

**ESRC TSRC
co-centre
seminar series
2012-13**

Seminar One

The third sector as a public service provider

22 October 2012

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Seminar One
**The third sector
as a public service
provider**

This publication is produced in partnership with the Economic and Social Research Council (ESRC) and the Third Sector Research Centre (TSRC), and is part of a series of co-centre publications covering:

- **The third sector as a public service provider**
with the Centre for Market and Public Organisation (CMPO), University of Bristol
- **Social enterprise and environmental sustainability**
with the centre for Business Relationships, Accountability, Sustainability and Society (BRASS), Cardiff University
- **Entrepreneurial philanthropy and social investment in the 21st century: implications for social entrepreneurship and social innovation**
with the centre for Charitable Giving and Philanthropy (CGAP), Cass Business School, London, and the Institute for Small Business and Entrepreneurship (ISBE), London
- **Innovations in public services**
with the Innovation Research Centre (IRC), Cambridge University, and Imperial College, University of London.

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Executive Summary

Pete Alcock, Seminar Series Chair.

Director, Third Sector Research Centre, University of Birmingham



Background

Third sector organisations are increasingly being encouraged to expand their involvement in the delivery of public services. This is promoted by politicians and policy makers as a means of diversifying provision, promoting innovation and improving efficiency. It is also embraced by some organisations as a way of expanding their mission and increasing their income. However, the economic arguments for third sector engagement in service delivery have not been critically discussed; and the practical challenges faced by organisations have been argued to create significant problems for some. This seminar publication explores the economic context for third sector involvement in service delivery, and examines the emerging research evidence on the challenges faced by organisations in engaging with this.

Many changes are being made to the way public services are delivered. The new contracting landscape may be creating opportunities for some but is causing great upheaval for others. What are the benefits – and potential risks – associated with open public services? How can organisations negotiate this landscape? How can they deliver successful, properly funded, services? How can they ensure positive contracting and subcontracting relationships?

Introduction

This publication reports on a Public Policy Seminar organised by the Third Sector Research Centre (TSRC), with the Centre for Market and Public Organisation (CMPO), and supported by the Economic and Social Research Council (ESRC) held on 22 October 2012. The focus of the seminar was on the role that third sector organisations (TSOs) are playing in the delivery of public services in England, drawing on the research taking place in the TSRC at the Universities of Birmingham and Southampton, and in the Capacity Building Cluster based at CMPO, University of Bristol, which focuses on economic analysis of the sector. The seminar was held in the offices of the National Council for Voluntary Organisations (NCVO) in London.

There has been significant debate about this dimension of third sector activity over recent years, as the involvement of sector organisations in public service has grown. There is also an emerging body of literature on the topic, much of which is summarised in a 'stock take' of the field by Macmillan at TSRC in 2010, published by TSRC (Macmillan, 2010). This seminar focused on the findings from research currently undertaken in the two centres, followed by a panel discussion of some of the implications for policy and practice by active members of the policy and practice communities.

This report follows the format of the seminar and is divided into three sections. One of the interesting dimensions of these contributions, as with much other debate about the sector, is the terminology used to describe it. Third sector remains the umbrella term used by most; but it is revealing that those engaging in economic analysis tend to refer to not-for-profit organisations, contrasting these with for-profit actors in the private sector, since it is the profit motive (or lack of it) which is central to their analysis of the sector's role in these particular markets.

Section A is an overview of some key issues. Rob Macmillan and James Rees situate current debate in the context of changing public policy context and its implications for third sector engagement with public service provision. Sarah Smith addresses the key economic question of whether not-for-profit status brings a unique and quantifiable contribution to the delivery of services by third sector organisations.

Section B reviews research on the role of TSOs in four major services areas:

- Employment services, in particular the new Work Programme
- Social care, the largest field of third sector involvement
- Legal services, in particular the field of social welfare law
- Criminal justice, in particular rehabilitation of offenders.

The papers contain only brief summaries of key findings and fuller reports can be found for the completed projects on the websites of TSRC www.tsrc.ac.uk and CMPO www.bristol.ac.uk/cmipo

Section C contains the comments of the panel of policy makers and practitioners, including Stephen Aldridge from the Department for Communities and Local Government – though speaking here in a personal capacity. What is perhaps most interesting is that all of the panellists see some genuine opportunities for TSOs in engagement with public service delivery, although they recognise that this will pose challenges for organisations too. As Robin Barton concludes, "TSOs [need] to develop a clear sense of 'place' within public service markets"; and Stephen Aldridge helpfully makes a plea for.

SECTION A: academic overview

Paper One

The third sector delivering public services in an age of austerity

Rob Macmillan and James Rees (TSRC), University of Birmingham

Third sector organisations in all shapes and sizes are experiencing rapid change in the context in which they are operating. For organisations involved in delivering public services, or with aspirations to do so, the current agenda around 'Open Public Services', in a context of public spending constraints and cutbacks, signals the need to negotiate newly emerging rules, roles, and expectations. Although some of the language of 'commissioning' and 'procurement' remains a continuous thread from the previous Labour administrations, new understandings of the role of third sector in relation to the state and the private sector, coupled with the public finance austerity programme, suggests some uncharted waters for the third sector, and an 'unsettlement' of existing arrangements (Alcock et al. 2012).

A 2010 'stock-take' of third sector public service delivery (Macmillan 2010) examined evidence on practices and experiences of commissioning and procurement, fragmented support for the third sector in developing its role in public services, and a range of concerns expressed by third sector organisations and commentators about the impact of public service delivery under contract. These include compromised independence, fears of 'mission drift', loss of responsiveness and innovation, and the growth of competition and polarisation within the sector. The main overarching research question which follows this is how do third sector organisations navigate and fare in the new waters?

As Peter Taylor-Gooby has argued (Taylor-Gooby and Stoker, 2011), the current UK coalition government is attempting an unprecedented fiscal consolidation at the same time as radical institutional reform across a number of public policy fields. In June 2010, a year in advance of the 'Open Public Services' white paper, Nick Hurd, the Minister for Civil Society, was promising the sector a 'bigger slice of a shrinking cake'. Acknowledging the impact of austerity on third sector organisations, this suggested an integral role for third sector organisations in the new environment, if they could be supported through 'transition funding' to adapt and develop new models of operation. The wider adoption of commissioning across public services, has, however, emerged as a rather confused picture in terms of different policy fields, models, scales and localities. Exercises in de- or re-commissioning with reduced budgets have been accompanied

by experiments in 'payment by results' (PBR) in the Work Programme and other issues, such as policies addressing 'troubled families'. These create new models of arms-length delivery and redistribution of risk towards service providers. In a context of squeezed resources, and new sub-contracting relationships with private sector 'prime contractors', it is a highly demanding service delivery landscape for those third sector organisations that can find a place in it. The costs of under-performance are high. In one sense the new PBR environment involves 'creaming' those third sector organisations that can deliver, and 'parking' those that can't or won't.



The new context creates some significant concerns for third sector organisations. These centre around what we might call 'instrumentalism' (whether third sector organisations, in an echo of pre-1997 Conservative administrations, are regarded merely as substitutable delivery agents); heightened competition (increasing the emphasis on professionalism, demonstrating outcomes coupled with less concern for under-performers and a potential loss of a rich eco-system of local provision); and whether third sector organisations can withstand perverse incentives to pursue 'quick wins' and avoid 'difficult cases' in PBR models.

These concerns open up some significant research challenges ahead. Certain questions about the third sector's role in service delivery come to the fore. In particular:

- What (if anything) is distinctive about third sector delivery, and how, in assessing this, can the performance and operation of organisations in different sectors be compared?
- To what extent and how can the third sector's assumed distinctive contribution be recognised and accommodated in emerging approaches to commissioning?
- Does commissioning encourage integration of public services and improve outcomes? and finally
- What is the long-term impact of delivering services on third sector organisations and their users?

Some of these questions are currently being taken forward in the Third Sector Research Centre's research programme, and are reflected in other papers in this publication.

Paper Two

Not-for-profit provision of public services: an economic perspective

Sarah Smith (Department of Economics and CMPO, University of Bristol)



Suppose a non-altruistic entrepreneur had the choice of setting up as a for-profit or a not-for-profit. Which would s/he choose and why? In a key paper on the economics of not-for-profits, Glaeser and Schleifer (2001) pose this thought experiment to highlight the distinctive features of not-for-profit provision.

Choosing for-profit status, the entrepreneur could benefit fully from any financial surplus; not-for-profits, by contrast, face a “non-distribution constraint” – they cannot distribute profits – meaning that the not-for-profit entrepreneur is only able to enjoy lower-value “perks”. The main argument for why a self-interested entrepreneur would choose not-for-profit status is that, if consumers value service quality but either cannot perfectly judge quality or cannot fully contract on quality, not-for-profit status (and the absence of a profit motive) provides a guarantee to consumers that the provider will not engage in aggressive cost-cutting that would reduce quality. This is particularly relevant for many services where there is a strong care element and non-contractible quality is likely to be important. Expecting a higher level of quality, consumers will be prepared to pay a higher price. Thus the entrepreneur may be able to generate a higher level of financial surplus as a not-for-profit than as a for-profit, making it potentially attractive even for someone who is purely self-interested.

Glaeser and Schleifer’s model may not be completely realistic – many entrepreneurs setting up not-for-profits are motivated by “mission” rather than just money. But it usefully highlights the essential cost-quality trade-off that is crucial in thinking about the role of not-for-profits in public service provision (see also Grout, 2010 for further discussion). Not-for-profits are likely to provide a higher level of quality, but (*ceteris paribus*) the costs are also likely to be higher. The higher costs arise directly as a result of the higher quality, but also the level of cost-cutting pressure is lower. For-profit status is likely to be relatively more attractive to low cost providers because they will achieve higher profits. The case for not-for-profit provision is stronger where the social cost of non-contractible quality reduction is large relative to the potential cost savings that could be realised via for-profit provision.

The presence of mission adds a further dimension to not-for-profit delivery. Weisbrod (2004) conceptualises not-for-profit firms as producing a “mission good” in addition to the “revenue good”. This mission may be a higher level of quality (the extra non-contractible care, for example), access to services for disadvantaged groups or a particular ethos of the service (e.g. a Catholic adoption service). Maximising the production of this mission good is central to the objective function of non-profit firms but the mission good won’t be produced at all by for-profit organisations. In the US, evidence on the operation of the Job Training Partnership Act demonstrated the strength of mission in guiding behaviour within non-profit organisations – staff ignored obvious incentives to “game” the system by targeting better-qualified candidates, focusing instead on harder-to-reach candidates who they felt it was their mission to help (see Heckman, Heinrich and Smith, 1997). The production of mission goods is a potential benefit of opening up public service provision to not-for-profits, but clearly not all missions will be equally valuable to government funders.

The organisation’s mission can help it to attract additional donations – whether of money or time – that can help to lower the cost of provision (Francois and Vlassopoulos, 2007). In a study of legal aid provision, Moorhead et al. (2003) found that non-profit organisations were cheaper in terms of an hourly rate because wages were lower and they were able to leverage volunteer time. Looking at workers in health, education and social care, Gregg et al. (2011) show that donations of unpaid overtime are greater in the case of non-profit organisations (defined to include both not-for-profit organisations and the public sector) than they are for comparable people working in for-profit organisations. The analysis also shows that the mechanism appears to be one of selection – i.e. that motivated agents are attracted to mission-oriented organisations – and preserving the mission of the organisation is important in ensuring that these donations continue (see for example Cowley and Smith, 2011, and Dur and Zoutenbier, 2011 for a discussion of how intrinsic motivation is potentially sensitive to organisational culture).

The presence of motivated agents carries further implication for how not-for-profit organisations – and individuals within those organisations – can be incentivised. Besley and Ghatak (2005) show that motivated agents require less explicit (financial) incentivisation to provide effort. Benabou and Tirole (2006) go even further and suggest that explicit incentives may crowd out mission. Recent UK evidence presented by Delfgaauw et al. (2011) supports this idea. It shows that management tools such as targets and individual rewards and incentives are less commonly used by not-for-profit organisations within the residential care sector and fostering and adoption agencies than within comparable for-profit organisations, but that this has little effect on the overall efficiency and quality of outputs which are broadly comparable across the two types of organisations.

With the few exceptions referred to in this paper, hard evidence on how not-for-profit providers compare to for-profit providers is still relatively scarce. What should be clear from the discussion here is that it is not enough just to look at the costs of the two types of provider. For-profit firms are likely to have better incentives than not-for-profits to attain lower costs in delivery, but this is not the same as value for money, which is instead about the optimum combination of whole-of-life costs and quality (NAO, 2010; Neitzert and Ryan-Collins, 2009).

However, making valid comparisons across the sectors based on value for money is not always easy. It requires not-for-profits to be clear about their mission and the value of their mission in terms of desirable outcomes. As shown in the paper on legal aid provision by Susan Steed, it may be necessary to make adjustments for the very different types of client groups that may be served by the two types of organisations.

The UK experience of opening up public services to a variety of providers offers opportunities to make explicit comparisons between not-for-profits and for-profits. However, in order to maximise the potential of not-for-profits in public service provision, it is important to take account of what they have to offer. To the extent that not-for-profits are required to compete on costs this may fail to exploit their strengths. Much of the comparative evidence comes from the US hospital sector. Sloan (2000) conducts a review, finding that for many of the studies reviewed there are few differences in quality between private non-profit and for-profit organisations. His conclusion is that increased competition narrows any initial differences between non-profits and for-profits. This is also the finding in Schlesinger et al. (1997) in relation to the US hospital industry. Not-for-profits provide greater access (in terms of offering uncompensated care) compared to for-profits. However, with increased cost competition these differences narrowed. Heavy regulation of service provision seems likely to have a similar effect to competition. Understanding – and putting a value on – what not-for-profits have to offer is key to maximising their potential in public service provision.

SECTION B: service delivery research areas

Paper Three

Is the Work Programme working for TSOs and clients?

James Rees



TSRC has recently completed research, as part of its Service Delivery stream, into the third sector's role in the Work Programme, the Coalition government's main welfare to work programme which aims to move unemployed people into sustained employment. The Work Programme was commissioned by DWP and is delivered by a number of (mainly private sector) Prime Contractors who subcontract some or all of their delivery to a supply chain of organisations that can be from the third, private or public sector. Providers are paid by results, with only a small initial attachment fee when a client arrives with a provider; most of the payment is conditional on the client staying in employment over a period up to two years.

One of the important findings of our research has been to show the crucial importance of third (and other sector) organisations' position within those supply chains. Although press coverage has rarely made this clear, it is important to understand that subcontractors come in two main types: 'end-to-end' providers who work with a client throughout the 'journey' into employment, and 'specialist' providers who are only engaged by a prime contractor or end-to-end subcontractor if they are needed to deliver a specific service for a client. These might be clients with specific needs and barriers to work such as addiction, mental health problems, or a disability. Hence unsurprisingly we might expect third sector organisations to be called upon to deliver these services and indeed, TSOs do dominate slightly, proportionally, at the specialist level. End-to-end subcontractors take on considerable risk because the back-ended payment model is passed down to them – if they don't perform, they don't get paid – but at least they receive some guarantee of flows; on the other hand specialists usually get paid for a specific intervention, but have no guarantee of referrals.

There has been widespread concern that specialist subcontractors – and particular attention has been focused on those that are TSOs – have not been receiving the referrals that they need to make their involvement financially viable, and there have been some high profile withdrawals or even bankruptcies blamed on engagement with the programme. To understand this it is important to understand not only how the programme has been designed but also how it is working in reality.

One key issue is that many people believe that the ‘flows’ of clients have not been coming through the system as expected. This is a controversial issue, and some blame Job Centre Plus for holding back referrals into the programme in some areas. Unsurprisingly, fewer clients in the system mean that individual organisations are receiving fewer payments, but might still have to employ staff and rent premises. Of even more concern to specialist subcontractors, the composition of the flows has not been as expected. In particular, the health-related benefit groups – those regarded as being further from the labour market and thus attracting a higher payment to the provider if they stay in work – have been much lower than expected. This is mainly, it is thought, because of the appeals that individuals have been making to the Work Capability Assessment. These problems have been compounded as a result of the fact that at the commissioning stage of the programme primes were allowed to discount the prices DWP would pay, resulting in even lower resources available to subcontractors to spend on delivery or to contract with specialists.

However, another finding of the research is that these issues impact on all subcontractors at a particular level or ‘niche’ in supply chains, regardless of whether they are third sector or private sector providers. The pressures of the programme in practice push subcontractors to perform under a common Prime-dictated management regime, arguably forcing them to converge around similar approaches. This does not mean that organisations from different sectors are in identical positions – they might have distinct sectoral starting points in terms of governance and their access to capital will vary. Further, we might expect them to react to these pressures in different ways, depending on factors like their culture, ethos and organisational strategy. However, these differences remain speculative at this stage of our research; and the question of whether third sector providers do have a distinctive role to play in these still evolving forms of contracted out ‘open’ public services is something which more research will be need to explore.

The research, entitled the Third Sector Delivering Employment Services, was conducted during 2012. A working paper is currently being finalised and will be published on the TSRC website in February 2013. See here for further information:

<http://www.tsrc.ac.uk/Research/ServiceDeliverySD/Thethirdsectordeliveringemploymentservices/tabid/873/Default.aspx>

Paper Four

All change! The third sector in social care

Jenny Harlock (TSRC), University of Birmingham

Social care is the largest area of third sector activity in public service delivery. The aggregate cost of social services delivered by the third sector is estimated to be £7.2 billion per year (IFF Research, 2007), with 56% of third sector social service organisations’ income from statutory funding (Clark et al., 2012). The sector has long played a major role in the provision of social care, but that role has changed in recent years. Competitive contracting for services in place of traditional grant aid, the roll out of personal budgets for service users, calls for greater integration of health and social care, and the context of constrained public finances, have meant a rapidly changing landscape for the sector.

Seventeen in-depth interviews were carried out by the author in 2009-2010 with commissioners and third sector organisations (TSOs) delivering care and support to older people in two local authorities in England. Interviewees voiced a number of challenges and impacts for the sector in this changing context, arising chiefly from changes to commissioning and contracting practices and a competitive funding environment.

Short term contracts and piecemeal funding were frequent experiences amongst TSOs interviewed. Organisations typically received funding of one year or less, leading to annual problems of securing funds, often from various sources and increasingly via charging service users directly, in order to keep services running and staff employed. Securing funding in this way was seen as an ineffective use of managers’ time, by managers who already found themselves at a disadvantage in not being able to plan ahead. Services and staff capacity were frequently reported to be “stretched” to meet the needs of people requiring increasingly complex personal care, with implications for the quality of care provided. Recruiting, training and retraining volunteers for this type of intensive activity was a challenge for organisations, and put greater demand on management time and resources.



Smaller organisations interviewed frequently did not have the capacity, staff skills or commercial language necessary to respond to competitive tenders and manage contracts. A key concern was that larger and more experienced TSOs and for-profit organisations were “squeezing out” smaller, local TSOs from the market and “cherry picking” services, leaving TSOs to pick up more difficult cases, though it is not clear from research the extent to which this is happening in practice. Commissioners reported regularly adjusting contracting processes to improve access for smaller and specialist organisations, along with a continued use of grants for certain TSO services, to avoid losing what was perceived as vital service expertise and local knowledge. However, pressures to make efficiency savings, combined with the shift towards personal budgets for individual service users, were cited as challenges by commissioners to longer term funding for TSOs.

Research tells us we must be cautious when generalising about the impact of change for a diverse sector (Dickinson et al., 2012). Nevertheless the findings presented here, and in the wider literature on the third sector in social care, suggest a number of implications for the third sector. For smaller organisations that find it hard to access public service contracts, the roll out of personal budgets for service users may present new opportunities for delivery, managed directly with service users.

Advocacy, brokerage, and support for people to access services are likely to be expanding roles for the sector (Harlock, 2010). However wider evidence suggests the implementation of personalisation has been patchy to date, and that managing varying income streams from individual service users may present significant operational challenges for some TSOs (Dickinson and Glasby, 2010). There is growing awareness of the role that social care plays in preventing the health system from spending money on expensive acute institutional and/or hospital care, by supporting people to live independently (Dickinson et al., 2012). The findings presented here suggest that in a competitive funding environment, there are implications for social service TSOs in terms of their capacity to both meet demand and provide quality services.

What this research has not revealed is whether, and how, third sector providers will respond differently in this altered landscape to other providers. Nor has it revealed the impact of change for people using services. Future research must consider the voice and experiences of service users, as well as addressing this changing economic and policy context for the third sector.

Paper Five

To profit or not-to-profit: legal aid providers in the standard contract

Susan Steed (CMPO), University of Bristol



Recent government policy has focused on including a more diverse range of providers in the delivery of public services including the third sector. This has been accompanied by changing funding mechanisms with less grants, more contracts. In practice there is very little empirical evidence on the differences between private firms and the third sector, or the impact of competition between providers.

This paper begins to fill this gap in evidence by looking at one area of public service delivery where there are large numbers of both for-profit and non-profit providers - legal aid. In legal aid for-profit providers tend to be solicitors' practices and non-profit organisations are a much more diverse group, consisting of Citizens Advice Bureaux, law centres and other independent advice agencies.

Legal Aid

The legal aid system has undergone, and continues to undergo, rapid reform in terms of what is funded and how. Currently providers compete to deliver contracts which have a 'fixed fee' structure. This means they are paid the same for each case no matter how long it takes (although some cases are eligible for an exceptional fee) or what the outcome is.

In this research we focus on a relatively small area of social welfare law- legal help - which covers basic levels of advice and representation for people who experience a problem. We use a unique data set obtained from the Legal Services Commission (LSC) on 'all matter starts' from 2009-2010.

Key Findings

In this research we look for differences between the client base, time taken, and outcomes gained by non-profit and for-profit providers. We find:

- Significant differences between the client base of non-profit and private providers, for example, in debt and housing cases non-profits have higher numbers of clients for almost all types of reported disability.
- Large and significant differences between the time taken for different providers to complete cases with non-profits taking longer overall. For example, regression results show that non-profits spend an average of 42 minutes more on debt cases. Looking at time and outcomes together, non-profits take longer to achieve a given outcome, but these differences narrow slightly when controlling for client characteristics. So, the fact that non-profits have more complex client characteristics explains some (but not all) of the differences in time taken per case.
- Non-profit providers report more cases as ending with substantive benefit to the client – for debt cases they are 1.5 times more likely to end the case with substantive benefit, and for housing they are nearly twice as likely.

We find that non-profits report more cases that end with a substantive benefit to clients. Which outcomes constitute being of ‘substantive benefit’ is chosen by the LSC and is a key performance indicator for the contracts. In reality there is some question about whether this is a good indicator. It is constructed by selecting a range of outcomes that are defined to be ‘good outcomes’ which generally mean the case completes. This includes the rather ambiguous outcome that the client is ‘advised and able to plan and/or manage their affairs better’. Removing this outcome the difference between non-profits and for-profits on housing cases is almost eliminated. This means non-profits are more likely to report that outcome code than for-profits. At the same time, in housing non-profits are also more likely to have reported the outcome code which could be considered the ‘best’, which is that the client is housed, re-housed or retains their home.

Our results start to build a picture of non-profits as distinct from private firms in terms of taking on different clients and also spending longer on cases that lead to particular outcomes. We need to be cautious in this interpretation for two reasons. Firstly, it’s not clear that the better outcomes reported by non-profits are a direct result of them taking more time per case, and non-profits take consistently longer even for cases that end with a bad outcome. Secondly, our interpretation that non-profits have better outcomes is contingent on the definition of substantive benefit used in the performance standards, and there are some outcomes that for-profits do particularly well on. This could also be driven

by the differences between organisations that go beyond the profit motive particularly that private firms are more likely to employ solicitors.

Implications for Policy

In legal aid we find that non-profit providers take on more diverse client groups and in some cases get better outcomes. Whilst this may be something that commissioners like about the third sector, in the legal aid contracts at least, it may be hard for third sector (and private) providers to maintain these practices over the longer term. Taking on more complex cases and clients drives up advice time and penalises the fixed fee structure. If commissioners do value the contribution and outcomes of the third sector then they may need to do more to ensure these attributes are valued in the tendering process.



Paper Six

The changing role of third sector providers in offender rehabilitation

Rosie Meek (TSRC), Teesside University, and Alice Mills (TSRC),
University of Auckland



An increasing focus on supporting prisoners in the transition from custody to community, coupled with the opening up of many aspects of criminal justice services to competitive tendering, has undoubtedly expanded the number of third sector (as well as private sector) services engaging with offenders. Despite being valued by prisoners and prison staff alike for their independence, commitment and ability to be innovative, third sector organisations face considerable challenges in maintaining the services they offer, due in no small part to competition, short-term funding and budget cuts. Provision and levels of engagement can vary considerably between prison establishments, often as a result of the distinct priorities of different prison governors who have responsibility for commissioning services.

As part of our programme of research into the role of the third sector in criminal justice, we carried out just under 300 interviews with prisoners, prison staff and other stakeholders, supplemented by a national survey of 680 offenders, drawn from eight prisons and one probation trust. Our findings revealed that both offenders and criminal justice staff appreciate the expertise of third sector organisations, their links with the community and their ability to offer specialist support in the transition from custody to community. Offenders particularly valued the work of volunteers and charitable organisations, feeling reassured by their independence from the system and perceiving them as being less judgmental and more trustworthy. Despite fears of tension between third sector and criminal justice staff due to their different working practices and priorities, the threat of undermining security concerns or competition posed to public organisations by the third sector, working relationships were generally good. Prison staff recognised the value of involving third sector organisations in meeting the rehabilitative aims of imprisonment, particularly in prisons that had appointed voluntary-sector co-ordinators who could help to publicise third sector services amongst uniformed staff.

We have used existing datasets to scope the involvement of the third sector in criminal justice, revealing that nearly 11 per cent of third sector organisations in the UK claim to engage with offenders. Each prison in our study reported working with an average of 20 organisations, but findings from our offender survey revealed that on average prisoners had heard of just four and engaged with only one of these organisations. The main

reasons given by prisoners for not engaging with third sector services were that they did not feel that the services available could be of any help to them, or they did not know anything about them, suggesting that third sector services need to be better publicised. Conversely, some third sector organisations reported being concerned that they were unable to cope with the high demand for their services, a finding that was particularly apparent in the context of accommodation services and support.

Interviews with key criminal justice and third sector stakeholders also revealed that the sector was feeling 'fragile and nervous' as the implications of government proposals to expand the criminal justice market remain uncertain. TSOs working with offenders are predominantly small, local organisations with an annual income of less than £10,000. A small number of larger, national organisations dominate the sector, resulting in smaller organisations being particularly vulnerable to budget cuts and increased competition from other, better resourced third and private sector organisations and consortia. In particular, the rapidly changing commissioning landscape and a growing emphasis on payment by results have led to concerns about smaller organisations lacking the financial or human capital to compete. Furthermore, some third sector stakeholders expressed concern that accepting government funding would threaten their autonomy, leaving them unable to critique government policy or being forced to adapt their priorities to fit those of the funders, thus risking or losing their ability to advocate for service users.

We have also examined the benefits of volunteering for offenders, for example in peer support schemes or community work placements. Unsurprisingly, prisoners valued the skills developed through volunteering, which also helped to improve their self-confidence and promote pro-social identities, a valuable feature of the promotion of desistance from future offending. Engaging in volunteering was recognised as an important way for prisoners to give something back to the community and show others that they were not just criminals. But our interviewees were pessimistic about being able to continue volunteering after prison, despite the satisfaction it gave them. This was partly due to pressures on their time but also because of their criminal record, suggesting a need to work with community agencies to try and overcome such barriers.

The role of third sector organisations remains an especially contentious and interesting issue in the context of Ministry of Justice attempts to achieve better outcomes for less money. Outcomes based commissioning; competitive tendering and outsourcing also have important implications. However, despite vulnerabilities within the third sector, it remains a critical element of criminal justice and continued efforts to promote the 'rehabilitation revolution'.

SECTION C: policy and practice perspectives

Paper Seven

The third sector as public service providers: an overview

Stephen Aldridge, Director for Analysis and Innovation,
Department for Communities and Local Government



Introduction

The third sector has become increasingly involved in providing public services. This transition has presented challenges as well as opportunities for third sector organisations (TSOs). Simultaneously, the Government's Open Public Services approach to public service reform has put in place a new policy framework to capitalise on the sector's advantages in service provision. This paper briefly explores the role, challenges, and opportunities for the third sector as public service providers.

The third sector is often alternatively referred to as the voluntary and community sector or more generally as civil society. However, this paper follows the terminology used at the seminar at which these issues were discussed.

Some key facts

TSOs are generally small but they play a significant role in the economy, society and communities. For example, UK charities had a turnover of £37 billion in 2009/10, equivalent to the total yearly spend of local authorities on highways, transport, social care and police. Social enterprises are also increasing in importance, with around 68,000 such businesses in 2010 and an annual turnover of £24 billion.

In terms of public service provision, TSOs have an increasingly significant role: 41,000 of these organisations (including about one in four charities) have a direct financial relationship with government and, according to the National Survey of Charities and Social Enterprises; roughly 25% of all TSOs were active in public service delivery in 2010, up 14% from 2008. The third sector also receives a large amount of funding from central and local government. Around a third of the sector's income was from contracts, and government funds were the second largest source of income for charities in 2010 - totalling around £13 billion.

The distribution of TSOs across areas and sectors is also varied. TSOs are most active in health, adult social care and housing - over half of the sector's workforce (437,000 people) is involved in health and social care. TSOs also tend to be concentrated in the most and least deprived areas.

What is the comparative advantage of the third sector?

TSOs have a number of characteristics that could give them a comparative advantage over public and private providers (even if systematic evidence is difficult to pin down).

Close links with local communities may enable them to better reach particular groups or to better tailor services to particular needs. For example, the Third Sector Research Centre has found that service commissioners value TSOs' good reputation, strong relationships with local communities, awareness of local needs, specialist expertise and ability to achieve targets and outcomes.

The sector has access to funding through donations and campaigning (£14.3bn in 2009/10) that offer a secondary source for sustaining public service delivery. The sector also benefits from its volunteers, the willingness of its paid staff to go the extra mile and its ability to involve communities in the co-production of services. Additionally, public trust in the third sector is strong, surpassed only by doctors and police and greater than trust in social services, local councils and banks.

The fact that they are subject neither to the controls and accountability of the public sector, nor the commercial imperatives of the private sector, may allow TSOs to operate more flexibly and give them greater freedom to experiment and encourage innovation - even if they are providing services under contract. This, in turn, may allow them to be more responsive in meeting needs, to adapt more quickly to new financing structures, and to achieve outcomes more cost-effectively than other providers.

What challenges does the sector face?

The sector faces a number of challenges both in terms of levels of government funding and in competing in commissioning.

The NCVO has projected a decrease in sector income from central and local government from 2010/11 to 2015/16, meaning TSOs will need to secure new sources of funding. At the same time the fiscal pressures facing the public sector may open up opportunities for change and innovation that benefit the sector.

Funding changes may be compounded by challenges arising from new ways of commissioning and procuring services. Payment by results initiatives may, for example, pose challenges for small TSOs in managing risk. Further, many TSOs have only recently become more involved in public service delivery meaning many may not have the capacity or business acumen to compete with private sector providers in the bidding process.

Opportunities

Despite these challenges, the Government's commitment to public service reform offers important opportunities. There are five guiding principles behind the Government's approach to reform: choice and control, decentralisation, diversity of providers, accountability, and fairness.

The Government has said it will increase choice in public services wherever possible, and Departments have been tasked with developing "choice frameworks" to raise awareness of choices available in public service provision. An example is the expansion of personal budgets in health and social care.

Government is transferring powers to local government and local communities in a variety of ways, including: removing ring fencing for central government revenue grants (except for education and public health); putting in place new rights, such as the "Community Right to Challenge"; and, enabling the establishment of whole place and neighbourhood "Community Budgets" (intended to be rolled out nationally by mid-2013) which should increase the autonomy and flexibility of communities in choosing public service providers.

Public services are being opened up to a diversity of providers to enhance competition and choice through a number of actions. First, Government is encouraging commissioners to break up contracts into smaller parts in order to allow smaller organisations to provide these services. Second, Cabinet Office is setting up Big Society Capital, a £600m social investment institution geared exclusively towards lending to charities and social enterprises through financial intermediaries. Finally, the government-wide Red Tape Challenge and other initiatives are simplifying regulations that govern public service delivery.

Government is also making public services more accountable to users and taxpayers by empowering users through the facilitation of choice and improving the ease of switching providers, making commissioning more effective and transparent if user choice isn't possible, and increasing democratic accountability in many other cases. As part of making commissioning more effective, DCLG has published guidance on how

commissioners can take account of the social value of proposals in evaluating service contracts.

There are various dimensions to fairness, including how resources are allocated and the access individuals, families and communities have to public services. Reforms such as the 'Pupil Premium' are crucial in this respect but TSOs and their role in securing access to services for the most deprived are also essential.

Conclusion

The growth of the third sector as public service providers presents important opportunities, notably improving the diversity of providers and fostering innovative and responsive local services, as well as challenges, such as competitive commissioning processes and changes in funding. However, the Government's public service reform seeks to support third sector expansion into local service provision. There will be a need for ongoing research on all these issues.

Note: the author takes sole responsibility for the contents of this paper. It is not a statement of either Government or DCLG policy. Sources for all the points made can be found in the list of references.

Paper Eight

The Local Trust Approach

Debbie Ladds, Chief Executive, Local Trust



Local Trust's first and major responsibility is to deliver Big Local, an exciting opportunity for residents in 150 small geographic areas around England to use at least £1m over at least 10 years to make a massive and lasting positive difference to their communities. Through Big Local, Local Trust plans to take the process of delivering funding, services and support and turn it on its head; putting residents in control.

The investment, made through Big Local, will address the priorities residents have identified themselves. Using solutions that they have also identified, with a blend of finance (grants, social investment and commissioning); support from a range of organisations working in their area (charities, social enterprises, public services and private businesses); and together with the networking and support from the Local Trust – they will work to make a difference to their communities.

The Local Trust is using a community development approach to support and enable residents to take control and many Big Local areas are already seeing progress. The Local Trust website has links to a range of videos, blogs and websites demonstrating what is happening and how people locally are taking the opportunity to begin to make a difference to the issues they have identified and the services that are provided. There are examples of residents, charities, public sector employees (schools, police, local authorities, fire services and more), councillors, social housing organisations, credit unions, private businesses and others coming together to help make their areas even better places to live.

In terms of not-for-profit organisations delivering public services - it is useful for commissioners and not for profit organisations to consider:

- How much they talk to residents to find out what is needed and how they can continue that conversation during delivery;
- If they can 'join up' various services to provide more efficient and effective services locally;
- If they can secure funding to take a longer term approach (say five years or more);
- How open and transparent they are;
- Why a not-for-profit organisation should deliver public services and why the public sector want them to? What is the 'added value'?
- That collaboration can bring benefits, but it also takes longer and has transaction costs.

Finally, it is important to get the people they are trying to help involved at the heart of service delivery, especially in making decisions about what is needed, what is delivered, and how - making sure everything reflects back on the benefit or main outcome of their work, and constantly referring back to people who are accessing the service. The Local Trust believes that directly involving people in the services that are being delivered will mean that the services offered will be a better fit to the need, and that they will ultimately be what will set not-for-profit organisations apart.



Paper Nine

The third sector as public service providers

Robin Barton, Head of Business Development and Tendering The Salvation Army

For many third sector organisations (TSOs) the decision to play a role in public service delivery is driven not just by financial need, but the need to engage with the public services framework that supports their beneficiaries. The intertwining of charitable activities and the state is hardly a new phenomenon, but the scale, and perhaps the formality, by which TSOs are being viewed as the solution for many areas of public service delivery have no doubt heightened the debate. This paper seeks to offer a very brief perspective on two key themes that arose during the course of the recent TSRC/CMPO conference.

Independence

There is no doubt a real and genuine concern for many TSOs that their involvement in public service delivery will compromise their independence. A tightly prescribed service specification and contract can limit the freedom of a TSO provider to behave and respond in a manner consistent with TSO culture. The solution to this lies with commissioners, who need to ensure that they structure public services in a way that enables TSOs to truly add value. Outcomes-based commissioning, which frees up providers to respond flexibly to client needs, is of paramount importance.

It shouldn't be forgotten, though, that the 'independence debate' is a two-way street. The reality is that TSOs and the public sector are inter-dependent. In a range of areas, TSOs bring contributions to public services that commissioning authorities simply couldn't resource. In the field of homelessness services, for example, The Salvation Army has invested significant capital amounts in new buildings. These new facilities could not have been wholly financed by the public sector. The challenge for the future is, in times of difficult decisions about resource allocation, for the public sector

to understand the nature and extent of this interdependence, and assess the long term damage that short term decisions may have on the public services' infrastructure.

Polarisation

The prospect of the sector becoming polarised was another concern that arose during the conference. Whilst contestability and competition in public service delivery has the potential to improve standards and effectiveness¹, the sector must ensure that these benefits are maintained in the long term. Aggressive price-led competition is now a reality, and one which threatens the viability of many vital TSO delivered public services. Commissioning authorities are not without blame and the emergence of price-led procurement processes will only exacerbate the blurring of boundaries between TSOs and private sector competitors.

Conclusion

Many of the issues that arose during the conference are symptomatic of the relative immaturity of many public service markets in which TSOs are now engaged. What is needed, as the market matures, is for TSOs to develop a clear sense of 'place' within public service markets. Only then will sector polarisation reduce and strong but sustainable competition be achieved. This should enable the sector to develop a strong position as a quality-led provider of public services, able to compete on a more equal footing with the private sector.

1 Consider, for example, previous research such as P. Grout, "Private Delivery of Public Services", The Centre for Market and Public Organisation.

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Biographies



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Professor of Social Policy and Administration, Pete Alcock's research has covered the fields of poverty and anti-poverty policy, social security, and the role of the third sector. As director of the Third Sector Research Centre, he leads the development and delivery of the Centre's research programmes. He is also stream leader for the Theory and Policy and Economic and Social Impact research streams. Professor Alcock is a member of the Steering Group of the Voluntary Sector Studies Network, and is Chair of the Editorial Management Board of Voluntary Sector Review. He is a former Chair of the Social Policy Association and of the Editorial Board of the Journal of Social Policy. He is also a member of the Editorial Boards of the Journal of Poverty and Social Justice, and Public Management Review.

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Stephen is Director for Analysis and Innovation at the Department for Communities and Local Government. A government economist by background, he was previously Chief Economist and then Director of the Strategy Unit in the Cabinet Office. He has also worked in the Department of Trade and Industry; the Department of the Environment, Transport and the Regions; the Cabinet Secretariats; and Her Majesty's Treasury.

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Robin is responsible for the Salvation Army's business development activity across the UK and Republic of Ireland. This covers a diverse portfolio of public service contracts, in areas that include homelessness services, employment services, and support services for victims of human trafficking. The latter is delivered as a prime contract, in partnership with a range of third sector providers. Robin has written about public service contracting for the Third Sector, Public Procurement Law Review and European Law Review.

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(Dr) Jenny Harlock is a Research Fellow at the TSRC, where she is currently researching performance and impact measurement in third sector delivery of public services. Previously she was Programme Manager for the Department of Health Voluntary Sector Strategic Partnership Programme for the National Care Forum and Voluntary Organisations' Disability Group for three years. Prior to that Jenny led NCVO's research into personalisation of adult social care and its implications for the third sector. She

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Debbie Ladds, CEO, Local Trust

Debbie is the first chief executive of Local Trust which is delivering Big Local - an exciting groundbreaking opportunity for residents in 150 areas around England to use at least £1 million to make a massive and lasting positive difference to their communities over at least 10 years. Big Local brings together local talent, ambitions, skills and energy from individuals, groups and organisations who want to make their area an even better place to live. Big Local is funded by £200m from the Big Lottery Fund and supported by a range of national and local partners.

Debbie has a background in the voluntary and community sector, particularly with community development, youth and disability charities. Debbie was previously deputy chief executive of the Community Development Foundation, where she developed and delivered a range of government programmes including Grassroots Grants, Hardship Fund, Faiths in Action and the National Empowerment Partnership programme.

Prior to joining the Community Development Foundation Debbie spent a year as Director of children's services at Whizz-Kidz where she was responsible for the strategic and operational management of service delivery providing customised mobility equipment and training to disabled young people throughout the UK. In her spare time Debbie has held a range of volunteer and trustee roles including with Elfrida Rathbone Camden, Scouting, Whizz-Kidz, and Health Projects Abroad.

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Rob Macmillan is a Research Fellow at the ESRC's Third Sector Research Centre where he coordinates the 'Real Times' qualitative longitudinal study of third sector organisations. This involves in-depth case study research following the fortunes, strategies, challenges and performance of a diverse group of third sector organisations and activities over time. His main research interests are around the role of capacity-building and infrastructure support, competition and collaboration between organisations in the sector, and the challenges of sustainable funding. Recent work at TSRC includes papers on third sector leadership, distinctiveness claims in the third sector, the Big Society, and making markets in third sector infrastructure. Rob is also the research lead for a series of dialogues on 'Third Sector Futures' hosted by TSRC between September 2012 and April 2013.

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James Rees is a Research Fellow at TSRC. His research concentrates on transformations in UK public services especially the role of the third sector. Recent research at TSRC has focused on cross-sector partnerships for public service delivery; the role of the sector in employment services, especially the Work Programme; and currently the implications of new commissioning arrangements. He also has long standing research interests in urban and regional governance, with a particular focus on the politics of city-regionalism; critical perspectives on urban housing market restructuring and housing policy; and more broadly on issues in urban regeneration, neighbourhoods and community.

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Sarah Smith is Professor of Economics at the University of Bristol (since 2010) and a Research Associate at the Institute for Fiscal Studies. She is also Director of the Capacity Building Cluster on the economic impact of the third sector. Funded by the ESRC and the former Office of the Third Sector, the cluster supports a number of partnership projects with not-for-profits to carry out analysis and impact evaluation. She previously worked as an economist at the IFS, as an economic adviser at HM Treasury, as head of regulatory economics at the Financial Services Authority, and as a lecturer at the London School of Economics.

Susan Steed, Centre for Market and Public Organisation (CMPO) and New Economics Foundation (NEF)

Susan is studying for a PhD at CMPO, Bristol University, looking at the impact of performance measurement in public services with a particular focus on non-profit organisations. She is also involved in a project with Bristol CAB and is currently on the Justice for All Commission. She also works at the New Economics Foundation, where she has worked on several projects in public sector commissioning. She is currently working on a European funded project evaluating the impact of complementary currencies and is one of the founders of the Brixton Pound.

Robin Barton, Head of Business Development, the Salvation Army

Robin is responsible for the Salvation Army's business development activity across the UK and Republic of Ireland. This covers a diverse portfolio of public service contracts, in areas that include homelessness services, employment services, and support services for victims of human trafficking. The latter is delivered as a prime contract, in partnership with a range of third sector providers. Robin has written about public service contracting for the Third Sector, Public Procurement Law Review and European Law Review.

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