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## Council Commissioning and Third Sector Organisations

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# Preface

By Councillor Narinder Kooner, Chair, Partnerships, Contract Performance and Third Sector Overview and Scrutiny Committee



As councillors we are in contact with local third sector organisations in our wards. At a time of grant reductions we learnt that many third sector organisations had concerns about finding out about commissioning opportunities available from the City Council. We knew that some organisations, especially smaller ones, felt they sometimes only found out about opportunities once work had already been procured. It was due to such perceptions and realities that we decided to undertake this Inquiry.

Another reason for carrying out this Inquiry was due to comments made by the Cabinet Member for Commissioning, Contracting and Improvement that he recognises that due to increased budget cuts, we are becoming more of a commissioning council. As the *Future Council* programme moves towards this new model the Committee felt it was important to ensure that the commissioning processes were looked at and improved, wherever possible, to allow equal opportunity for all and ensure the measures in place for commissioning and procurement are robust and have clear outcomes that deliver for the citizens of the city.

We found that there is some excellent practice within the City Council and that the third sector has been successful in gaining many contracts. However, we also heard perceptions that the third sector can feel excluded from the table and it appears that the best practice is not always replicated across the city. Steps can be taken to address these issues. In addition, we know that the third sector often has expertise and insights about local needs and communities and the City Council needs to work with the sector to ensure the best outcomes for the citizens of Birmingham.

Although this Inquiry focusses on the third sector we recognise that the City Council cannot give preferential treatment to one sector above another, but needs to ensure a level field for all sectors – private, public and other. Many of the recommendations could apply to small and medium enterprises too, especially those based in Birmingham and which have an existing understanding of local needs. We would welcome those recommendations being extended to cover other sectors too, but in making recommendations we confined ourselves solely to the remit of the Inquiry, which was the third sector.

Can I thank all those officers and third sector organisations who helped with this Inquiry and also Scrutiny officers, especially Jenny Drew who moved on to work elsewhere in the City Council in the course of the Inquiry.



## Summary of Recommendations

	Recommendation	Responsibility	Completion Date
R01	<p>In collaboration with third sector organisations (including any representative bodies) evaluate the existing City Council commissioning and related toolkits to ensure that a refreshed operating model:</p> <ul style="list-style-type: none"> <li>a) Recognises that suppliers can help inform the City Council about user priorities, market capabilities and delivery options;</li> <li>b) Ensures toolkits are implemented and applied consistently across the City Council;</li> <li>c) Has the principles of tackling poor performance and practice (supported by clear measurement of outcomes);</li> <li>d) Recognises and meets the requirements of the new Public Contracts Regulations 2015 with particular emphasis on improving access to opportunities for the third sector;</li> <li>e) Demonstrates commitment to joint learning and improvement based on good practice achieved over the years to underpin this work;</li> <li>f) Builds in opportunities for co-commissioning approaches with the third sector</li> <li>g) Enables and encourages robust proposals from consortia including third sector organisations;</li> <li>h) Ensures that any variation of composition of a consortium team should not vary from that which was procured without reasonable justification and due diligence; and</li> <li>i) Ensures that during the procurement process that checks proportionate to the perceived risk are made to see if an organisation is getting funding from another part of the City Council or from other organisations.</li> </ul> <p>The focus of this report is the third sector. None of these recommendations need to be exclusive to the third sector, but no evidence gathering was carried out with small and medium enterprises (SMEs).</p>	<p>Cabinet Member for Commissioning, Contracting &amp; Improvement</p> <p>in consultation with the Third Sector Assembly</p>	<p>Interim evaluation Report – October 2015</p> <p>Completed January 2016</p>



	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
<b>R02</b>	<p>The City Council to improve communications and relationships with the third sector in a variety of ways:</p> <p>a) That all commissioners review how they manage relationships with third sector organisations to include a commitment to work with them at the earliest planning stage of both commissioning and decommissioning through greater use of trusted sources (which could be from the Third Sector Assembly) - in line with the City Council's toolkit;</p> <p>b) To improve communication with the third sector on commissioning and procurement opportunities and explore further use of social media and other City Council communication channels. This should include making better use of <i>Find it in Birmingham</i> or any successor portal and in publishing outcomes of procurement exercises – following consultation about the content and where would be accessible with the third sector; and</p> <p>c) To improve communication to councillors (e.g. on a monthly or bimonthly basis) to allow them to signpost third sector organisations.</p>	<p>Cabinet Member for Commissioning, Contracting &amp; Improvement</p> <p>in partnership with Executive Members for Local Services</p> <p>and consultation with the Third Sector Assembly</p>	<p>Interim report October 2015</p> <p>Completed April 2016</p>
<b>R03</b>	<p>In reviewing and growing the use of the Birmingham Business Charter for Social Responsibility (BBC4SR) to ensure that organisations of all sizes are able to sign up to it and to:</p> <p>a) Give consideration to the social value that third sector organisations already deliver to reflect the particular value of third sector organisations more clearly;</p> <p>b) Explore with Birmingham Voluntary Services Council (BVSC) how the third sector can become recipients of BBC4SR, such as with a portal bringing together needs and offers;</p> <p>c) Consult the third sector as part of the review of the Charter; and</p> <p>d) Utilise councillors' knowledge of local organisations. Councillors should also encourage local organisations to subscribe to <i>Find It In Birmingham</i> (FIIB) and the BBC4SR.</p>	<p>Cabinet Member for Commissioning, Contracting and Improvement</p> <p>In consultation with the Third Sector Assembly</p>	<p>October 2015</p>
<b>R04</b>	<p>To</p> <p>a) Review what should be the enabling role of the <i>Future Council</i> in supporting the third sector.</p> <p>b) Explore opportunities for ensuring smaller third sector organisations are equipped to be part of the supply chain.</p>	<p>Cabinet Member for Commissioning, Contracting and Improvement</p>	<p>October 2015</p>



# Council Commissioning and Third Sector Organisations

	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
<b>R05</b>	Progress towards achievement of these recommendations is reported to the Partnership, Contract Performance and Third Sector Overview and Scrutiny Committee in October 2015. The Committee will schedule regular progress reports until all agreed recommendations are implemented.	Cabinet Member for Commissioning, Contracting and Improvement	October 2015



# 1 Introduction

## 1.1 Purpose of the Inquiry

- 1.1.1 Our brief Inquiry into City Council commissioning as it relates to voluntary and community sector organisations was informed by our Committee's Inquiry report on the "*Health of the Third Sector*" chaired by Cllr Majid Mahmood. This highlighted various issues about City Council commissioning including some lack of understanding by commissioners of organisations being commissioned (so limiting potential to support City Council priorities), narrow focus on outputs over outcomes and concerns about communication, notably in decommissioning and re-commissioning.
- 1.1.2 Our Inquiry topic also relates to City Council finances and their interdependence with those of many voluntary and community sector organisations in the city. When we published the original report in April 2013 it was against a backdrop of national cuts to both local government funding and resources for third sector organisations with a consequence of additional local cuts to third sector organisations. It is clear that this financial situation is not going to improve in the immediate future and yet, as public spending reduces, demographic pressures are set to continue and service user needs are becoming increasingly complex.
- 1.1.3 At the same time there are increasing expectations of more equal relationships between citizens and institutions, service users and providers. In launching Standing Up for Birmingham (SU4B) Cllr Sir Albert Bore said:

"We must give people more of an opportunity to make a bigger contribution to the city. Part of that is allowing community and voluntary groups to take over some local facilities and services. Often they can deliver a better service for less cost than the City Council."<sup>1</sup>

## 1.2 Definitions

- 1.2.1 While procurement refers to the purchasing of services and products, commissioning refers to a whole cycle to reflect it being a dynamic process (see Figure 1). It includes:
- Assessing the needs and preferences of people and communities – geographic and of need - in a particular area;
  - Analysing how demand might change; reviewing current provision; identifying outcomes to be achieved;
  - Ensuring a suitable range of potential providers of services;

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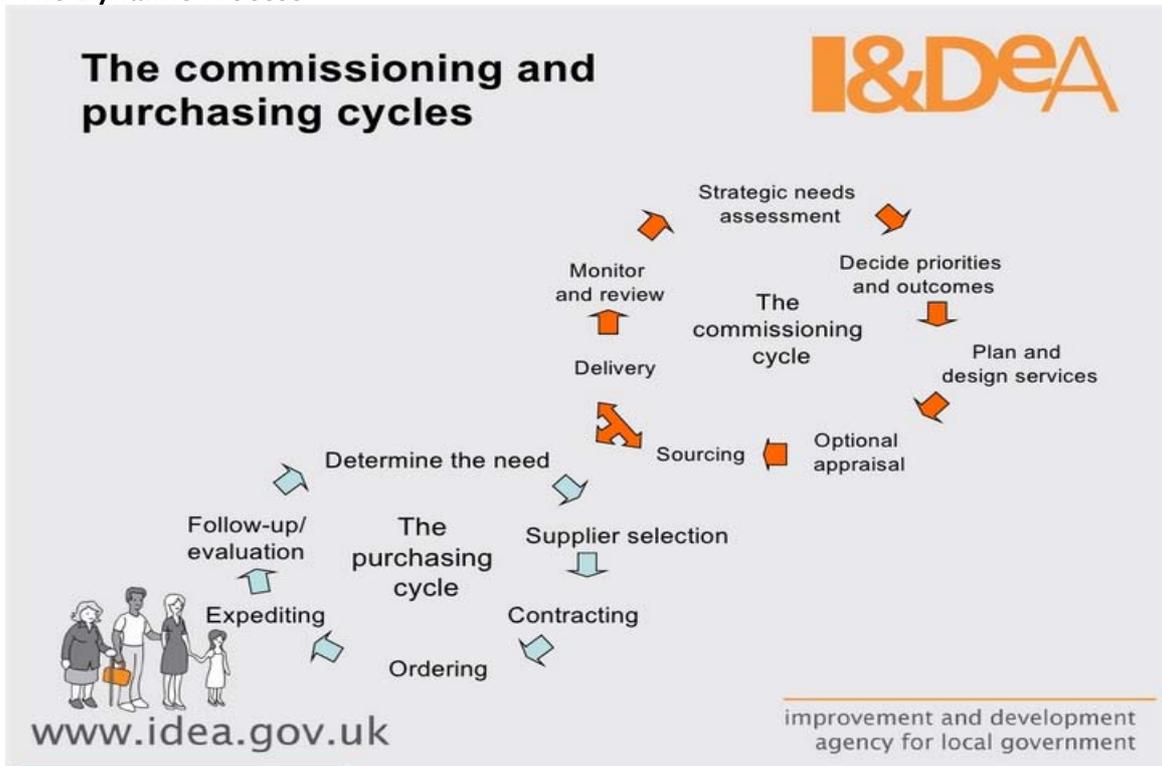
<sup>1</sup> <https://standingupforbirmingham.wordpress.com/about-standing-up-for-birmingham/>



# Council Commissioning and Third Sector Organisations

- Selecting providers to deliver agreed outcomes and the means to achieve them; and
- Managing associated service delivery and reviewing and evaluating impact.

Figure 1: The Dynamic Process<sup>2</sup>



1.2.2 The terms third sector and voluntary and community sector can be used interchangeably. A formal definition of third sector can be seen below.

### **Birmingham's Definition of Third Sector<sup>3</sup>**

The third sector is an inclusive term which is often used interchangeably with the voluntary and community sector; the not-for-profit sector; and the civil society. The term 'third sector' is used throughout this strategy to describe all organisations operating outside the formal state or public sphere that are not trading commercially primarily for profit in the market. This means charities, voluntary organisations, community groups, social enterprises, cooperatives and mutuals.

This definition also includes faith groups engaged in voluntary or social action, campaigning groups, and individual volunteers. Whilst these organisations are exceptionally diverse they share a broad common theme of being value driven, and principally invest their surpluses to further social, environmental and cultural objectives.

<sup>2</sup> Murray G (2010) at: [www.slideshare.net/DrGordonMurray/acca-commissioning-procurement-purchasing-and-third-sector-commissioning](http://www.slideshare.net/DrGordonMurray/acca-commissioning-procurement-purchasing-and-third-sector-commissioning)

<sup>3</sup> Draft Third Sector Strategy at: [https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting\\_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf](https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf)



## 1.3 Terms of Reference

- 1.3.1 Our starting point for the Inquiry was: how is the City Council enabling third sector organisations to participate in its commissioning process? Our subsequent key lines of enquiry were:
- How is the City Council engaging third sector organisations throughout the commissioning cycle?
  - What has been the response of third sector organisations and the outcome of work so far?
  - What are the implications for any future third sector support contract?
  - How is the City Council using changes in legislation and guidance to ensure commissioning processes are proportionate to the size of contracts?
  - What has been the impact of the Birmingham Business Charter for Social Responsibility (BBC4SR) in making sub-contracting opportunities more accessible to third sector organisations?
- 1.3.2 Our aim for the Inquiry was to identify recommendations to support strengthened collaboration with third sector organisations and gain assurance that the City Council's support to third sector organisations is both outcome focused and aligned to City Council priorities, as well as realising and measuring wider social value.
- 1.3.3 We received written evidence from various organisations as well as City Council directorates and held two half day evidence gathering sessions where we heard views from a number of City Council commissioning leads, third sector organisations and signatories to the BBC4SR. Those third sector organisations who presented were not intended to be representative of the sector, but rather to give some sense of the diversity that exists within it.

## 1.4 Changing Context

### Potential challenges from national legislation

- 1.4.1 The Small Business, Enterprise and Employment Act 2015 may affect the City Council, as Section 39 enables the Secretary of State to impose regulations about procurement.
- 1.4.2 It is evident that Government is keen to increase the number of public sector contracts won by small and medium enterprises (SMEs), even going so far as to perhaps make it a requirement for local authorities to report the number of contracts won by SMEs.<sup>4</sup> Additionally there could, in the future, be a requirement to involve SMEs at the commissioning stage including discussion with the

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<sup>4</sup> In March 2011, the government set a target to award 25% of spending with third-party suppliers to SMEs by March 15; <https://www.gov.uk/government/organisations/department-for-communities-and-local-government/about/procurement>



# Council Commissioning and Third Sector Organisations

City Council on outcomes to be achieved and the best means of achieving them. Third sector organisations would suggest that this should take place with them also.

- 1.4.3 The Public Services (Social Value) Act 2012 requires public service commissioners to consider the social value offered by bidders when awarding contracts. It introduced a requirement that public agencies consider how services they commission bring added economic, environmental and social benefits, and whether they need to consult on those benefits before contracting. Implementing the Act involves engaging with the market before procurement processes begin, and selecting and performance managing suppliers based on their whole social impact, not just how they meet specific contracted outcomes. The approach taken by the City Council is shown opposite and it is currently being reviewed.<sup>5</sup>

## The Kerslake Review

- 1.4.4 Sir Bob Kerslake published the *Way Forward: an Independent Review of Birmingham City Council's Governance and Organisational Capabilities* on 9 December 2014 shortly before our final evidence gathering session.<sup>6</sup> Notable findings from his report included:

“There is a mixed view of BCC’s approach to commissioning and procurement across all sectors...While not unexpected, the voluntary and community sector representatives we met were sharply critical of the council’s approach to procurement and commissioning.”<sup>7</sup>

and

“Commissioning is undertaken by individual directorates with only a small central team that does not have the capacity to consistently provide the support that is needed. We were told by voluntary and community sector representatives in particular that the Council does not apply an understanding of the local area in the commissioning arrangements, which they claimed in some places has resulted in misalignment of intentions with commissioning outcomes.”<sup>8</sup>

- 1.4.5 The work taking the Kerslake Review forward is included in the *Future Council* programme. This will have to consider the role of the third sector in its examination of city partnership working.

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<sup>5</sup> <http://www.thirdsector.co.uk/cabinet-office-announces-review-social-value-act/policy-and-politics/article/1314450>; <http://www.thirdsector.co.uk/review-social-value-act-will-criticise-government-hazel-blears-says/policy-and-politics/article/1332395?DCMP=EMC-CONThirdSectorDailyBulletin&bulletin=third-sector-daily>

<sup>6</sup> See <https://www.gov.uk/government/publications/birmingham-city-councils-governance-and-organisational-capabilities-an-independent-review>

<sup>7</sup> Chapter 4 Section 14 p.53

<sup>8</sup> Chapter 4 Section 13 p.54



## Public Services (Social Value) Act 2012 – City Council Response

This is a timely piece of legislation, and one that plays to the strengths of third sector organisations and allows organisations to be recognised for both their commitment and investment in the city. The City Council have handled this with an “Analysis, Plan, Do, Review” approach. Commissioners wanted to work with service providers to develop an approach which would work for future services commissioned via the Supporting People programme. The approach needed to recognise the intrinsic requirements of the legislation, rather than be seen as an add-on or something extra providers also needed to now do. Commissioners approached a number of third sector organisations to help them develop the approach including Reach the People Charity, Midland Heart and St Basils. This partnership approach was recognised as a best practice case study by the Capita Third Sector Commissioning Conference.

### Actions taken

- Delivered joint training between Corporate Procurement colleagues, the Supporting People team and service provider representatives in order to assist organisations to prepare for the requirements of the legislation.
- Established the weighing for the tender evaluations as 60% quality, 20% social value and 20% price. The financial £ and the social value £ carrying the same weightings.
- Worked with service providers to develop a simple evidencing template which would be used after contract awards in order to capture the social value delivered.
- Provided one to one support to help organisations to complete the template where required.
- Agreed levels of social value and evidencing and accounting methodologies with individual providers which were proportionate to the contract awards. This included the use of postcodes to evidence particular outcomes such as employment across the different wards of the city. This will enable the evidencing of the impact of commissioned spend and the social value £ in responding to some of the key issues for the city.
- Post contract award, the commissioners agreed with Midland Heart to establish a Social Value Forum for both commissioners and providers so that learning, practice examples and issues can be shared. The forum will also enable commissioners, providers and service user representatives to review the approach adopted opportunities for providers to work together in order to maximise the opportunities for generating social value.

## Third Sector Strategy

1.4.6 The City Council has drafted a new third sector strategy with four themes; one of which is commissioning and service delivery. It sets out a position that we agree with:

“We need to support the third sector to participate in the commissioning process and enhance its role in public service delivery so that we achieve the benefits from having a greater mix of providers and from joint investment with the



# Council Commissioning and Third Sector Organisations

sector. We know that some council practices can make participation by third sector organisations in the commissioning process difficult. Wherever possible we must make better use of existing flexibility, and where appropriate introduce new flexibilities in our processes to remove unnecessary barriers.”<sup>9</sup>

1.4.7 The proposed commitments to support this are:

- Facilitating mixed service delivery by opening up opportunities to the sector;
- Engaging with the third sector to develop a greater awareness of the potential opportunities presented by the sector;
- Continuing to improve commissioning and procurement arrangements to remove barriers to participation by third sector organisations; and
- Continuing to develop innovative practices in our commissioning and procurement arrangements through involvement of the third sector early in the commissioning process.

1.4.8 Further work needs to be undertaken as part of the *Future Council* programme on the strategy.

## Third Sector Support

1.4.9 The City Council has a contract with Birmingham Voluntary Services Council (BVSC) to provide third sector infrastructure support. This was due to end on 31 March 2015, but has been rolled over for an additional year with a 30% reduction and a significant change to the key performance indicators. All of BVSC’s services funded in this way are open to all voluntary organisations in the city – not just their members. The information below on BVSC was current at the time of the evidence gathering.

1.4.10 BVSC runs a Small Grants Programme aimed to further the knowledge and skills within smaller voluntary and community organisations to build their capacity and sustainability. The programme offers subsidised support to 20 organisations with an annual income of less than £25,000 based on their areas of need. Organisations from across Birmingham have received support after completing a short online application form. Within this application form, organisations were asked to identify their area of need around the following areas: managing money, managing people, governance and planning.

1.4.11 Each eligible organisation is able to access up to two training courses free of charge based upon their identified area of need. They are also eligible to receive a one-to-one session with a member of BVSC staff, who has an expertise within the area of need for advice and guidance. Through the programme, 20 organisations have either accessed support or have support scheduled for their organisation either through formal training or a one to one support session.

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<sup>9</sup> [https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting\\_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf](https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf)



- 1.4.12 'ASK BVSC' is a service offered to all voluntary and community sector organisations across Birmingham. It offers initial advice and guidance on a range of topics from establishing a charity, funding, developing a business plan, governance and recruiting and supporting volunteers. Throughout 2014 the service dealt with some 440 enquires, of which 53% were from small organisations. The definition of a small organisation agreed with the City Council is they have fewer than 10 paid staff.
- 1.4.13 The 'BVSC4Community' funding portal dealt with 546 unique searches from October to December 2014 and 44% of searches were from "start-up" organisations. Moreover, 23% of all searches came from the Ladywood and Nechells wards.
- 1.4.14 There are 'BVSC Outreach Hubs' in Aston; Tyburn and Northfield, where BVSC has a partnership agreement with a key local infrastructure charity in each of those areas.
- 1.4.15 Around 42% of organisations registered on the BVSC third sector database have an income of less than £50,000 and 30% have incomes of under £10,000. Interestingly, 36% of organisations registered on the database are from the Ladywood area of the city.

## The Compact

- 1.4.16 A Compact sets out guidelines and principles which support good practice and effective working relationships between public authorities and the third sector. The national compact was revised in 2010. That year the City Council and the third sector also agreed a compact for Birmingham.<sup>10</sup> It sets out a number of principles which apply to procurement and commissioning, such as giving organisations at least 12 weeks to bid to allow time to form consortia, giving clear feedback to unsuccessful organisations, having three year programmes as a norm and building the capacity of the third sector provider base, particularly those working with marginalised groups. We initially suggested that updating the compact should be a recommendation for this Inquiry. However, we agree with the Executive that this should be considered in the light of the *Future Council* aspirations to reassess and redevelop partnerships in the city.

## Birmingham Business Charter for Social Responsibility

- 1.4.17 The Birmingham Business Charter for Social Responsibility is "a set of guiding principles to which the City Council will adhere to and which it invites its contracted suppliers, the wider business community, other public sector bodies (including schools) and third sector organisations (including grant recipients) to adopt. The principles of the charter are: local employment, buy Birmingham first, partners in communities, good employer, green and sustainable, and ethical procurement. Charter signatories need to consider and describe how they can improve the economic, social and environmental well-being of Birmingham and its citizens."<sup>11</sup>

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<sup>10</sup> <http://www.bvsc.org/birmingham-compact>

<sup>11</sup> [https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting\\_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf](https://www.birminghambeheard.org.uk/economy/third-sector-strategy/supporting_documents/Third%20Sector%20Strategy%20Draft%20v3.pdf)



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1.4.18 Under the local employment principle there is a desire to remove barriers to small and medium enterprises, including third sector organisations. This includes consideration of the size and value of contracts; advertising low value contracts, as well as the major contracts, on the *Find It In Birmingham* (FIIB) portal; encouraging co-operation between groups of operators (e.g. consortia) and encouraging longer times for the receipt of quotes and tenders.

1.4.19 Written evidence from one third sector provider stated that they:

“Welcomed the opportunity to apply for the Charter, but found the process to go through quite daunting and time consuming. However, it provided a useful framework through which to review current practices and procedures. It will be important to ensure that any annual reporting requirements are not as resource intensive as the application process, as this is likely to be problematic for smaller organisations by putting a strain on their capacity and risks diverting their focus away from their core business. ... On balance, the Charter is helpful for organisations, like ourselves, to demonstrate our approach and values, over and above contract delivery requirements, and the award has the potential to be a useful marketing tool in bidding for other business. However, this will have to be offset by the additional resource required to demonstrate continuing achievement, which will always have to match rising expectations.”

1.4.20 We welcome the review of the BBC4SR which, at the time of writing, was underway.

## 1.5 Moving Forward

1.5.1 Third sector organisations clearly deliver successful contracts for the City Council. For example between April and November 2014 the City Council awarded contracts of almost £10 million to the third sector. The average value of these contracts was over £44,000.

1.5.2 Whilst we believe we heard in our evidence gathering some positive changes in commissioning policy and practice which we share in section 2, overall we heard a mixed view of the City Council's approach to commissioning as it relates to third sector organisations and similar themes in discussion as those heard during our *Health of the Third Sector* Inquiry. It is difficult to generalise what improvements are needed across directorates or indeed specify exactly what improvements are needed within areas of City Council commissioning from an intentionally brief Inquiry and we do not wish to. Our recommendations set out in section 3 of this report reflect the need for change highlighted during evidence gathering and that the City Council needs to work out the detail of this in partnership with relevant third sector groups.



## 2 Findings

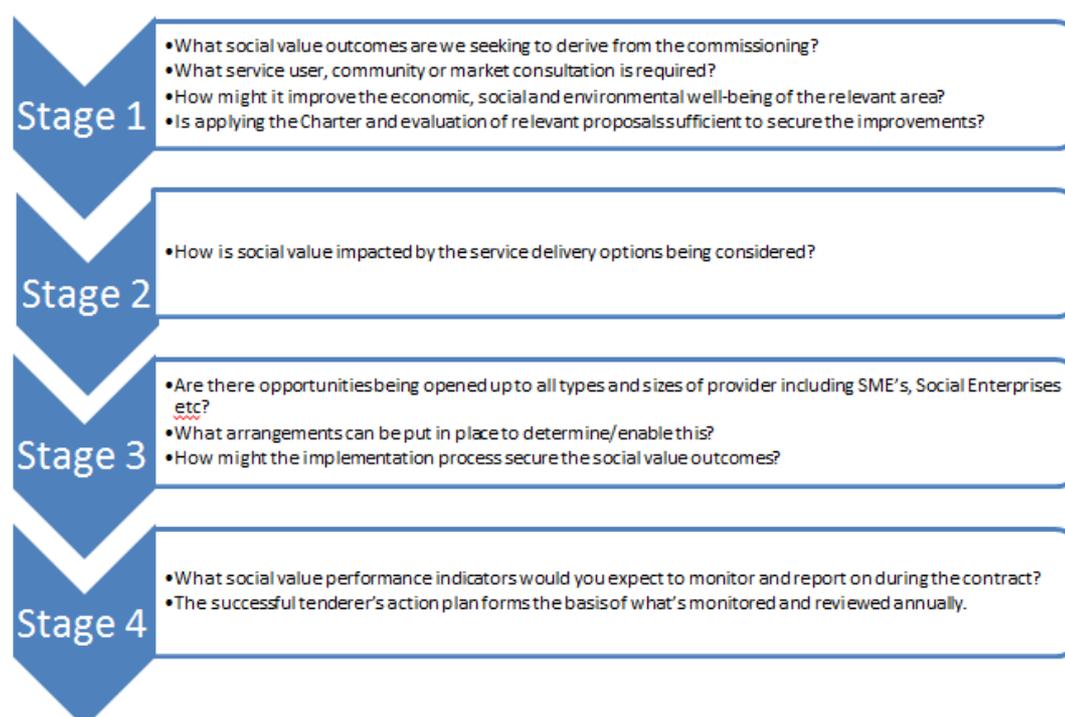
### 2.1 Commissioning or Procurement?

2.1.1 As stated earlier commissioning is more than the awarding of contracts. Whilst commissioning and procurement are often used interchangeably as terms, external witnesses expressed concerns that within the City Council context at a time of extreme budgetary pressures this meant that, at times, there was confusion about the two. Some witnesses felt that the full complexity as well as dynamic nature of successful commissioning was being neglected as they perceived a focus solely on costs. This was felt to be to the detriment in the long term of procuring the correct services for the citizens of Birmingham. In addition, it was suggested that the City Council was procuring services by focussing on meeting all the relevant legislation (and not leaving itself open to challenge), thus taking the emphasis away from thinking about what services are actually needed.

### 2.2 Current Approach from Corporate Procurement Services

2.2.1 Corporate Procurement Services, however, aim to ensure that social value is considered throughout the commissioning process and the evidence provided details the various steps where it should be considered. Figure 2 provides some examples.

**Figure 2: Commissioning for Social Value: Current City Council Practice**





# Council Commissioning and Third Sector Organisations

2.2.2 Currently, procurement opportunities are posted on the *Find It In Birmingham* portal. We understand this is due to be recommissioned.

2.2.3 The Commissioning and Procurement Strategy for 2011-14 says that:

**“Supporting Local Business, including Small and Medium Enterprises (SMEs) and Third Sector Organisations**

BCC is committed to using a mixed supply base to help stimulate innovation and value for money. Added value is delivered by Small & Medium Enterprises (SME’s), including the Third Sector.”<sup>12</sup>

2.2.4 We expect that many of recommendations included in this report will also be of value to SMEs, which we would welcome. However, as we have not researched this we have restricted our comments to the third sector only. The current processes have led to numerous examples of third sector organisations gaining contracts. A range of examples are given below:

- The City Council has recently developed three large partnerships to support the delivery of the Lottery’s Fulfilling Lives Programmes. Its partners are drawn substantially from the third sector. For example, 77% of partners on the Ageing Better Wider Partnership (led by BVSC) are from the voluntary and community sector and 50% of organisations registered on the “In-Tend” Portal to deliver services on all the programmes are from the third sector. The City Council has worked hard to develop a “sector” friendly commissioning process. The Talent Match Programme (also led by BVSC) is working with highly disadvantaged young unemployed people aged between 18 – 24 years old. 75% of organisations that are on the City Council’s delivery framework are from voluntary organisations, community interest companies or social enterprises;
- When the City Council’s legal entitlement advice services moved from grants to contracts these were let on fixed price fees including a social value element. Assessment was just on quality and seven third sector organisations provide this service across the city under several contracts;
- Third sector granting in People Directorate pays in advance, not in arrears recognising the fact that locally based small community providers do not have the financial resources to deliver a service and then be compensated.<sup>13</sup> The third sector prevention budget in the Directorate is ring fenced for third sector providers;
- Supporting People engagement and consultation with stakeholders includes both current providers (mainly third sector) and potential new providers. There is a strong service user forum and they were consulted on the needs assessment, procurement approach and were involved in the evaluation process. Service users are also part of the monitoring process. A

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<sup>12</sup> [www.birmingham.gov.uk/procurement](http://www.birmingham.gov.uk/procurement)

<sup>13</sup> Grants not contracts – but there nonetheless a commissioning approach was taken



payment by outcomes model has been developed. Recently 17 lots for Supporting People to 15 different third sector organisations were procured (see box overleaf);

- With the adult alcohol and substance misuse commissioning process, market days were held to involve organisations in the service redesign. 10% of the contract value was committed to the funding of a supply chain which consists of small and medium sized organisations. It was also specified that a minimum of 2.5% of the contract value is to be administered on a 'grant aid' basis to small or 'micro' organisations, which are likely to be of the third sector (amounting to around £80m over five years). This is to aid the engagement of the diverse communities of the city and the recovery agenda. Ex-service users formed part of the evaluation team;
- A provider forum was held to shape the service design of sexual health system, with full consultation with the market and other stakeholders. One specific market day was designed as a third sector market stall event to assist consortium bidding. 60 young people were part of the evaluation process. This was very much an outcome based tender;
- A portion of Think Families services is commissioned from the third sector which provides an intensive family support service as part of the payment based on achieving the required outcomes – totalling some £2.7M. The model of service and the nature of the contract were co-produced. An engagement and consultation event was held with existing and potential new providers. Throughout the contract period the approach has evolved and been modified following regular consultation with providers. The City Council is currently working on the model for phase two of the programme with third sector providers;
- Birmingham and Solihull Women's Aid has been commissioned to provide two workers within the multi-agency safeguarding hub (MASH) to work together with West Midlands Police and social workers to screen for levels of risk. Corporate Procurement Services have provided support to utilise single contractor negotiations where appropriate in order to maintain a service where a significant part of the funding is generated by the service;
- The City Council are partners in a bid with a major charity to the Children's Social Care Innovations Fund. It has succeeded through to the final stage in the preparation of a proposal for the Investment Board. The scheme provides a wrap-around service for children in care. They have worked with voluntary sector providers to support the development of funding proposals from third parties – including social finance;
- A third sector provider was awarded the contract for the young people's substance misuse contract. The design was informed by a substantial consultation with young people, a review of successful contract models and supplier engagement that included voluntary sector providers. This was awarded on the basis of 60% quality, 20% social value and 20% price. The winning bid was the second cheapest, but all four bids were within a 2% range;
- Prior to going to the market for the carers' support services there were a number of listening exercises with the third sector to ensure that they were able to contribute to the shaping of the



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new services and be aware of the emerging procurement opportunities. Young Carers was commissioned in line with the Carers Support Service and the contract was awarded to a third sector provider. Discussion is now being facilitated between them and two other services to develop a partnership that promotes a young carers' offer for Birmingham;

- The early years out of school support contract has been let to, essentially, all third sector organisations and a very broad base for the early year's child minding contract (several hundred). There is a childcare sustainability fund to provide some support for organisations getting into difficulty; and
- The City Council is co-commissioning the 0-25 year old mental health service with Clinical Commissioning Groups. The specification identified the role of the third sector and the need for community based services. As a result all of the tenderers have created a supply chain that includes a significant number of third sector organisations. The contracts for a number of third sector providers for services that address emotional well-being have been extended so there can be a smooth transition into this new 0-25 mental health service. The organisations will be involved in that service design.

## **Supporting People / The Birmingham Gateway**

The Gateway is an in-house commissioned service which provides a vulnerable person with a single point of access into Supporting People commissioned services. A budget of £16.5 million per annum was set aside for the recommissioning of housing support services for vulnerable people within the social inclusion client groups.

During the period of the previous contracts being implemented and the quality assurance reviews of existing services, it was recognised by both providers, commissioners and service user representatives that the Supporting People quality assessment framework (QAF) required a refresh. The tool had been useful in driving up quality standards for many years, however due to changes in legislation and its emphasis upon organisational strength rather than service level quality, changes were required. The Supporting People team worked with service providers to develop a revised tool using intelligence and feedback from the on-going quality assurance reviews of services.

The pilot testing and feedback from service providers and service users evidenced that this was a quality assurance tool which could be used in future commissioning activity and also potentially for other service areas. As result the tool was rolled out as part of the new contracts which commenced on 1st December 2014.

The consultation with service providers and service users during this round of re-commissioning was far more in-depth than previously. Several meetings took place with service providers and service users in order to develop the specifications. In some instances, particularly with regards to male domestic violence, the specifications were co-designed and co-written with service providers and service users. The commissioners found that the level of engagement being volunteered by individuals



varied according to organisation.

The tenders were weighted heavily towards quality which accounted for 60% of the weighting with 20% for social value and 20% for price. Bench marks for price were established taking into account national market data. There was also a requirement and consideration for providers to be able to pay the living wage and claim reasonable travel time for outreach services.

The methodology deployed for the commissioning activity sought to achieve the right outcomes for vulnerable people and to maintain the diversity of the market place. A “no one service always fits all” approach was taken. Over the years some organisations have developed niche skills and expertise and, therefore, the approach to the re-commissioning aimed to enable a range of organisations to bid for contracts most suited to them.

Careful consideration was given to the contract award criteria which included the stipulation that there would be multiple awards wherever possible i.e. the funding available would not be awarded to a single provider. To achieve the latter finer grained approach a number of categories or lots were identified. For example, in terms of services for young people potential providers had the option to bid for up to six different types of services. The latter included different types of supported accommodation for young people, support in the community, supported lodgings for care leavers, youth offending and young people at risk of gang violence.

A range of services were commissioned to reflect the diversity of both the client group requiring support and the types of services to be commissioned.

There were 17 different specifications issued as part of the invitation to tender documentation. The specifications were specific to each client group and were outcomes focused. Examples included a women’s domestic violence refuge; a housing support service for ex-offenders coming out of prison and services for homeless people with complex needs i.e. those serially excluded where longer term homelessness is combined with a range of other presenting needs e.g. mental health, substance misuse and offending behaviours. Small separate specialist lots were also set for Gypsy and Travellers and a service for male victims of domestic violence.

The Supporting People commissioning process did not stipulate a lead provider or consortia approach. However, bidders were also advised that consortia bids were welcomed and support was available from organisations such as the Initiative for Social Entrepreneurs and BVSC to support them in the formation of partnership bids.

15 organisations representing the third sector were awarded contracts. One service level agreement was issued to the in-house City Council homeless service to deliver the Gateway (single point of access into the commissioned services).

A Gateway launch event took place in November 2014, when all service providers were invited to attend and share their experience, concerns and questions in relation to the Gateway. It was made clear at the event that this was a two way process and that there would be a dialogue between the Gateway and the service providers.



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The Gateway captures the day-to-day intelligence in terms of demand for services, availability and is also able to respond to emergency situations very quickly. The flexibility that the services can now offer is shown in two examples below:

- When the Gateway service went live in December 2014, the service was able to evidence a shortage of direct access bed spaces for single women. As a result of this, within two days, they were able to reconfigure nine bed spaces from male to female provision. The first two beds being made available the same afternoon. Ordinarily it could take months for this type of intelligence to become available and for interventions to be put into place.
- The Gateway was able to step in and undertake emergency allocations of over 400 clients within three days, focusing on those at highest risk first. It would not have been possible to achieve this level of coordination under the previous arrangements.

For the People Directorate the key learning points of this approach have been:

- State your intention to award multiple contracts for particular lots, with no stipulation of minimum value for bids submitted;
- Stipulation of hourly rates and financial costing models which are inclusive of the living wage and allow reasonable travel time provision for outreach services;
- Tenders being weighted at 60% quality, 20% social value and 20% price enables third sector organisation to demonstrate both competitiveness, provider innovation with regards to social value and commitment to the local area;
- Offer of support via BVSC for small organisations looking to bid;
- Opportunities for consortia bids and support for organisations to come together to work in that way; and
- Future exploration of longer term contracts subject to funding availability and performance.

2.2.5 In spite of the robust procedures adopted there have been criticisms of the commissioning process for Supporting People. One organisation, for example, feels that some processes may be developed that might suit monitoring needs, but do not adequately take into account concerns about particular vulnerable groups. Their clients receive face to face assessment and support and they prioritise on the basis of risk and safeguarding, to prevent escalation to more costly statutory services. The organisation feels they can no longer prioritise on this basis due to the introduction of the Gateway.

2.2.6 However, we also note the People Directorate's rationale for the way in which these services are managed. The Supporting People budget has experienced significant budget reductions over 40% to date yet, at the same time, demand for Supporting People services from vulnerable people is



increasing, and will continue to increase as a result of budget reductions to other services including statutory provision.

- 2.2.7 Therefore, the City Council's view is that there needs to be greater control, oversight and management of equality of access into Supporting People services in order to ensure that those who need it the most are able to access the right services. It is not possible to do this if multiple individual providers are managing their own access into services and choosing who they will accept into their services. We understand that for some providers this creates tension, particularly those wishing to manage their own caseload and access arrangements.
- 2.2.8 We also note concerns that some smaller specialist providers for black and minority ethnic users are finding it more difficult to compete. However, the People Directorate response is that it is important that a balance is maintained and it would not be appropriate to assume that only certain organisations can be tasked with responsibility for meeting specialist needs. The Supporting People programme, therefore, stipulates that all providers must demonstrate diversity competence. This approach aims to ensure that service users are not excluded from services or continue to be signposted to only a small number of services, thus limiting their choice of service provider.
- 2.2.9 The Gateway team are located within the wider homelessness provision, which provides advantages in terms of an end-to-end journey for the customer which is timely. This includes the management of move on into people's own tenancies. This ensures the best use of limited resources in terms of the services commissioned. It also ensures that there is an appropriate management of risk, by ensuring that service users are placed within the service that is most suited to their needs and that people with higher risks are not routinely excluded from services. This avoids potential cherry picking by service providers to take the easier clients.
- 2.2.10 The Gateway can also track vulnerable people who repeatedly present to the commissioned services. This allows commissioners to gain a better understanding such as why this is happening, what the triggers are, if this has been caused by a service provider issue, if there are presenting risks which could not be managed, or exclusions which need to be challenged or even a gap in services commissioned.
- 2.2.11 It is clear that there will always be scope for different perspectives on commissioning and so excellent communication within adequate timescales to ensure meaningful two-way dialogue needs to be maintained with third sector organisations which are providing valued services in the city.

## 2.3 Quality of Relationships

- 2.3.1 There were a number of positive and negative messages with the overarching themes being the importance of trust and honesty in relationships, as well as the need for the City Council to work with third sector organisations from the outset of any project as genuine partners. Third sector representatives told the Committee that it was important for the third sector to be involved in the



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discussions with procurement colleagues from the start to help shape what services the City Council is looking to commission.

- 2.3.2 Through consulting with experts in the field – the third sector and users themselves – the City Council can best commission the services it needs. This can be advantageous in service design and ensure a balanced view can be provided. We felt that this was a positive thing and the City Council should be encouraged to do more of this in the future and on an on-going basis, especially at the beginning of a commissioning process. Voluntary sector witnesses refuted what they saw as a misperception that as potential providers the third sector should not be involved in needs assessment or service design because of a potential conflict of interest.
- 2.3.3 Third sector involvement from the outset would also allow both the City Council's commissioners and third sector organisations to plan appropriately the impact of decommissioning, rather than this being seen as an after-thought. Equally, working in partnership would allow for poor performance to be identified and tackled adequately and ensure that the quality of services being provided to citizens improves. Strong relationships are key and one witness suggested:

“We spend little time on working through what is a transformative relationship versus a transaction.”

## 2.4 The Current Commissioning Experience

- 2.4.1 Inevitably, there are differing views on the current commissioning process, depending on who one talks to. In general, third sector organisations did not feel they were competing on a level playing field. During evidence gathering we heard from a number of third sector agencies about making the commissioning process more accessible and easier for all types of organisations.
- 2.4.2 Firstly, third sector organisations often do not hear about procurement opportunities until too late. As noted above, Corporate Procurement Services uses *Find It In Birmingham*, but further steps need to be taken to ensure organisations are signed up to this. This is an area where councillors can help. Councillors should also be aware of forthcoming procurement activity from the quarterly report to Cabinet.
- 2.4.3 A key issue raised was that the application processes should differentiate between size of contract and the service that the City Council is commissioning for.
- 2.4.4 From the point of view of a small specialist organisation the current commissioning process can seem to favour larger organisations that provide a universal rather than a specialist service. Therefore, specialist services may be provided by those who may not have the specialist knowledge and skills to deliver it as they have been successful in securing the contract. Organisations feared this impacts negatively on the service available to those with specific needs (such as language and/or cultural barriers) too. It was suggested that a portion of contracts available should be ring-fenced for smaller specialist organisations.



- 2.4.5 Third sector agencies voiced concerns on the length of time that decision-making took in terms of a contract being awarded and the signing of a contract when it was awarded. The impact of this was that organisations felt that they were unable to plan appropriately especially, for example, in terms of keeping staff on without having to issue redundancy notices because they are unsure when the contract will commence. This, in particular, had an impact on smaller and micro organisations that struggle with cash-flow and resources.
- 2.4.6 One issue raised was that smaller organisations more often than not struggle with and become overwhelmed by the experience of commissioning and, therefore, forfeit the opportunity to take part. This is due mainly to the amount of work required to apply for contracts. Several witnesses mentioned that it was frustrating that they were clearly able to demonstrate outcomes but the time and energy required to apply put them off. There was also the issue of demonstrating social value and how this was measured. Many felt that larger third sector agencies had an advantage both in having the experience and resources to apply for contracts and being afforded the opportunity to do so as they were more likely hear about commissioning opportunities in comparison to smaller and micro community based organisations.
- 2.4.7 Supporting People is one example already explored. Fitting the criteria to meet Supporting People funding against the quality assessment framework (QAF) assessment is a large scale project that needs the appropriate time and effort. Adherence to the QAF is important as it covers the minimum requirements regarding issues such as health and safety, safeguarding, fair access and diversity and client involvement and empowerment. However, smaller organisations can feel they may not have the skills or expertise to carry this out, and if they did undertake this, it would mean diverting staff from providing core services and, therefore, have a direct impact on the service they are providing. This can be seen as favouring larger organisations that have both the capability and resource to take part in such commissioning processes. Previously, Supporting People Review Officers would visit organisations and talk to staff and users to assess if the organisation was meeting the QAF. With reduced staff the work is now down to the organisations to carry out a self-assessment. In addition, it is important to make sure the timescales do not work against third sector organisations. One small organisation, for example, said that for them arranging such an assessment is a large scale project and the time scale to apply did not allow them to carry out a new review to receive the appropriate grading to qualify.
- 2.4.8 Some third sector organisations' experience of the commissioning process is that they are often included too late. It is important for the City Council to engage in conversation with the sector before awarding a contract so that an analysis can be done of the impact on smaller organisations. It was suggested, therefore, that the City Council should consider making the commissioning processes proportionate to organisation size and the size of the contract being commissioned. In this way smaller organisations would feel less daunted by the process which could encourage them to bid for contracts.



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- 2.4.9 BVSC said their respondents felt that the City Council had some way to go in putting in place some long-called-for “basics” of good commissioning practice. These include, but are not limited to:
- a. Storage by City Council of the contact details, addresses, and company details of frequent third sector contractors. This would save both the City Council and third sector organisations time and effort in replicating this information with each successive commissioning cycle;
  - b. Consistent adherence to the third sector Compact principles which the City Council has signed up to. Respondents raised concerns that many councillors and officers still seemed to be unaware of the Compact and its contents, and the City Council regularly demonstrated non-adherence to Compact principles, particularly in terms of communication periods;
  - c. Quicker decisions relating to commissioning decommissioning – this would be fairer to all parties: commissioner, deliverer, and service user. Several agencies have had the “threat” of decommissioning hanging over them for several months;
  - d. Timely signing of contracts so that organisations, particularly smaller organisations, do not spend long periods “working at risk”. Several respondents gave examples of being subject to extreme delays in this regard. Others gave examples of last-minute amendments being suggested to contracts after contract terms had been verbally agreed, necessitating further delays and uncertainty;
  - e. Recognising the need to adopt proportionate application, commissioning, and contract monitoring processes for smaller, niche third sector providers. Many smaller organisations offer a valuable specialist service, but do not have the organisational capacity to go through complicated commissioning processes or detailed application forms, or the organisational stability to survive on a payment-by-outcomes basis; and
  - f. Better communication all round is required. Most respondents noted that it was rare for commissioners to visit their services, which raised questions about how well the City Council really understood some of the services and agencies they were commissioning. Many commented on the general difficulty of communicating with commissioning contacts, with various examples of long delays in responding to requests for assistance or clarification.

## 2.5 Lead Organisation Working with Third Sector Organisations

- 2.5.1 We welcome the City Council facilitating wider partnership/networking opportunities, both within and outside of the sector such as a discussion forum so that providers can talk to each other and collaborate. For example, with the adult alcohol and substance misuse commissioning process market days were held to involve organisations in the service design. However, both third sector organisations and commissioners have noted the difficulty of achieving collaboration in a competitive environment.



- 2.5.2 Many contracts allow for a number of providers to be involved in them. There can be different types of multi-organisation models. These may be consortia models, but may also be a lead provider model. As one example, the adults' substance misuse contract was streamlined from 28 providers to one lead, Crime Reduction Initiatives (CRI), through commissioning (see 2.2.4) Councillors' and district officers' local knowledge can play a key role in bringing providers together. Ways need to be found to harness this.
- 2.5.3 We welcome this approach. Although we recognise that outcomes are a key measure of a contract, there do need to be robust mechanisms to hold such lead providers to account for the sub-contractors they use if that was part of the procurement process.
- 2.5.4 Amey PLC who maintain the city's highway on behalf of the City Council talked about their increasing use of third sector organisations in their supply chain. This has led to a position of wherever it is feasible wanting to work with third sector organisations as its core model. Members also saw opportunities for organisations such as Amey to provide proactive support to third sector organisations to enable them to engage in commissioning processes.
- 2.5.5 We heard a variety of views about what was the City Council's preferred model which included consortia and lead provider with sub-contractor models. However, it takes time and resources to develop consortia. The City Council's procurement process does not, it was argued, always acknowledge the often tight timescales that organisations have to work within to put together an appropriate bid to run services. Setting up of consortia for bids on delivering new services often involved precious resources by third sector agencies and a cost.
- 2.5.6 It was suggested to us that the City Council explores developing a portal to enable existing and new providers to talk to each other around possible consortia and informal partnership brokering for tender opportunities. It was suggested having key names of organisation leads, and a 'discussion forum' so providers can talk to each other and collaborate could be beneficial. Although the *Intend* portal was suggested for this, there may be other places for this to sit.
- 2.5.7 It was also suggested that in using a lead supplier model the risks and adverse effects on smaller third sector agencies need to be considered carefully.

## 2.6 Getting the Basics Right

- 2.6.1 Feedback received from third sector organisations on their experience of the current commissioning process highlighted that:
- More and more regular communication feedback on the evaluation process to third sector organisation following submission of bids would be welcome. For example, post submission a fortnightly update on where the evaluation process is at would be well received;



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- It is important that the City Council is clear about what it wants and invests in a relationship with the third sector when commissioning services so that it can tackle issues like poor performance; and
- It is important for the City Council to use its technology to work more smartly and cut down on red tape. For instance, the City Council could use its grant management database more efficiently especially when it already has contracts with or provides grant funding to organisations. This would mean that third sector organisations could spend less time filling in applications that duplicate information, as this is both time consuming and costly.

2.6.2 Decommissioning services is understandably a concern for organisations. Issues raised linked to speedy and effective communication:

- In line with the third sector Compact principles the City Council needs to communicate effectively with organisations, for example in giving adequate notice of commissioning a service and decommissioning. This will allow these agencies to plan appropriately and lead to an improved relationship between the City Council and the third sector. It is especially important when an organisation is being funded from more than one source;
- Decommissioning can be destabilising to organisations and clients and it is important to manage this process carefully, even if a contract has always been time limited. Third sector representatives felt that decommissioning timescales can be tight. The City Council could work with infrastructure organisations to ensure that organisations are provided with support before they are decommissioned;
- It was felt that decommissioning can include little meaningful engagement on performance of services, the effect of decommissioning upon the ongoing viability and quality of services to be provided and no information about any future commissioning intentions in relation to the services provided by an organisation since being decommissioned. In addition, this has an impact on developing long-term plans for the service being provided (i.e. structure, location, efficiencies and recruitment needs); and
- City Council decision-making is felt to be slow which impacts on third sector organisations ability to retain skilled and experienced staff – e.g. being notified of a funding decision in February for a contract that ends in March meaning having to issue redundancy notices to staff unnecessarily.

2.6.3 27 third sector organisations are accredited under the Birmingham Business Charter for Social Responsibility (BBC4SR). However, the requirements of this was seen by some as excessive:

- More streamlining of procedures would be helpful to reduce administrative burden. For example, one organisation provided evidence that there was some overlap in the social value action plan that they submitted and the work they were doing around the BBC4SR. They felt that there was clear overlap and, therefore, duplication of effort;



- Although much work had been carried out by the City Council on the Public Services (Social Value) Act 2012 there is still more work to be done to understand and take stock of the varying needs of the third sector who are delivering a variety of services;
- The Charter requires signatories to support staff development and welfare and adopt the Birmingham living wage within their own organisation and within their supply chain. We are aware that discussions regarding the implementation of the living wage are ongoing between the City Council and social care providers and this was an area on which Committee Members did not take a view. We were mindful of the needs we were alerted to that living wage requirements have, in some instances, affected the abilities of organisations to meet some project outputs. A suggested risk is that in order to achieve the living wage employers, including third sector organisations, may seek to forego or reduce additional employment benefits to assist the funding of a basic wage increase. Those organisations that are fully signed up to such an initiative were often, it was suggested, struggling to balance delivering outcomes and paying staff the agreed wage in-line with contract requirements, especially if some staff were also working on contracts which did not require the living wage; and
- We learnt that smaller organisations do not feel that the requirements are always proportionate and nor do they feel some of the value they can bring is adequately reflected.

2.6.4 However, it could also prove to be a positive asset for third sector organisations if the corporate social responsibilities of larger organisations could be harnessed in the support of smaller third sector organisations.

2.6.5 Third sector organisations suggested some further improvements too, including:

- Tendering to include track record and understanding of the local environment and region (although there are indications that the Small Business, Enterprise and Employment Act 2015 could in future prevent this);
- Contribution to partnership working and strategic input should be taken into account in commissioning;
- The additional services provided by the third sector and additional resources brought into Birmingham should be taken account of in tendering;
- Move to negotiating on services rather than commissioning. Commissioning, it was argued, is a crude tool (long winded and expensive) and does not always deliver. Negotiation assists with developing good models of practice and takes into account what is already out there;
- More longer term contracts – three to five years minimum instead of as a maximum (where possible); and
- Harness the energy and creativity of the third sector and publicise the excellent examples of services they provide.



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- 2.6.6 We understand in the current financial climate some of these ideas may not be achievable at this point in time.

## 2.7 Moving to More Sophisticated Commissioning

- 2.7.1 A starting point, it was suggested, was the City Council working as a corporate whole, not a series of silos. It was suggested that there is no cross-departmental working in respect of commissioning and procurement. The consequence for a third sector organisation working across the City Council's priorities is that it has to engage with several service areas as each one is dealing with their own issues – for example homelessness or adult social care. Additionally, for third sector organisations, service areas appear to operate independently from the whole of the City Council in meeting objectives. When procuring services, the focus in the tender specification is just on their own area, rather than asking organisations to demonstrate how they meet wider corporate objectives.
- 2.7.2 Further to getting the basics right and improving the relationship between the third sector and City Council, we heard that it was important for the City Council to consider new and alternative models of commissioning that involved engaging the third sector in a more partnership role. It was also highlighted that the commissioning process should not be focussed solely on outcomes and numbers and a more holistic approach was needed to get the best services for citizens.
- 2.7.3 It was important to note the value that the third sector could bring to the planning process: this could mean that the third sector helps the City Council in thinking about and designing the services it wishes to commission. One example of this given was the lead provider /sub-contracting model that the Lotto Fund has tested. The City Council could consider co-commissioning and co-designing models with third sector involvement. There are already examples in the city where this works and BVSC shared their experience with the Committee about how this was done, highlighting that a clear monitoring process was followed to enable this to happen.
- 2.7.4 As part of this wider process and improving relations between the City Council and the third sector it was felt that there was much knowledge and intelligence that the third sector had developed in the commissioning process that could be used by the City Council. This included anecdotal and statistical information gathered from service users that could be used to understand the sector and market place in a more sophisticated manner. Clearer service user involvement also allows for more sophisticated commissioning.
- 2.7.5 The approach that brings these issues together is co-production: co-commissioning and co-design of services, involving service users too. This needs to become more of a standard way of working for the city, and the potential for districts to have role in commissioning, with a focus on local needs, could support this. It uses the expertise and reach of the third sector. One witness suggested that:

“Co-production allows for creativity, innovation and encourages collaboration.”



## 3 Recommendations

### 3.1 Refreshing the Model for Commissioning and Collaboration

- 3.1.1 The Committee had discussions about whether or not these recommendations are asking for third sector organisations to have preferential treatment in commissioning and procurement, or whether it is about making sure the doors to these opportunities are opened and that third sector organisations are competing in a way that gives weight to the added value they can bring. What was entirely agreed was that a) the smaller third sector organisations, in particular, feel excluded from the process and that b) they can bring very specific local and specialist knowledge to the table which can benefit the City Council in trying to solve problems and ensure services are provided. The recommendations are made in the light of both resource pressures on both the City Council and third sector organisations and the legislation surrounding these issues.
- 3.1.2 Clearly, third sector organisations are important providers of services, particularly in specialist areas. We also recognise third sector organisations as more than this. Commissioners saw an important role for organisations in informing assessments of needs and third sector organisations identified their role in scrutinising and reviewing existing services and advocating for change.
- 3.1.3 Third sector witnesses asked several things of the City Council as part of our Inquiry and we consider these 'asks' to be fair. The majority of Third Sector Assembly representatives identified that it is time for the City Council to take a fresh look at its third sector commissioning model. As we have noted that there is already much of value in place and there are also various toolkits that set out procedures to be followed. We have set out Recommendations 1 and 2 to improve on what currently happens. We welcome the Third Sector Assembly's offer to work with the City Council on engaging with commissioners at all stages of the commissioning process.
- 3.1.4 We welcome improved relations with the third sector, but we need to protect the interests of the City Council, too. As the City Council has less resource than ever it needs to be sure that what it commissions works. Equally, as commissioning requirements become increasingly complex, greater collaboration between commissioners and providers would seem to be essential, recognising that this takes time and resources for all parties. Third sector organisations have useful expertise and community links that can and should inform design and development of services, whether or not they eventually win the contracts to provide them.
- 3.1.5 The City Council's current commissioning toolkit Stage 1 allows for the engagement of stakeholders and consultation with third parties to understand needs. The feedback was that currently this is not consistently enabling the third sector to help shape services through the commissioning process. There is a need to properly determine this role and recognise the conflict of interest between client and provider and put in place mechanisms that do not conflict organisations who might wish to tender. With outcomes being specified, innovative service



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proposals should fall more to tenderers. We recognise the importance of partnership working to ensure services meet needs and achieve City Council priorities. We, therefore, would like to see how the City Council can make it easier for consortia of third sector organisations to be potential contenders for larger City Council commissioning exercises. To give reassurance to the third sector that their expertise will be properly used there may need to be some checks and balances built into this.

3.1.6 We see a need to ensure that all of this work is aligned with the development of any new commissioning role for District Committees. Lastly, we feel it is important that on-going learning continues in association with the third sector.

	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
<b>R01</b>	<p>In collaboration with third sector organisations (including any representative bodies) evaluate the existing City Council commissioning and related toolkits to ensure that a refreshed operating model:</p> <ul style="list-style-type: none"> <li>a) Recognises that suppliers can help inform the City Council about user priorities, market capabilities and delivery options;</li> <li>b) Ensures toolkits are implemented and applied consistently across the City Council;</li> <li>c) Has the principles of tackling poor performance and practice (supported by clear measurement of outcomes);</li> <li>d) Recognises and meets the requirements of the new Public Contracts Regulations 2015 with particular emphasis on improving access to opportunities for the third sector;</li> <li>e) Demonstrates commitment to joint learning and improvement based on good practice achieved over the years to underpin this work;</li> <li>f) Builds in opportunities for co-commissioning approaches with the third sector</li> <li>g) Enables and encourages robust proposals from consortia including third sector organisations;</li> <li>h) Ensures that any variation of composition of a consortium team should not vary from that which was procured without reasonable justification and due diligence; and</li> <li>i) Ensures that during the procurement process that checks proportionate to the perceived risk are made to see if an organisation is getting funding from another part of the City Council or from other organisations.</li> </ul> <p>The focus of this report is the third sector. None of these recommendations need to be exclusive to the third sector, but no evidence gathering was carried out with SMEs.</p>	<p>Cabinet Member for Commissioning, Contracting &amp; Improvement</p> <p>in consultation with the Third Sector Assembly</p>	<p>Interim evaluation Report – October 2015</p> <p>Completed January 2016</p>



3.1.7 Recommendation 2 focuses on relationships and communication. A response collated by BVSC stresses the importance of this:

“As we move into a situation where greater commitment is required, every penny needs to count, the quality of relationships at all levels will be critical, and developing community resources and self-help have never been more important.”

3.1.8 Both commissioners and third sector organisations identified the need for increased attention to relationship development and management. Third sector witnesses saw this as being an ongoing process and particularly important at the earliest stages of City Council commissioning and decommissioning where there is most scope to take a systems view of likely effects on the local sector economy and in the case of decommissioning most potential to identify alternatives for affected organisations and service users. Witnesses identified much greater scope for the use of trusted sources such as Third Assembly Champions in these discussions. This has been valued where it has already taken place through provider networks. Underpinning this, of course, needs to be robust two way communication.

3.1.9 We suggest further steps can be taken to ensure third sector organisations are aware of commissioning and procurement opportunities coming up, including recommending that councillors themselves can do more to signpost third sector organisations, given the right, accessible information.

	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
<b>R02</b>	<p>The City Council to improve communications and relationships with the third sector in a variety of ways:</p> <p>a) That all commissioners review how they manage relationships with third sector organisations to include a commitment to work with them at the earliest planning stage of both commissioning and decommissioning through greater use of trusted sources (which could be from the Third Sector Assembly) - in line with the City Council's toolkit;</p> <p>b) To improve communication with the third sector on commissioning and procurement opportunities and explore further use of social media and other City Council communication channels. This should include making better use of <i>Find It In Birmingham</i> or any successor portal and in publishing outcomes of procurement exercises – following consultation about the content and where would be accessible with the third sector; and</p> <p>c) To improve communication to councillors (e.g. on a monthly or bimonthly basis) to allow them to signpost third sector organisations.</p>	<p>Cabinet Member for Commissioning, Contracting &amp; Improvement</p> <p>in partnership with Executive Members for Local Services</p> <p>and consultation with the Third Sector Assembly</p>	<p>Interim report October 2015</p> <p>Completed April 2016</p>



## 3.2 Reflecting Third Sector Value More Clearly Within the Business Charter

- 3.2.1 The Public Services (Social Value) Act 2012 and the Birmingham Business Charter for Social Responsibility (BB4SCR) offer a unique opportunity to shape broad Corporate Social Responsibility (CSR) commitments across sectors and make the most of links with third sector organisations, including social enterprise to support a better Birmingham in many ways. However, it seems that the City Council could be in danger of missing at least some of these by not, it was suggested, reflecting the wider value of third sector organisations to the city beyond their role in particular City Council contracts. We were pleased to hear that a review of this has already started.
- 3.2.2 Voluntary and community sector organisations are advocates, campaigners, sources of vital information on service user need and a critical eye on existing services. Many third sector organisations are successful precisely because they were set up by or involve former service users at all levels and are important examples of the reintegration of previously marginalised individuals, for example ex-offenders, into local communities. As a result we want to see the City Council work in partnership with the Third Sector Assembly and other interested third sector organisations to see how the sector's value can be reflected appropriately within the Charter. This may need to reflect the diversity of the sector ranging from huge national (or even international) bodies to shoestring local community-led operations. Ongoing discussion is needed with those areas of the sector most concerned about implementing the living wage.
- 3.2.3 If there was a portal or other mechanism to broker needs and wants for local organisations this could help large and small signatories and the wider third sector. A large organisation might, for example, be able to provide seven hours mentoring to a smaller third sector organisation through part of a procurement process. Or a series of small firms in one district might be able to discharge their corporate social responsibilities working together to provide support to a smaller third sector organisation. Our view is that this could also provide support to local small and medium enterprises in the city.
- 3.2.4 Councillors again, should be in a position to encourage local third sector organisations to be accredited through the BBC4SR.



	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
<b>R03</b>	<p>In reviewing and growing the use of the Birmingham Business Charter for Social Responsibility (BBC4SR) to ensure that organisations of all sizes are able to sign up to it and to:</p> <ul style="list-style-type: none"> <li>a) Give consideration to the social value that third sector organisations already deliver to reflect the particular value of third sector organisations more clearly;</li> <li>b) Explore with Birmingham Voluntary Services Council (BVSC) how the third sector can become recipients of BBC4SR, such as with a portal bringing together needs and offers;</li> <li>c) Consult the third sector as part of the review of the Charter; and</li> <li>d) Utilise councillors' knowledge of local organisations. Councillors should also encourage local organisations to subscribe to <i>Find It In Birmingham</i> (FIIB) and the BBC4SR.</li> </ul>	<p>Cabinet Member for Commissioning, Contracting and Improvement</p> <p>In consultation with the Third Sector Assembly</p>	October 2015

### 3.3 Exploring Support for the Third Sector

- 3.3.1 The work of the *Future Council* programme will reassess and redevelop partnerships in the city which must include the third sector. The extent to which the City Council both should and can support the third sector should be considered carefully.
- 3.3.2 Smaller organisations can require advice and support both to ensure they are being treated correctly by prime contractors and to help them to use resources more effectively to make the most of the relationship with a prime contractor. The kind of advice and support that some smaller organisations said would support them in being sub-contractors is typically provided or mediated by local support and development organisations or Councils for Voluntary Service (CVS). There is a Third Sector Support contract currently held by Birmingham Voluntary Service Council (BVSC, see 1.4.9). We see this work as central to any future City Council third sector support commissioning. While plans for this contract after March 2016 are currently unclear there are other possibilities that could also be explored, such as, for example, new direct provision of legal advice via the City Council's Legal Services team.
- 3.3.3 However, in re-procuring any third sector support contract consideration and discussion should also be carried out as to the need and value for money for support around signposting organisations to procurement opportunities, bid writing, evidencing outcomes and value for money.



# Council Commissioning and Third Sector Organisations

	Recommendation	Responsibility	Completion Date
<b>R04</b>	To <ul style="list-style-type: none"> <li>a) Review what should be the enabling role of the <i>Future Council</i> in supporting the third sector.</li> <li>b) Explore opportunities for ensuring smaller third sector organisations are equipped to be part of the supply chain.</li> </ul>	Cabinet Member for Commissioning, Contracting and Improvement	October 2015

## 3.4 Tracking Progress in Implementing Recommendations

3.4.1 To keep the Partnership, Contract Performance and Third Sector Overview and Scrutiny Committee (or any successor committee) informed of progress in implementing the recommendations within this report, the Executive is recommended to report back on progress periodically. This will be carried out through the established tracking process.

	Recommendation	Responsibility	Completion Date
<b>R05</b>	Progress towards achievement of these recommendations is reported to the Partnership, Contract Performance and Third Sector Overview and Scrutiny Committee in October 2015. The Committee will schedule regular progress reports until all agreed recommendations are implemented.	Cabinet Member for Commissioning, Contracting and Improvement	October 2015



## Appendix A: Witnesses

The Committee would like to thank everyone that contributed to this Inquiry both in writing and/or attending an evidence gathering session:

Brian Carr, BVSC

Cath Gilliver, Sifa Fireside

Daisy Khera, Women's Help Centre

David Bermingham, West Midlands Special Needs Transport Ltd

Eddie Fellows and Zac Dixon, Amey PLC

Gary Jones, Penderels Trust

Gill Taylor and Kulbinder Chohan, Roshni

Jean Templeton, St Basils

John Denley, Public Health Consultant, Birmingham City Council (BCC)

John Shah and Anthony McCool, Trident Reach the People Charity

Kalvinder Kohli, Senior Service Manager: Policy & Commissioning, People Directorate, BCC

Kevin Hubery and Tracey Murray, Strategic Policy, BCC

Maria Gavin and Osaf Ahmed, Strategic & Joint Commissioning, People Directorate, BCC

Max Vaughan, Head of Evidence Based Care, BCC

Mohammed Shafique and Naeem Qureshi, Ashiana Community Project

Nasheima Sheikh, Birmingham and Solihull Women's Aid

Nic Adamson, Crime Reduction Initiative (CRI)

Nigel Kletz, Haydn Brown and Robert Cummins, Corporate Procurement, BCC

Parveen Poonia and John Freeman, Commissioning and Brokerage Managers, People Directorate, BCC

Paul Wright, Fry Housing Trust

Richard Shaw and Becky Smith, Age Concern Birmingham