

A Third Sector Commissioning Framework for Team Hackney Partners

0. Definitions

- 0.1. *The third sector: “Non-governmental organisations that are value driven and which principally reinvest their surpluses to further social, environmental or cultural objectives. It includes voluntary and community organisations, charities, social enterprises, co-operatives and mutuals.”*
- 0.2. *Commissioning: “Strategic commissioning refers to commissioning activity that is focused on setting out a clear strategy for local services to secure outcomes for the area as a whole. It is a joint activity undertaken by a range of partners with local government at the centre.”*

1. Summary

- 1.1. This Commissioning Framework proposes a consistent set of good practice principles and approaches for commissioning of third sector organisations, to be adopted by all Team Hackney partners who commission services.
- 1.2. The framework has been developed with commissioners from partner organisations in Hackney and the third sector, and has been led by Partnerships, the division within Hackney Council which supports Team Hackney and partnerships with the third sector.
- 1.3. The ultimate aim of the framework is to ensure better outcomes for local people, through more effective commissioning.

2. Why do we need a Third Sector Commissioning Framework in Hackney?

- 2.1. Public sector budget cuts are placing great pressures on statutory agencies to reduce expenditure and to achieve greater efficiencies, while still striving to achieve better outcomes for local people. There are specific pressures to deliver more efficient commissioning and procurement, through reducing transaction costs. At the same time, budgetary cuts and constraints will result in de-commissioning or reduced levels of commissioning from the third sector. There is a risk that commissioners take differing approaches to the sector, and an opportunity cost unless they work more closely to achieve more effective and efficient commissioning. The framework can also be used in response to the anticipated statutory guidance from Central Government on achieving Best Value in relation to working with the voluntary and community sector.
- 2.2. The framework therefore proposes a consistent set of good practice principles and approaches for commissioning of the third sector which is adopted by all Team Hackney partner organisations who commission services. The framework sets out the actions which will be required by all commissioners in order to achieve improvements and greater consistency,

whilst reducing transaction costs and avoiding duplication. These actions necessarily extend beyond the scope of third sector commissioning.

3. Key recommendations

- a) The formalisation of a local commissioners network which will share resources, practices, commissioning plans and information about commissioned provision
- b) To commit to using a shared evidence base for local commissioning
- c) To identify opportunities for commissioning together or aligning commissioning more closely to avoid duplication and maximise resources
- d) To develop a more consistent approach to working with the third sector, and with the third sector networks which support and represent the structure
- e) To develop good practice for setting user-centred outcomes from commissioning

3.1. Greater details on each recommendation can be found in section 7 (see page 6).

4. What is the impetus for change in Hackney?

4.1. With increasing budgetary pressures and constraints, there is a risk that, without a consistent and planned approach to commissioning, the sector and partnerships between the statutory sector and third sector will not be able to contribute to delivering local outcomes as effectively over the next few years.

4.2. Hackney's ***Sustainable Community Strategy 2008-18*** sets out Hackney's priorities for the next ten years. To meet these priorities, all partners will be required to take a strategic, co-ordinated and evidence-based approach to addressing local needs, and this will include their approach to commissioning.

4.3. In addition, there are a number of specific developments to commissioning locally and nationally which will impact the third sector and change commissioning arrangements:

- (a) **World Class Commissioning**, a Department of Health/NHS initiative aimed at developing the capacity of Primary Care Trusts – is being implemented by City and Hackney PCT
- (b) **The Commissioning Support Programme** was launched by Department for Children, Schools and Families and Department of Health in 2008. The programme will help Children's Trusts to plan, design and implement services and will cover the commissioning of all services for children, young people and their families, including health and education.

- (c) The Academy of Justice commissioning set up in 2007 by the Ministry of Justice, to support the **National Offender Management Service (NOMS)** in developing its commissioning role.
- (d) The **Transformation of Adult Social Care**, a national programme which changes the way social care services work. Future services will be focussed on an individual's needs and will give people more choice and control over their care. This will include the greater use of individual budgets and will therefore have a dramatic effect on commissioning and how services are purchased and developed. It will also open the door for a different role for the Third Sector which is being developed through a series of projects across Adult Social Care.
- (e) **Specific joint commissioning** and market development work between City and Hackney NHS (formerly the PCT) and Hackney Council which is being developed through the partnership at a senior level.
- (f) **Hackney Council's Procurement Strategy (2008/11)** with its vision for procurement which is "straightforward, professional and focussed. The implementation of the strategy includes "giving support to voluntary sector organisations and SMEs".

5. Good practice case studies identified

- 5.1. In developing this strategic commissioning framework, a snapshot of good practice from elsewhere has been reviewed:
 - (a) Commissioning activities against outcomes which are meaningful to users, and steps towards outcomes measured by the Local Area Agreement (Camden Council)
 - (b) The social benefits model –measuring the social return on investment (work led by the New Economics Foundation)
 - (c) A whole organisation commissioning approach to third sector commissioning which builds the planning of third sector involvement into financial planning (Sheffield)
 - (d) A multi-agency action plan towards achieving good practice for commissioning and the third sector (South West Peninsular).
- 5.2. This has helped to inform the actions required which are set out in sections 7 to 12 below.

6. What have we done so far?

6.1. The Hackney Compact

- 6.1.1. This is a written agreement between the public and third sector including the voluntary and community sector and other non-profit organisations, to work together for the benefit of local people. It was launched in January 2009 and has been signed by all lead Third Sector organisations and Team Hackney

partners including the Council, Learning Trust, Primary Care Trust, Metropolitan Police, Hackney Council for Voluntary Service (HCVS), Community Empowerment Network and LinkUp.

6.1.2. The Compact Principles in relation to funding are to:

- (a) Ensure funding regimes support a strong, sustainable and 'fit for purpose' third sector.
- (b) Enables local third sector organisations to play a key role in meeting Hackney's **Sustainable Community Strategy** objectives.
- (c) Invests in the development of a strong and sustainable third sector that attracts additional funding into Hackney from a range of sources

6.1.3. Further work on a 'Full Cost Recovery' code will be developed by the Council's Strategic Investment & Partnerships Team, working with the third sector and Commissioners Network.

6.2. Beacon Status 2009-10

6.2.1. In March 2009 the Council won Beacon Council status for the Team Hackney Strategic Commissioning Framework. More information is at <http://www.teamhackney.org/s-beacon.htm>

6.2.2. The strengths which were acknowledged included ones relating to the third sector:

- Inclusive, participatory partnership working
- Engagement and empowerment of local communities through the third sector
- Effective training and support to ensure widespread understanding of strategic commissioning

6.3. Developing the Framework

6.3.1. The framework has been developed in partnership with commissioners locally and has been informed by the eight good practice principles which underpin the National Programme for Third Sector Commissioning (led by the disbanded Office of the Third Sector, delivered by the former IDEA).

6.3.2. The following commissioners and procurement managers have been engaged to date through workshops and structured interviews:

- NHS City & Hackney (Formerly PCT) - Public Health and Teenage Pregnancy
- Learning Trust (Adult and Community Learning, Supplementary Schools, Early Years, Personal Best and PRU)
- Hackney Council, including:
 - Community Services (Social Services and Supporting People)
 - Children and Young People (Disabled Children and CAMHS)
 - Chief Executive's Department including Partnerships
 - Team Hackney

- Neighbourhoods & Regeneration and Partnerships & Investment
- Directorate Procurement Managers

- 6.3.3. During the structured interviews and workshops, the commissioners and procurement managers told us how they analyse need and provision, carry out planning and sourcing, and how they monitor and review their services.
- 6.3.4. This was bolstered by feedback from both statutory and third sector organisations during the consultation period on the draft framework. The consultation period ran between 16 August 2010 and 15 November 2010. The consultation survey comprised of 22 questions. 82 responses were received (68 online and 14 on paper). These responses were collated into a full report by the Council's Consultation Team. 43 participants attended three focus group sessions and had the opportunity to provide more detailed comments on the proposals. The majority of respondents agreed with the recommendations set out in the draft framework.
- 6.3.5. Findings included in the following sections have been collated from consultation feedback and information from the discussions with commissioners and procurement managers. A summary of the key findings is outlined in the following sections.
- 6.3.6. From comments and qualitative responses made during the consultation, a total of 28 specific suggestions or feedback points which could lead to specific actions were identified. A response to each of these points has been prepared and agreed, and a number of additional actions have been added to the strategy.
- 6.3.7. The recommendations below are divided into strategic and process recommendations. The strategic recommendations are a set of commitments which it is proposed are adopted by each commissioning agency, and by the Team Hackney Partnership Board. The process recommendations identify the practical steps which commissioners will need to take. It is proposed that a Commissioners Network is established as a formal group which will oversee the process recommendations in this framework.

7. Findings and recommendations 1: analysis of need and provision

7.1. Findings: Understanding need

- 7.1.1. Need is defined and understood in a diverse range of ways across the partnership. In some cases there are overarching documents which evidence need (JSNA, Sustainable Community Strategy, Local Area Agreement) and inform strategies, and from which commissioning priorities flow. In other cases specific evidence is collected about a particular issue and this informs a business case for commissioning.
- 7.1.2. The frequency with which needs are reviewed also varies. In this process, it is important not to overlook the needs of smaller communities.
- 7.1.3. The format used to develop business cases for commissioning and the way that needs assessments informs this process also varies between commissioners.
- 7.1.4. There is scope for greater sharing of evidence about need between commissioners to ensure efficiency and consistency.
- 7.1.5. New national priorities can be announced at short notice (sometimes with additional funding allocated or available through competitive bidding). Commissioning against this funding is driven by national criteria. In these cases, a local assessment of need, and consultation with the third sector may be omitted.

7.2. Findings: Understanding provision

- 7.2.1. Commissioners may have a limited understanding of the market either locally, nationally or internationally. Mapping providers may improve understanding. There may be barriers in terms of data protection and commercial confidentiality which can be resolved through clear and consistent advice.
- 7.2.2. The methodology used by commissioners to engage providers is diverse and varied. Commissioners may exclude consulting providers due to concerns about conflicts of interest, and this could be a missed opportunity to use their intelligence and experience to shape solutions to local needs and issues. There is a need to develop a more creative and dynamic approach to provider engagement, perhaps using Third Sector umbrella organisations.
- 7.2.3. It is important to open up opportunities to new providers and to develop the local market through wider provider engagement.

7.3. Recommendations

- 7.3.1. At a **strategic level**, commissioners should commit to the following principles:
 - (a) Improve their evidence base and the baseline information which informs their key strategies.

- (b) Consider the single evidence base for Hackney, which will be made available to Team Hackney partners and to all those involved in supporting the delivery of local outcomes.
- (c) Share processes used to identify need and describe consultation and involvement mechanisms, including an explanation of how the third sector are involved, as a crucial step in building consistency across the partnership.
- (d) Always inform commissioning by an assessment of local knowledge and the local community, and embed this assessment into corporate functions, rather than being an ad hoc process.
- (e) Design commissioning to meet universal and specific community needs, including the needs of communities usually excluded, as appropriate.

7.3.2. At a **process level**, the Commissioners Network should:

- (f) Identify opportunities for working together, and with the third sector, to identify community needs, using the shared ***Sustainable Community Strategy*** priorities.
- (g) Commit to achieving a greater consistency in the way that different agencies develop business cases for new commissioning, sharing business case templates if appropriate.

7.3.3. Individual commissioners will need to:

- (h) Ensure that commissioning which is driven by national priorities is also informed by a local assessment of need, and that there is fit with the Sustainable Community Strategy.

7.3.4. Third Sector Infrastructure organisations should:

- (i) Support the engagement of the third sector in helping to shape need in structured and systematic ways.

8. Findings and recommendations 2: Consulting providers

8.1. Findings

8.1.1. Communication between statutory organisations and third sector providers regarding commissioning is sometimes felt by the latter to be irregular, present-focused and lacking in breadth and co-ordination.

8.2. Recommendations

8.2.1. At a **strategic level**, commissioners should commit to the following principles:

- (a) Build in meaningful and specific consultation with providers at early stages, within a framework that does not create conflicts of interest, which manages provider and community expectations appropriately, and sets out clearly the difference the consultation may make.
- (b) Adopt a consistent approach to working with the third sector infrastructure organisations and local community networks in order to agree their role in reaching, consulting and involving providers.

8.2.2. At a **process level**, the Commissioners Network should:

- (c) Identify whether they need to consult with a common core of providers. If they do, commissioners should commit to organising consultation events together.
- (d) Share good practice guidelines about managing conflicts of interest and about structured ways to engage providers in the commissioning process, in order to achieve better outcomes from commissioning.
- (e) Explore and pilot more creative approaches to consultation with the third sector, which may add value to formal consultation mechanisms.
- (f) Explore potential for a more co-ordinated and regular medium of communication from Team Hackney partners to local third sector providers regarding current and forthcoming commissioning opportunities, and relevant issues relating to commissioning.

9. Findings and recommendations 3: Planning

9.1. Findings

- 9.1.1. Commissioners often need to work to outcomes which are 'high level' outcomes, such as those set by national government (National Indicators).
- 9.1.2. Investment can be ad hoc, or respond to a specific issue or commissioning opportunity where there are known market development needs.
- 9.1.3. Understanding and implementation of Full Cost Recovery varies between commissioners. A clear and consistent approach is required to ensure fairness and sustainability.

9.2. Recommendations: Setting outcomes

- 9.2.1. At a **strategic level**, Commissioners should commit to the following principle:
 - (a) Work together with other commissioners to develop their user engagement strategies and protocols, and ensure that outcomes are informed by users.
- 9.2.2. At a **process level**, The Commissioners Network should:
 - (b) Pilot approaches to setting outcomes which develop tiers of outputs and outcomes below the Sustainable Community Strategy and local performance indicator levels, drawing on relevant good practice and research

9.3. Recommendations: Mapping the fullest practical range of providers

- 9.3.1. At a **strategic level**, commissioners should commit to the following principle:
 - (c) Provide regular updates about the provision which they commission, within a format and forum which is agreed to by all commissioners, which avoids duplication with other reporting processes (e.g. Procurement Boards), and with transparency to third sector providers about what information is being shared.
- 9.3.2. At a **process level**, the Commissioners Network should:
 - (d) Work with each other, and the third sector, to look at their existing provider networks and identify opportunities to strengthen and consolidate existing networks and identify gaps where there is an insufficient understanding of provision.
 - (e) Develop systems for sharing information (which address data protection, confidentiality, commercial and transparency issues) about funded providers – in terms of contracts and contract deliverables and performance.

- (f) Develop a unified approach to capacity-building with third sector infrastructure organisations which meets the range of commissioners' requirements.

9.3.3. Third Sector Infrastructure organisations should:

- (g) Work with commissioners to support and bring together the local third sector through networks, building on existing investment in providers' networks.
- (h) Work with commissioners to identify and maintain information about the broadest range of providers.

9.4. Recommendations: Investing in the supply base

9.4.1. At a **strategic level**, commissioners should commit to the following principle:

- (i) Developing a unified approach to capacity-building in partnership with third sector infrastructure organisations.

9.4.2. At a **process level**, the Commissioners Network should:

- (j) Review their models of funding in the third sector and consider the role of grants when investing in the supplier base.
- (k) Identify ways to make commissioning and procurement processes more flexible in order to allow for consortium and partnership working, so that smaller suppliers who work with those who need to be reached can be involved.
- (l) Continue to work together on the full cost recovery principle as part of the Compact.

9.4.3. Third Sector Infrastructure organisations should:

- (m) Develop capacity building and training support which focuses on developing organisations' readiness for commissioning.

10. Findings and recommendations 4: Sourcing

10.1. Findings: Procurement and contracting processes

10.1.1. The approach which is adopted by commissioners to procurement, performance management and contract management can vary greatly between commissioners. This can lead to the third sector having to incur greater management costs because they are working to different contract management regimes.

10.1.2. Tenders and funding applications are time-consuming for each provider to complete and third sector organisations find it frustrating when they are rejected only after putting the time into providing in-depth information.

10.2. Findings: Contracting and risk sharing

10.2.1. Risk is managed differently by different commissioners. Some commissioners pass all the risk to the provider (e.g. only paying unit costs for outcomes, while others do not pass enough risk (e.g. still paying a provider who has not delivered effectively).

10.3. Recommendations: Procurement and contracting

10.3.1. At a **strategic level**, commissioners should commit to the following principles:

- (a) Use the Compact as a framework for setting timelines and for procurement, contracting, contract management and contract endings.
- (b) Organisations with an existing track record, knowledge and expertise of Hackney and Hackney's communities may be able to deliver better outcomes for local people, and this should be taken into account in commissioning specifications and procurement.
- (c) Recognise the value of both large, generic services and smaller, specialist services, and routinely consider whether needs can be best met by commissioning a mixture of the two.
- (d) Consider larger-scale commissioning across borough boundaries wherever this may bring benefits in terms of value for money or effectively meeting breadth of need, while remaining aware of the additional challenges this would present.

10.3.2. At a **process level**, the Commissioners Network should:

- (e) Agree a common benchmark for procurement, contract management and performance management (and specifically managing poor performance including discussing support for third sector providers in the first instance), contract reviews and de-commissioning. This would be in line with the Compact.

- (f) Commit to achieving more consistent approaches to procurement, contract management and performance management within their own agency.
- (g) Specifically, to consider the possibility of staged processes, where the programme/tender exercise allows. This can minimise the initial burden of submitting tenders and applications for third sector providers, with only shortlisted organisations being required to compile a detailed tender/bid.
- (h) Explore scope for refining procurement principles to more consistently identify the best providers over those who are simply most skilled at the tendering/bidding process.

10.3.3. Individual commissioners will need to:

- (i) Ensure they have the skills and training required to undertake procurement and contracting, and should draw on procurement professionals when needed and involve them fully.
- (j) Work within their own agencies to review procurement and contract management policies and frameworks, ensuring that they are designed to achieve the best outcomes, rather than being in place for expedience of monitoring and contracting, and report back to the Commissioners Network on any opportunities for improvement.

10.3.4. Third Sector Infrastructure organisations should:

- (k) Work with commissioners to bring the expertise of the third sector and users into the procurement process as appropriate and practicable (building for example on the model employed by Team Hackney, through which representatives from the Community Empowerment Network are involved in all tender assessment panels).
- (l) Promote commissioning opportunities, and communicate the outcomes of commissioning decisions and outcomes.
- (m) Support and mediate in certain situations, as agreed with commissioners where there are contractual difficulties or decommissioning.

10.4. Recommendations: contracts and risk sharing

10.4.1. At a **strategic level**, Commissioners should commit to the following principles:

- (n) When multi-year funding is provided by central government, this should be passed on through multi-year contracts without weakening accountability for performance (this is also a Compact Principle).
- (o) Improve their understanding of the risks they pass on to the third sector through their contracting processes, and identify which can be avoided.

10.4.2. At a **process level**, individual commissioners should:

- (p) Review the current balance of risk sharing and review whether this is creating the best framework for service delivery.
- (q) Ensure that the evidence required from providers is defined at contracting stage, and of how this links to payment, so that they are clear about how performance will be measured and the risks involved.

11. Findings and recommendations 5: Monitoring and review

11.1. Findings

11.1.1. New commissioning is not systematically informed by performance information, feedback or evaluation. In some cases, it will not be possible to establish the impact of a commissioned project until after the contract and funding has ended. Commissioners need to work together to measure the impact of investment in addressing a need, or the investment made to one provider.

11.1.2. Monitoring is sometimes perceived to be too paper-based and lacking in face-to-face contact or seeing provision in practice.

11.1.3. Providers sometimes feel that they do not receive any feedback from commissioners after a contract has ended, which would promote better design and delivery of future services they may provide.

11.2. Recommendations

11.2.1. At a **strategic level**, commissioners should commit to the following principle:

- (a) Work to a commissioning cycle so that feedback informs new commissioning.

11.2.2. At a **process level**, the Commissioners Network should:

- (b) Join up more in commissioning and in measuring the impact on service users when they are commissioning the same organisation.
- (c) Consider developing shared good practice principles for effective collection of user feedback.

11.2.3. Individual commissioners should:

- (d) Ensure user feedback is systematically collected on all commissioned contracts where possible.
- (e) Be aware that service users may sometimes be frightened to come forward or provide honest feedback, and ensure confidentiality of monitoring where possible.
- (f) Ensure where possible that monitoring includes physical visits and not just desktop reviews.
- (g) Where appropriate, tracking of outcomes should continue after the life of a contract (e.g. through longitudinal studies).
- (h) Offer clear feedback to third sector providers once their contract has ended

12. Findings and recommendations 6: General

12.1. Findings

- 12.1.1. The Compact is not fully understood by commissioners.
- 12.1.2. Full Cost Recovery is not yet understood and recognised in commissioning and contracting.
- 12.1.3. Terminology such as the 'third sector', 'small and medium enterprises' (SMEs), 'contracting', 'commissioning' and 'grants' are understood and used differently by different agencies and individuals in agencies and this can present a barrier to developing shared strategies and approaches.
- 12.1.4. There is evidence of duplication of commissioning and opportunities for collaboration on tendering, bidding and commissioning when priorities are shared.
- 12.1.5. The economic downturn has meant that there is financial pressure on all commissioners, and this will inevitably mean a reduction in funding available.

12.2. Recommendations

12.2.1. The Commissioners Network should:

- (a) Engage Compact Champions to ensure effective implementation and use of the Hackney Compact in terms of commissioning and relationships between the sectors.
- (b) Work with the Commissioners Network, the third sector and the Council's Strategic Investment & Partnerships team to ensure that the Full Cost Recovery compact code is a practical and effective tool for both sectors.
- (c) Explore opportunities to coordinate external bidding opportunities which might involve third sector partnerships or commissioning of the third sector, where feasible.
- (d) Commit to systematic ways to identify opportunities for co-commissioning or alignment of commissioning.
- (e) Explore the impact of third sector commissioning strategies in other areas which make specific commitments to commissioning the third sector or to expanding (e.g. Sheffield).
- (f) Plan and share their approaches to mitigating against the risks to the third sector posed by the current economic climate and the public sector funding cuts.
- (g) Establish the links between this strategy and other strategies within procurement (e.g. SME engagement, sustainability).

- (h) Agree shared definitions which can be referred to by local commissioners and procurement professionals.
- (i) Review this framework on a quarterly basis to meet identified outcomes and new emerging needs, and reflects common outcomes and goals – and submit an annual report on progress to the Team Hackney Board.

13. Next steps

13.1.1. Led by the Council's Strategic Investment & Partnerships team, the Commissioners Network will need to further develop the recommendations, and agree specific actions as the framework is implemented. The Network will also monitor and support progress.

Appendices

1. National Context for Third Sector Commissioning

Appendix 1

National Context for Third Sector Commissioning

The former Office of the Third Sector led a National Programme for Third Sector Commissioning (delivered by the former IDEA). Based on research by the New Economics Foundation the National Programme has published a report 'A better return' on how spending on public services can be directed to achieve the best return for communities, the environment and the public purse.

The research also looked at HM Treasury's definition of value for money. With pressure to make savings to the public purse, value for money is often interpreted as at minimum cost. At best, it is seen as the relation between financial cost and outputs, or unit cost. In fact, HM Treasury guidance requires a consideration of the full range of social, economic and environmental costs and benefits, as well as suitability to users.

The National Programme for Third Sector Commissioning has also developed eight principles of Third Sector Commissioning:

1. understanding the needs of users and other communities by ensuring that, alongside other consultees, you engage with third sector organisations as advocates to access their specialist knowledge;
2. consulting potential provider organisations, including those from the third sector and local experts, well in advance of commissioning new services, working with them to set priority outcomes for that service;
3. putting outcomes for users at the heart of the strategic planning process;
4. mapping the fullest practical range of providers with a view to understanding the contribution they could make to delivering those outcomes;
5. considering investing in the capacity of the provider base, particularly those working with hard to reach groups;
6. ensuring that contracting processes are transparent and fair, facilitating the involvement of the broadest range of suppliers, including considering sub-contracting and consortia building, where appropriate;
7. ensuring long-term contracts and risk sharing, wherever appropriate, as ways of achieving efficiency and effectiveness; and
8. seeking feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.