Voluntary and Community Sector Organisation (VCSO) contracts with Public Bodies

Commissioning and procurement

Commissioning is the process by which a public body will assess needs of the general public, design processes to meet those needs then decide which service provision should be implemented.

Procurement is the decision of which service provider will be selected to provide the service or if grants will be provided to support the service provision.

There are eight steps to which the government refer for good practice of commissioning:

1. Understand the needs of users
2. Consult potential providers
3. Put service outcomes at the heart of the process
4. Map the range of potential providers
5. Consider investing in capacity building
6. Ensure contracting processes are transparent and fair
7. Ensure long-term contracts and risk-sharing
8. Seek feedback from service users, communities and providers

Unfortunately, many commissioners skip the first five steps and move straight into making a contract. It is important to consider the need of users and any diversity to ensure service provision will be as effective in provision and cost as possible.

How are contracts different to grants?

There are a number of differences to be considered between a grant and contract:

1. A contract by definition provides a service so is taxable. A grant provides no service so has no VAT.
2. Grants as subsidies for the operation of an organisation in meeting its purpose and objectives are subject to state aid laws and regulation of competition law. Contracts, however specify service required, making clear what/how a service is to be delivered, and for what payment.
3. Entering a contract is entering to a business relationship, rather than a funding one as with a grant.
4. VCSO's that enter a contract will need to go through major structural challenges: Trustees and managers would have added duties and stipulations as they will have to adhere to the contract while keeping to their own organisation ethos and maintaining service to the community.
5. Budgeting will be different. In a grant situation an organisation projects how much a project will cost and implement granted funds to meet the need and then balance the books at the end of the year. However, in contracting a balance at the end of the year is not sufficient, the full costs of each project, overheads, managing and contribution to organisation core or indirect costs need to be evidenced. This means that training may be required for the trustee/treasurer in such areas.
6. VCSO's often know they have a real and lasting impact through experience. When working by grant funds the organisation has had no real need to evidence this and perhaps has no such evidence to therefore show; though know needs and objectives are being met. However, with a contract focus is more measured by results i.e. outcome rather than output. Outcomes such as difference made in the community i.e. what is achieved is harder to measure than the output e.g. advice was given.
7. VCSO's need to be able show they have management capacity and processes to properly manage a contract. Commissioners often ask for evidence of standards or quality assurance to find out if a VCSO has sufficient practice and processes in place to deliver the contract.

Why do VCSO's enter a contract with public bodies?

Although the VCS and public bodies are very different organisations, in the eyes of the government they can often be seen as two sides of the same coin.

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When delivering services to benefit the community as a whole, there are legal, contract and constitution rules that must be followed. An organisation must ensure any contracts entered into follow not only legal requirements but also the aims, objectives and values of their own organisation specifically.

There are instances when contracts may be useful between public bodies and VCSO's in order to ensure better services for the general public. There is the prime example of NHS needing support to move elderly patients who are fit to leave hospital however not capable of safely looking after themselves e.g. with dementia, a variety mental illness or other disability. The NHS would in this case benefit from a contract with a VCSO where there would be a safe place to move such patients to before suitable long term care is established, thus freeing the bed for the next patient and cutting costs. VCSO such as Crossroads, Alzheimer's Society etc. are VCSO's that have aims and values to support those of the community who need social support. Contracts built between such entities would likely suit need.

Public bodies have a remit on what they may or may not spend their money. This includes three factors:

1. What they can support – must be a purpose linked to their mandate
2. Where they can give – e.g. agencies with a national remit may only give money to where a national purpose is being served.
3. When they can give – Funds are to be used annually over the financial year. If in January, there is a substantial pot of money that needs to be used before the end of March then this may mean there is more chance of larger contracts (or grants) are entered.

Continuing the NHS example; if a specific hospital contract was to be entered into, incurring a cost then the contract must meet the remit; which is to support the wellbeing of people. Where they can give; i.e. the area to which the hospital serves e.g. the region from where patients will be referred from. The 'when they can give' factor would come in as a need or surplus fund basis. Care in the local VCS for those healthy of body, if not of mind would fit all purposes intended, as well-being would be supported in a manner relieving costs of patient care and bed taken in the hospital. A purpose contract would therefore be viably entered, both in cost and to suit the aims, values and purpose of parties concerned.

There are times when a VCSO and public body contract would not be allowable. Using the same example; perhaps the VCSO with all the best intentions for wellbeing may have a stipulation. Perhaps the aims and values in their constitution are to serve only BME communities. Even though it is likely that fantastic care would be taken of these individuals the hospital would not be able to enter the contract because NHS patient requirements are not exclusive.

VCSO's may look to public bodies in desire of entering a contract, however where mandate for the public body is not followed the venture would not be achievable. It must also be remembered that the charity law states that a VCSO is not legally permitted to carry out any services for which the government have a legal obligation to provide. Therefore, the social care possible contract mentioned above must only be social care; the VCSO would not be permitted to undertake any duties that it is the obligation of the NHS to provide e.g. prescribing medication.

In summary contracts would be of mutual benefit between VCSO's and public bodies in many cases by cutting costs and extending/implementing services; however, different processes, red tape and requirements of the governing documents can cause many barriers that need to be investigated carefully before any agreements are entered.