

Public sector


delivery

through the **third** sector

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Unions21



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Debate

Unions 21 exists to provide an 'open space' for discussion on the future of the trade union movement and help build tomorrow's unions in the UK.

We are mainly resourced by contributions from trade unions and others who work with trade unions that recognise we need to keep the movement evolving in an ever changing world. We encourage discussion on tomorrow's unions through publications, conferences, seminars and similar activities.

The *Debate* series of publications present opinions upon the challenges trade unions are facing, solutions they may consider and best practice they may adopt. These opinions are not endorsed by Unions 21, but are published by us to encourage the much needed, sensible and realistic debate that is required if the trade union movement is going to prosper.

This contribution to our *Debate* series differs from those published previously in that it offers two distinct perspectives, in this case on the role of the so-called third (or voluntary) sector in public service delivery. It stems from a fringe meeting organised by Unions 21 at the 2007 Trades Union Congress on the theme, *Beyond privatisation: towards a new compact for the public sector*. That meeting was essentially concerned with dealing with the practical consequences of privatisation, both for members and for service delivery, despite union opposition to it. It demonstrated a clear appetite from a range of unions to think in more detail about the issues raised, to learn from each other about involvement with the voluntary sector, and to explore the possibility of dialogue with decent voluntary sector employers.

Hugh Lanning, Deputy General Secretary of the Public and Commercial Services Union, spoke at our fringe meeting and has developed his contribution in this *Debate* piece and Stuart Etherington contributes on behalf of the National Council for Voluntary Organisations. Both contributors highlight some significant issues to address including service quality and ethos; equity and accountability; and staff skills and terms and conditions. These are all live issues for debate.

Please read and consider this publication, forward it to others connected to the trade union movement and debate the content within your own organisation.

Sue Ferns

Chair of the Steering Committee

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Other titles in our *Debate* series:

The EU – the next 50 years

The future for unions

Completing the revolution: the challenge trade unions face in tackling sex inequalities

Section I: A third sector perspective

Stuart Etherington

Chief Executive, National Council for
Voluntary Organisations

Introduction

The desire to see public services transformed remains a core government imperative. Voluntary and community organisations (VCOs) share that objective. Organisations in our sector witness on a daily basis the problems individual citizens, or indeed whole communities, can experience in trying to access good quality public services that truly address their needs, in ways in which they feel comfortable with. Many VCOs emerged in response to failings in the public or private sectors: to fill gaps left by the other two sectors, or to campaign and advocate on behalf of people not receiving services they deserved or were entitled to. These remain important roles for the voluntary and community sector (VCS). We will always be there to champion the needs of marginalised or minority groups, to develop new or innovative services and to support people to access the services they are entitled to.

But increasingly VCOs are playing a direct role at the heart of public service delivery. Of course, this is not new, we could go back a couple of hundred years and find contracts between government and charities. And, obviously, the move at the end of the 1980s to compulsory competitive tendering meant that many VCOs entered into public service delivery contracts. But there has been a change over the last 10 years. Government sees VCOs as key players in the transformation of public services; indeed all three of the main political parties talk of the importance of the sector in public service delivery. Income from contracts is now worth £5.3 billion, accounting for 20 percent of the sector's income. This is an important shift but we should not overplay it: whilst government contracts account for a significant proportion of the sector's income, there are still many VCOs who take few or no contracts, and the sector still accounts for only a tiny percentage of public expenditure on public services.

I welcome this recognition across government that my sector can make an important contribution to public service delivery. But I also recognise that where the sector takes on contracts to deliver public services there can be a range of potential implications, both positive and potentially negative, that we need to understand and manage. There will be an impact on the people and communities who receive the services, on the staff who deliver them, and on VCOs that enter into contracts. It is my firm belief that VCOs play a crucial role in the agenda of public service transformation. But I also firmly believe that such transformation will not be achieved simply by transferring services from one sector to another.

In my view the over-riding consideration behind all public services must be what is in the best interests of citizens and communities. Transformed public services will be centered on the needs of the citizen and the community, rather than the needs or preferences of the producer or the funder. The role of statutory agencies must be to determine service needs, in consultation with service users and local communities, and then identify who is best placed to deliver them. For this reason I do not support setting targets for the percentage of public service contracts that should go to the VCS, or indeed to the private sector or the public sector. Of course, my expectation is that we are most likely to achieve effective and transformed public services through a mixed economy of provision, in which VCOs will play a key role. But all providers need to demonstrate their value; we should not make assumptions about the skills or abilities of any without evidence.

Key issues in public service delivery

So let me turn now to some of the issues that public service delivery by VCOs raises. The first is a need for us to be clear about the potential benefits of the sector's

engagement in the delivery of public services. Government often talks of the 'added value' of the sector. This has been summarised in a variety of government documents to include a strong focus on service users, specialist knowledge and skills, flexibility and the ability to join up services, greater scope for innovation, and high levels of trust from users. I think there are two problems with this approach. Firstly, I would question why it is an 'added' value. In my view this represents the full or distinctive value of VCOs. If these are benefits that the statutory sector wants to bring to public services, then they should be properly specified when services are commissioned and procured. The second problem is a tendency to assume that these values automatically pertain to organisations in the voluntary and community sector. But the VCS is no different from any other sector, some organisations perform well, others less so. Funders are rightly starting to challenge this assumption, for example, the recent Audit Commission report. So, as we move forward it will be important that funders are clear what it is they want to purchase, not expecting that they will or should receive some sort of free benefit from working with VCOs, but equally VCOs need to become better at articulating and demonstrating the value they provide.

That said I do think we bring something different to the table that can benefit service users and communities. In my view the real distinctive value of VCOs is that they are value-based and value-driven. I would not, for one moment, suggest that VCOs have the monopoly on values. But we are different in that it is our values that drive our organisations, as well as inspiring our staff and our volunteers. At our best this does bring a different approach to the way we operate which benefits those we exist to serve.

It is also important to understand the limitations on the role the VCS can play. We do not provide universality or equity. This does not undermine the case for VCOs taking on public service contracts, but it is important to understand our role in relation to statutory services and democratically elected government. The sector will never have the capacity to provide universal services and the responsibility for equity should remain with the public sector. And this is why the VCS cannot meet the challenge of public service reform alone; indeed it does not want to. A mixed economy of providers is essential.

The other thing we do not pretend to offer is democratic accountability. I have often seen this used as an argument either for the sector not to be given contracts, or to apply public sector models of audit and accountability to VCOs. Such arguments are fundamentally flawed. VCOs operate within a range of accountability models. Charities have reporting requirements to the Charity Commission, those that are companies limited by guarantee are also regulated by Companies House. And VCOs operating within certain sectors, for example health or social care, must comply with the same regulations as any other organisation. At least as important is the fact that we are also accountable to our supporters, donors and volunteers, and to our users. But the crucial point is that where public service contracts are concerned, VCOs are accountable through the contract to the public service funder. It would be entirely inappropriate for them to be more widely accountable to the electorate for those services, because elected government, national or local, cannot pass on their accountability for the services their communities receive.

Let me finally turn to the issue of working practices within the sector. Those opposed to VCOs delivering public services often argue that VCOs are a cheap option because they offer poor terms and conditions to their staff. And for many in the public

sector there is a concern that this will drag down terms and conditions, especially if staff are transferred from the public to the voluntary sector.

The VCS does not aspire to be the cheap option, and it does not want to take advantage of its staff. After all, as I have already said we are a value driven sector and our principles include valuing our workforce and encouraging their participation in the workplace. But the reality all too often is that the contracts we are offered by statutory funders create management problems. VCOs are still struggling to obtain contracts that meet their costs in full. Funders are unwilling to allow for the costs of staff training or development; contracts that are frozen year on year make it all but impossible for VCOs to award pay rises to their staff. These are issues that need to be addressed, and we have been working with government to address them through proper implementation of the *2006 Public Services Action Plan*. In addition we have been calling on the Government to introduce a dedicated Sector Skills Council.

I want to see organisations in my sector offer fair terms and conditions that enable them to retain and effectively reward the committed and high quality staff that we have. However, I do not believe that we should be expected to simply replicate the employment practices of the public sector, or indeed the private sector. VCOs should be given the freedom and flexibility to develop practices that are suited to their staff and circumstances. The National Council for Voluntary Organisations works with its members to promote and encourage good employment practices. And I suspect that there are a number of areas in which other sectors could learn from us; staff working for VCOs often have greater opportunities for flexible working and a range of non-financial benefits. And the sector as a whole employs a higher percentage of women and people with disabilities than either the public or the private sectors.

I recognise that for staff working in public services, a period of change and unease may occur when organisations come together to work on a contract, or when they are transferred to work in another organisation. The uncertainty that can be created when this happens has been seen all too clearly in the Department for Work and Pensions' *Pathways to Work* contract. Here, confusion over the TUPE rules has resulted in VCOs losing out in contract bids to the private sector. Government needs to be clear about where TUPE applies, and ensure that bidders from all sectors comply with their legal obligations and factor the cost of TUPE into their bids. But it is just as important to ensure that issues around the transfer of terms and conditions, new employment practices and procedures and differences in organisational culture are sensitively managed and ironed out.

Conclusion

There is a lot of potential for the sector's involvement in the transformation of public services, providing that the Government is committed to ensuring that the sector has a role in all stages of public service design and delivery, they are clear about the outcomes they want to achieve, and this is built into the contract. To balance this, the sector also needs to be given the freedom and flexibility to do this in a way that works for them and that includes identifying their own employment practices. This will raise issues for unions as to how they respond to a changing climate, and is a matter for them to discuss. However, it must not be forgotten that the voluntary sector and unions have a number of shared objectives, including a vibrant work force, quality public services and a strong civil society. This provides a lot of ground for partnership working and I hope that this can be explored further in the coming months.

Public sector delivery
through the third sector

Part I: A third sector perspective

Stuart Etherington
Chief Executive, National Council for
Voluntary Organisations

Section II: A Trades Union perspective

Hugh Lanning

Deputy General Secretary, Public and
Commercial Services Union

Introduction

The Public and Commercial Services Union (PCS) has 315,000 members and represents the majority of staff in the civil service. It also represents members who continue to carry out public service functions now situated in the private sector. Union members span central government, its many entities, tasks and priorities. Members are not only providers of services but recipients too.

The Union's aims of improving the conditions of members' working lives and raising issues of service quality and provision continue to be supported by PCS members through an active and democratic network of lay representatives throughout the UK.

The provision and delivery of public services are important issues of our time and it is a common interest to be able to ensure services work well, are easy to use, provide value for money to the taxpayer and act as a vehicle to improve people's lives. The PCS does not believe these are mutually exclusive aspirations.

Which way?

It was a progressive step to move away from Victorian philanthropy towards a model of universal entitlements and benefits delivered by the state. Central to this progression was the ability to provide services that were fair, free and universal.

The climate within the civil service has been very difficult for our members since 2003. Staff remaining in employment have continued to watch colleagues being made redundant in the name of improved service provision. Civil service numbers will continue to fall under current plans; there are 15,910 fewer civil servants than one year ago and almost 75,000 jobs have gone since 2004.

Further cuts continue as a result of the latest comprehensive spending review and we continue to be concerned about the threat of compulsory redundancies. Many local offices have closed; there are on-going cuts in the resources allocated to organisational priorities, including ever more restrictive departmental expenditure limits alongside many legislative, programmatic and service delivery changes. These have also been accompanied by attacks on pay levels, some draconian changes to working patterns and no relaxation in the extent of contracting out.

Third sector funding

According to the Centre for Economic and Business Research, people in the City will receive £7.4 billion in payouts this year. But total charitable income in the UK has barely shifted in the last 10 years. *The Sunday Times* rich list shows the wealth of the richest 1,000 people in the country has trebled¹.

Each year charities take in around £41 billion of which £13 billion comes from the public, companies and trusts. Of that figure, £8.9 billion is from individuals and companies. That equates to just 0.76 percent of GDP. Goldman Sachs International donates 0.32 percent of its pre-tax profits to charity whilst Morgan Stanley International donates 0.17 percent².

The PCS believes this shows the flawed nature of a reliance on modern philanthropists. However, with the Government's help, the third sector could reap more financial rewards from individuals and business to generate their own finances for added value service provision rather than compete with existing in-house providers for limited government money.

¹ Should the City give more to charity?
Chris Blackhurst,
The Evening Standard,
13 December 2007.

² *Ibid.*

Definitions

The generic reference to the third sector itself is misleading: the sector is not one homogeneous grouping. The sector is composed of non-profit making voluntary and community groups, hybrid governmental-charities, long established charities and profit-seeking businesses. We recognise that they have different priorities ranging from campaign-based approaches used to empower and involve users, through to those who aim to increase their own market share of public contracts³.

Roles

The PCS would like to continue to extend its joint working with some parts of the third sector. The PCS welcomes partnership working to enhance the quality of service provision and wants to support organisations that use charitable means to have a positive impact.

The PCS is concerned that some organisations have become increasingly dependent on government contracts for their income; the shift in role risks a loss of trust in the voluntary and community sector as they move from being advocates on behalf of their client group to being arms length or quasi-government organisations implementing policy.

The role of service provision by government is fundamentally different from that of the third sector. It is much broader and more complex. For the state to be successful it also has to devise and implement cross cutting, joined-up government strategies so it can effectively improve people's lives.

The third sector can add value but cannot in any significant way replace the state as a core service provider if we are to retain free, fair, accessible public services.

Capacity

No other organisation that can be compared to the state has the nationwide presence enjoyed by the Government with its network of offices on every high street. The state is unequalled in its capacity and ability to deliver.

The state already has the ability to gather information and carry out large scale research which can be used to identify, develop and implement government priorities such as improving the health of citizens, getting people into work, reducing levels of child poverty and illiteracy rates.

The state already has the skills and expertise to deliver public services effectively, this is illustrated by a proven track record of successful delivery ranging from employment programmes to the collation of national statistics. We want to see this work continue to be provided by central government and its agencies rather than the current proposals to privatise and outsource.

Governmental goals are arguably harder to achieve once the state is whittled down to become nothing more than a strategy generator or contract regulator.

One advantage of in-house provision is that it does not require resources to be diverted from front-line services to contract management. In the current tight financial climate it can make little sense (and goes against government policy) to divert resources from the front-line to backroom functions such as procurement.

³ Third Sector Provision of Employment Related Services. Steve Davies, published by the PCS.

⁴ We must keep religion
out of public services.

Andrew Capson,
The Guardian: Society,
5 December 2007.

⁵ *Ibid.*

⁶ The price of complacency.
Martin Narey,
The Guardian: Society,
5 December 2007.

Priorities

The transfer of work to the third sector also carries the risk of external organisational priorities influencing how services are provided. This is a particular danger with faith-based groups as is demonstrated by the following examples:

- Pecan (a former JobCentre Plus contractor) in their equal opportunities contract stated, 'to maintain Pecan's Christian distinctiveness to serve the aims and objectives of the charity'⁴.
- The Salvation Army at the parliamentary joint committee on human rights argued, 'whilst it is appropriate for the state to be religiously neutral, this is impossible for an organisation such as the Salvation Army, which delivers its services as a direct outworking of the Christian faith'⁵.

Organisations delivering core public services should be impartial and unbiased.

Organisations can also withdraw from contracts, as exemplified in both Australia and the United States in relation to welfare to work programmes. The risk involved in contracting out is never transferred: if all else fails, the state will be forced to take responsibility, pick up the mess and continue to provide for the needs of its citizens.

Accountability

Public services provided by the state are more open, democratic and accountable. They are answerable ultimately at the ballot box but also to parliamentary scrutiny rather than a board of individuals or shareholders.

Citizens when accessing services can be confident about transparent decision-making processes and their entitlement to challenge decisions by appeal.

Diversity

The third sector is not subject to the same controls as public bodies. The Government as an employer has enhanced duties to promote equality and reduce discrimination.

The Government as an employer also has a better record of promoting diversity in employment. We support the state sector's steps to ensure the workforce it employs is representative of the population as a whole.

Evidence

The Audit Commission concluded this year that, 'there is very little evidence, at either national or local level, on the performance and value for money secured from voluntary sector providers'.

The Chief Executive from Barnardo's concluded that, 'the successful charities of the next decade will be those that can drive down central costs, make their services competitive on price so that the private sector struggles to undercut them...'⁶

There is no conclusive evidence that suggests the UK has anything to gain from a substantial increase in third sector provision of state services. Contracts so far tend to be awarded to the biggest and cheapest bid. Many service outsourcing contracts have gone over budget and some have been brought back in-house because they have failed. The assumption that the transference of services would make delivery

cheaper and less bureaucratic is not supported. If a more holistic approach to costs is considered, contracting out is more expensive than direct provision.

The desire for better public services to improve people's lives should be sufficiently resourced and delivered by the state.

Conclusion

It is often forgotten that Trade Unions are themselves major voluntary organisations. The third sector, not for profit organisations, should be supported and funded by the state to do what they do best; the things the state cannot do or cannot do well.

The third sector should not be used as camouflage for privatisation by stealth, transferring public services to be run on the cheap essentially for private gain rather than public good.

It might be unfashionable to be enthusiastic about public services, but it is public services funded through taxation that are the bedrock of modern civilisation, indeed that bureaucracy is the essential building block of the modern state⁷.

The efficient running of public services should not be counterposed with support of the third sector; both should be supported to do what they do best.

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Part II: A Trades Union perspective

Hugh Lanning
Deputy General Secretary, Public and
Commercial Services Union

⁷ Guns, Gems and
Steel: The Fates of
Human Societies.
Jared M Diamond,
WW Norton & Co, 1997.

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* Charity Finance magazine – April 2007

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