition, it would seem that it is private sector versus the VCS & Social Enterprise sectors. Not only under the banner of Open Public Services, but also under the aegis of the Big Society.

Shifting models of funding for the VCS

7. According to the NCVO a third of the sector's funding comes from government. A quarter of third sector organisations now have a direct financial relationship with the state, with around £11bn of this £14bn annual funding is in the form of contracts to deliver public services. The shift from grants to contracts can be traced to the New Labour Government and can be explained by the sector's increased role in the delivery of public services and the need for local authorities to have tighter delivery chains in response to Whitehall targets.

8. The structure of that funding relationship is changing further, with increasing use of payment by results contracts, personal budgets for service users and, third sector organisations increasingly working as part of a supply chain through a prime contractor model. While these shifts are happening against a backdrop of the Government's deficit reduction programme. They have not been brought about as a result of the spending cuts. These changes would have had happened in any case. That is evidenced, by the numerous policy papers published by the Conservative Party when in opposition.

9. These new funding mechanisms will be totally new to many organisations. They are complex and require suppliers to manage more risk, with more uncertainty over the demand for services and, therefore income. According to a recent New Philanthropy Capital survey many in the sector appear to be anxious about these developments. There is some scepticism about whether they will result in better outcomes for service users as well as, providing a better operating framework for the sector. For example, some argue that payment by results contracts - which are often built around a single target - are not flexible enough to measure true success. So consequently do not incentivise the right behaviour to the detriment of the end user. Even personal budgets which are the centre-piece of the personalisation agenda, much championed by the third sector, have also come in for concern.

10. Another trend we are observing is the increase use of the prime contractor model where, one lead provider heads up the delivering of a particular service and, then subcontracts work to other, usually, smaller organisations. For a number of reasons this is a practice which, has been widely adopted for some time now in public sector contracting in areas such as ICT, and other back office functions, and in environmental services and infrastructure works. Notably that the public sector had longed been told that they are not good at project management and should transfer delivery risk to the private sector who have the skills to do this better.

11. Even where there are sufficient programme resources to allow otherwise, many commissioners facing cuts to their administrative resources are reluctant and indeed, not able to manage lots of relationships with small VCS organisations themselves. But, of course there are few voluntary organisations that are able to bid for the larger contracts. While, others are faced with the dilemma – do they bid for work directly from commissioners, which is more likely to have a positive impact on their financial security or are they more suited to working as subcontractors to other VCS organisations or indeed, private sector providers?

Compared with holding the relationship directly with the commissioner, being a subcontractor is more commonly thought to have a negative impact on financial security. For a start, it could entail spot purchasing arrangements.

12. Consortia look on the face of it to be a promising way for VCS organisations to deliver public services not only widening their reach in terms of scale. But also to reach more people, have a bigger impact and, if constructed in the right way, can be a means to ingrate and join up services around a user. But, there are challenges. They often take a significant amount of time to establish, and once they are, decision making and co-ordinating action can be difficult. Some believe that they have no choice but to work this way. This doesn't provide an ideal start of a partnership. Nonetheless, I think it is likely to be a growing trend.

13. Now, according to the New Philanthropy Capital 43% of charities are receiving more than half of their government income in the form of block contracts. They expect this to decrease to 36% next year. NPC does not see this as a seismic change with block contracts and grants continuing to dominate at least in the short term. But a 7% reduction does seem to be significant and, can't just be dismissed. It begs the question is this a short-term, one-off, adjustment due to the spending cuts? Or are we beginning to see the start of a longer-term shift? I think the answer is the latter, but up a point. This will vary from service to service. For example, there is clearly a trend towards personal budgets in adult social care. And it will be dependent on what happens in local government and in specific areas such as housing support.

Individual Personal Choice

14. Choice and control for service users has been a constant theme in public service reform for at least the last fifteen years. The Coalition Government or more particularly, the Conservative Party signalled early on that they wanted to go further and faster on rolling out personal choice. So for example, all older people will have the option of personal budgets by April 2013; and all children with special education needs, likewise by 2014.

15. The March update paper announced the Government's intention to introduce new measures to make choice more of a reality to service users which as a minimum means an "independent review" of the barriers to choice. The name of the independent reviewer and more details we are told "will be announced shortly"; though, the review is scheduled – according to the Cabinet Office business plan - to be concluded by the end of the year. "Choice Champions" will also be appointed to promote choice and provide independent scrutiny and challenge to providers and commissioners. The relationship between these champions and the independent review has not been explained.

16. At the same time, and more significantly, the Government has launched a 'call for evidence' to establish whether there is value in enshrining a 'right to choose' into legislation. This would define in law rights which are already set out in existing pieces of legislation as well as providing a framework for extending new rights to any new areas which are considered appropriate. It will also place a duty on Government to establish 'Choice Frameworks' for specific services. Essentially these frameworks will provide the 'context' for implementing and regulating these proposed new rights. So they will set out relevant quality standards, inspection regimes and licensing requirements; signpost sources of information to support informed decisions; and detail avenues of user redress. The Government is not waiting for legislation and has said that 'Choice Frameworks' will be developed from June in health, adult social care, childcare, schools and further education. Of course choice, or least a choice preference in the case of schools, is available for each of these services already. So the Government is probably looking to extend and strengthen existing rights.

How will increasing choice affect the VCS?

17. So, how will increasing choice affect the voluntary and community sector? For a start, it will mean the power to choose and purchase services will shift from public sector commissioners to service users; significantly changing the operating environment for VCS organisations whether or not they regard themselves as service providers.

18. While, VCS service providers might not feel that they are currently operating in a stable environment. In a choice-based operating framework income will be less assured and cash flow less predictable. Instead of marketing themselves to one or a handful of commissioners providers will have to attract users and clients directly and individually themselves – by the tens, hundreds or even thousands. Consequently, there will be some significant practical challenges in adapting systems and processes to costing as well as delivering and managing individual packages of services. The dynamics of their financial model will change; economies of scale may well be lost, cash flow disrupted and the risk profile shifted upwards.

19. It is likely to mean a shift in demand for certain types of services; providers will need to respond and adapt accordingly. This will be welcomed by many in the sector as an opportunity to develop the kinds of services they always believed in, but were never commissioned to deliver. At the same time, some will find out that they are not as in-tuned with user needs as they might have thought.

20. For those VCS organisations which do not provide public services, but act as an advocate for users, providing information and support, the terrain will become a lot more complicated to navigate. Consequently, their services will be sought after. But will they have the capacity to respond? And, will their knowledge still be valid in a different environment?

21. While, it is not assured that everyone in the sector will welcome the shift nonetheless, it will mean considerable change in the short and medium term and, not all VCS organisations will be able to cope with that change. That will depend to a significant part upon the design of the new service framework the Government is aiming for and the journey of change it is taking towards that reform. Here, the Government will need to fully understand and embrace the dynamics and drivers of the services that they are reforming and those of the VCS itself and, decide upfront and conclusively whether they really want the VCS - and I do not just mean the larger charities and social enterprises - to be central to these reforms.

Commissioning

22. Commissioning was central to the public service reforms under New Labour. It certainly needed to be; though it was never a nut they really cracked. Commissioning became the means to expand the role of the third sector in public services, to join up services for example across health and social care, to operationalized area governance through Local Strategic Partnerships. It appeared rightly that Commissioning was much more than Procurement; though in practice, might have not have always reflected this.

23. From the various statements made by the Coalition Government they seem to solely associate commissioning with procurement. The emphasis, in reform, has been primarily around rolling out the payment by results contractual model in areas such as drug & alcohol treatment, reducing reoffending, Sure Start Centres and support services for vulnerable adults. I see that they are planning to pilot the model for housing support services. An area where there is considerable commissioning from the voluntary and community sector. What

is interesting is that the Government is already supporting local experiments with personal budgets for the same services - which model will they adopt as they cannot adopt both.

24. Measures have been taken to support small and medium-sized enterprises including the removal of pre-qualification questionnaires for contracts below £100,000 and a Government e-Marketplace has been established to make it easy for SMEs to bid for low-value contracts. In terms of the level playing field for the voluntary and community sector many are looking to the Public Services (Public Value) Act 2012. This will require public bodies to consider how their public procurement might improve the economic, social and environmental well-being of their areas. While, if implemented well by commissioners it will be a welcome and positive development in helping to maximise the value of public procurement expenditure. It is unlikely to change the playing field between large and small suppliers and between profit and non-profit distributing organisations. As larger players will be better resourced to measure and deliver social value such as apprenticeships in large numbers.

25. In terms of promoting greater integrated commissioning we look to the development of Community Budgets; though, the number of Whitehall budgets which can be pooled and then devolved is getting smaller. They are also in competition with other reform models. Indeed, Community Budgets lost out to the payment by results model in the family intervention programme. And, I get the sense that around the Cabinet table with one notable exception they would rather devolve funding direct to users rather than to the town hall.

26. With all that the role of commissioning is changing; though to my mind it needs to change more fundamentally. Many in the third sector talk of 'intelligent commissioning'. But this is limited to the inclusion of grant funding and market development in commissioning frameworks. To my mind 'intelligent commissioning' needs to be much more radical than that; in the way in which commissioning decisions are driven, how commissioning is structure and how it is put into effect. Certainly, the shift in funding models which I talked about before and, the changing role of commissioning should mean looking more fundamentally at the Compact. It is my personal view that the Compact should be strengthened. Or really I should say that the relationship between, the state and the third sector would be strengthened if the Local Government Association and the NVCO establish a separate national architecture for local compacts. It was always odd, that the LGA were never invited onto the top table when it is local compacts, not those with central government departments, which are significant to the sector. We may be seeing the signs of a 'break away' with the LGA refusing to sign up the Cabinet Office's recently published procurement pledge with suppliers, as it believes it would do nothing for local SMEs. The National Council for Voluntary and Community Action seems to agree and will instead sign up to an alternative Local Government Association pledge, which is focused on small and medium enterprises and the voluntary sector.

Neighbourhoods

27. You will be familiar with the various new 'community rights' provided under the Localism Act. The Community Right to 'bid', 'challenge' and 'build'. This is complemented by the same legislation making neighbourhoods, and community engagement, the fundamental building block of the planning system. Now the Government wants to go further by make it easier to establish new Neighbourhood Councils. This includes looking at how Neighbourhood Forums, which are being used to develop Neighbourhood Planning, can "easily and straightforwardly" form Neighbourhood Councils, should they wish. We can expect a consultation paper in July.

28. In parallel the LGA and the National Association of Local Councils have been co-opted to develop model schemes for Neighbourhood Councils. These schemes will, according to the Government, make clear what powers can be devolved to neighbourhoods,

the kinds of assets that can best be managed at community level, and the roles and responsibilities of Neighbourhood Councils and local authorities. Significantly, model schemes would also address the challenge of how a Neighbourhood Council can become more involved in local service delivery where there may be resistance from local authorities. In a warning shot, to local authorities the Government will be reviewing the implementation of these policies in 2013, and will consider the need for further action - including legislation - to help communities realise their local ambitions.

Conclusions

29. From all this, there are a few observations I can make:

- The voluntary and community sector has long campaigned for outcomes-based contracting and for personal budgets. Certainly the payment by results model used in the Work Programme has fallen well short of expectations. There are transitional issues with Personal Budgets that is to be expected. But it is not too late in the development and take-up of both these models to make them work both for the end-user and for the VCS itself. The question is how.
- Regardless of what commissioning route taken – personal budgets, payment by results, grants etc. – the cake is getting smaller. We are all going to have to make do with less money.
- That links to my next point, that is – all this talk of competition, private or third sector delivery, contracts or grants, and so on, is putting the ‘cart before the horse’. The starting point is often overlooked, that is striking the right balance between needs, priorities and resources which, is where community engagement will be its most effective.
- These Community Rights are welcomed; though the sector needs to take care on how they are used. For instance the ‘right to challenge’ can be a ‘Trojan horse’ for outsourcing to the private sector or indeed a large charity that has no local connection. And at the end of the day, producing positive local outcomes requires a partnership between local authorities and the sector, that is down to culture on both sides and some imagination of what is possible.
- Something which I only referred to briefly is the Government’s encouragement of ‘spin out’ mutualism from the public sector. I would be interested to know whether you would regard them as part of your sector, or not.
- And finally, with the Government getting behind the expansion of parish and neighbourhood councils poses a dilemma for community activists currently working to encourage participatory democracy. Do they continue to operate in the current, and soon to be crowded space? Or do they seek ‘election’ and enter the sphere of representative democracy which, of course, it is a completely different ‘ball game’ even at a neighbourhood level.

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