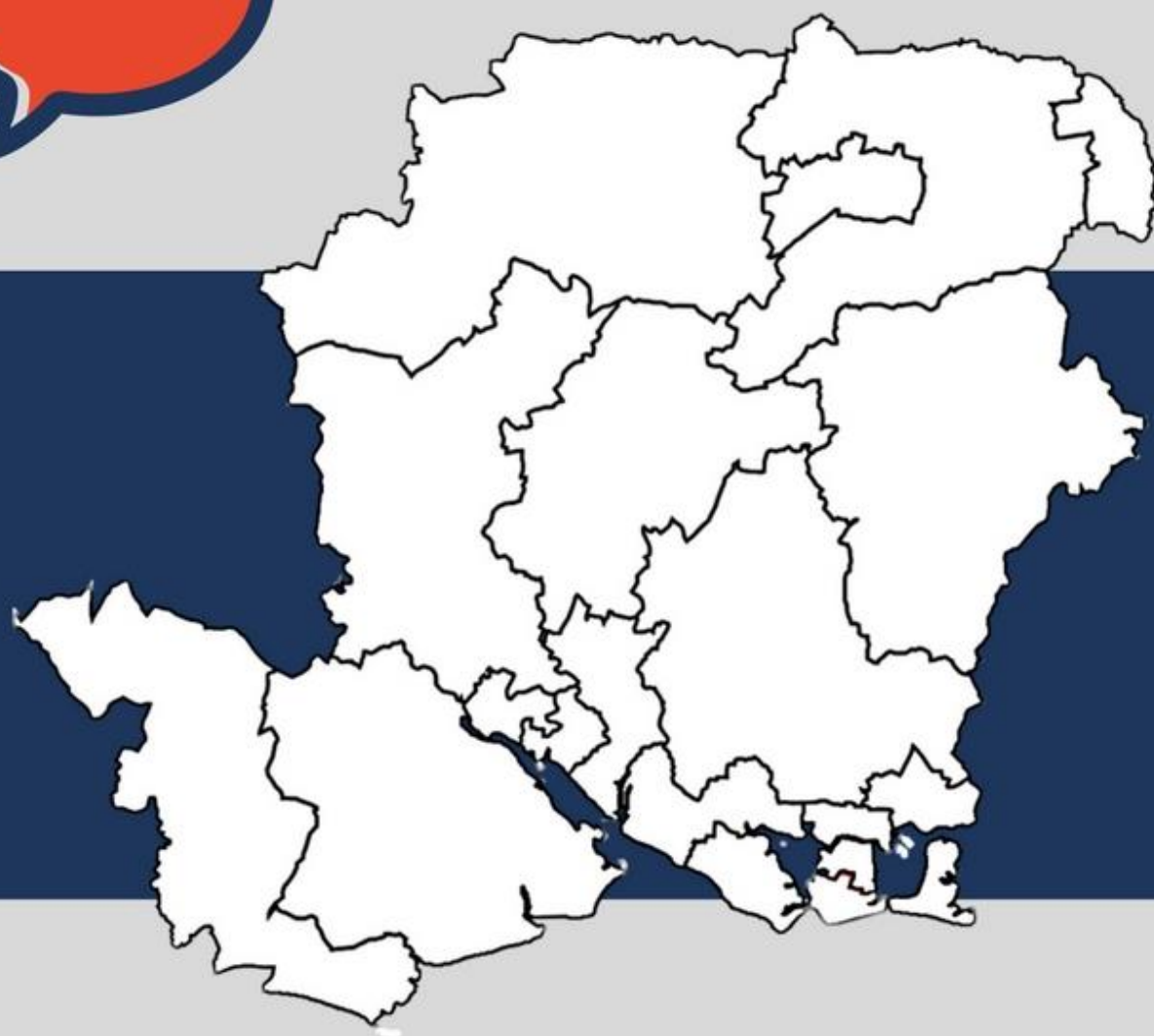


LOCAL COMMISSIONING

THE EXPERIENCES OF HAMPSHIRE'S VOLUNTARY SECTOR

SURVEY, FEB 2018



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Introduction

Lloyds Bank Foundation recently published a report: *“Commissioning in Crisis. How current contracting and procurement processes threaten the survival of small charities”*. They carried out research with a range of smaller charities across the UK and found that:

“All of the evidence shared in this report unequivocally demonstrates that the current approach to commissioning is in crisis. ... It is seen most prominently in the marginalisation of small and medium-sized charities. ... Small and medium-sized charities losing out on the opportunity to provide services should be a concern for us all because it reflects the loss of the local expertise and an understanding of which is critical in making sure that Government does not leave any individuals or communities behind. ... it is essential that commissioning works for small and medium-sized charities. They are the beating heart of a thriving society and are the only way to make sure that everyone can access the services they need and deserve.”

The report made alarming reading, so Action Hampshire carried out its own survey to see if findings were replicated at a local level in Hampshire. This report is the result of the survey.

Methodology

An on-line survey was circulated through our voluntary sector networks in October and November 2017.

There were 12 questions asked relating to local commissioning practices. Most were tick boxes, with an option for adding narrative. We specified that the questions were only related to contracts – grants and service level agreements were not within the scope of the research.

181 responses were received and analysed in Excel. Respondents very generously provided a great deal of narrative richness – suggesting that this was a subject they felt strongly about.

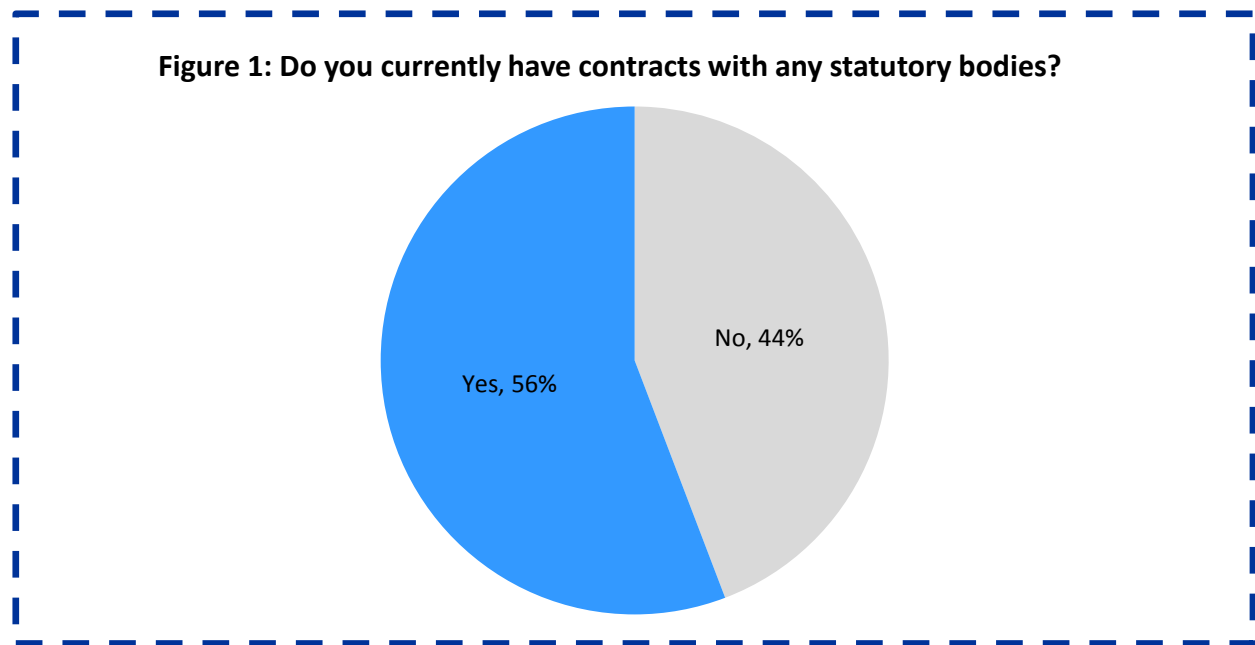
The final question asked if they would like to be invited to an event to discuss how we could improve commissioning at a local level. **46%** of respondents said that they would like to be invited.

Results

1. Do you currently have contracts with any of the following?

Respondents were asked if they had contracts with any public sector bodies. They were provided with a number of options and a narrative text box. Respondents could choose as many options as were appropriate to their organisation.

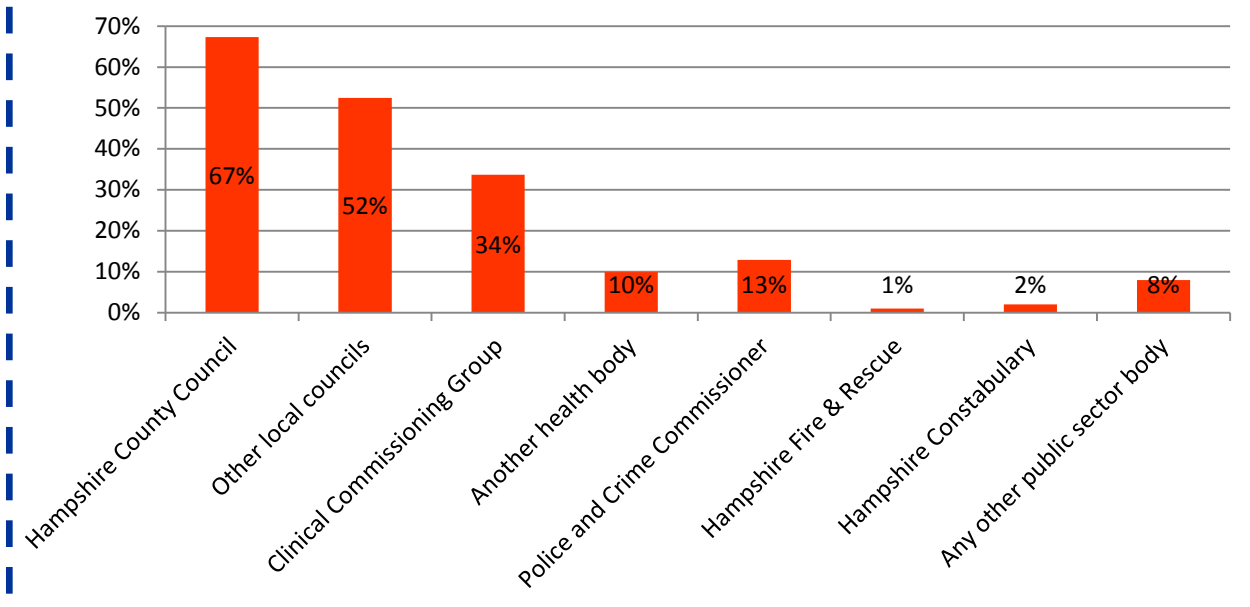
As can be seen in [Figure 1](#) below, almost 60% of respondents said that they currently had contracts with statutory bodies.



Of those holding public sector contracts, the largest proportion of respondents reported having contracts with Hampshire County Council (67%), followed by “other local councils” (52%) (see [Figure 2](#) overleaf).

Very few respondents held contracts with either Hampshire Fire & Rescue (1 respondent) or Hampshire Constabulary (2 respondents).

Figure 2: Which public bodies do you have contracts with?



Many respondents provided further narrative detail. The number in brackets denotes the number of respondents who said they held current contracts with each body.

Wider Hampshire Local Authorities

Basingstoke & Deane (2)
 Eastleigh (2)
 Gosport (1)
 Havant (2)
 Isle of Wight (2)
 New Forest (1)
 Portsmouth (20)
 Rushmoor (1)
 Southampton (15)
 Various' Hampshire district councils (3)
 Winchester (1)

Other Health Bodies

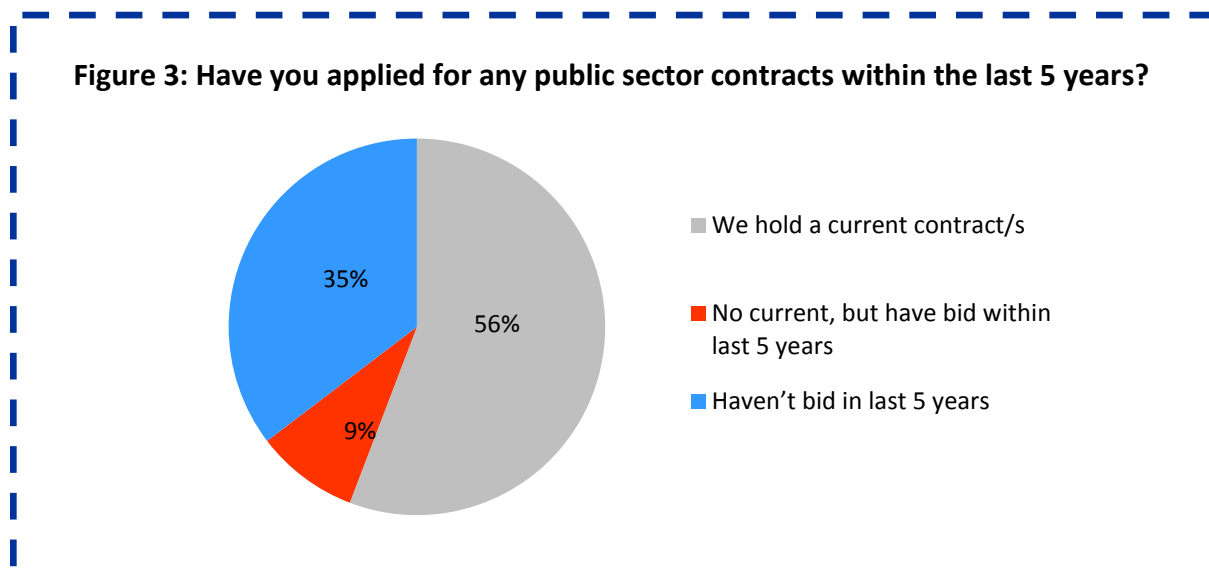
Eastleigh Southern Parishes - GP Federation (1)
 North Hants NHS Trust (1)
 SALUS GP Federation (2)
 Solent NHS Trust (1)
 Southern Health NHS Foundation Trust (2)
 Surrey and Borders Partnership NHS
 Foundation Trust (1)

Other Local Authorities

Barnet (1)
 Berkshire Unitaries (1)
 Bournemouth (3)
 Bromley (2)
 Dorset (4)
 Ealing (1)
 Hillingdon (1)
 Lambeth (1)
 Oxfordshire (2)
 Poole (3)
 Reading (1)
 Southwark (1)
 Surrey (3)
 West Berkshire (3)
 West Sussex (2)
 Wiltshire (2)
 Windsor and Maidenhead (2)

2. Have you applied for contracts (successfully or unsuccessfully) with *other* statutory bodies within the last 5 years?

A majority of respondents (62%) said that they *hadn't* applied for contracts with *other* statutory bodies within the last 5 years. However, if we include the responses to Question 1, we can see that approximately 65% of respondents either hold a current contract or have applied for a contract in the last 5 years (Figure 3).



26 commissioning organisations were cited in response to this question. The number in brackets denotes how any respondents said they had applied to this body. Again, Hampshire County Council was mentioned by the most respondents (24), with Hampshire Fire & Rescue and Hampshire Constabulary not being mentioned at all.

Within Hampshire

Basingstoke and Deane BC (1)
 Unspecified CCG (2)
 District councils (4)
 Eastleigh BC (1)
 Hampshire CC (24)
 IOW Council (3)
 Mental health services (1)
 North East Hants and Farnham CCG (3)
 Police & Crime Commissioner¹ (5)
 Portsmouth CC (5)
 Rushmoor BC (1)
 Solent NHS Foundation Trust (1)
 Southampton CC (6)
 Southampton CCG (1)
 Winchester CC (2)
 Too many to mention (1)

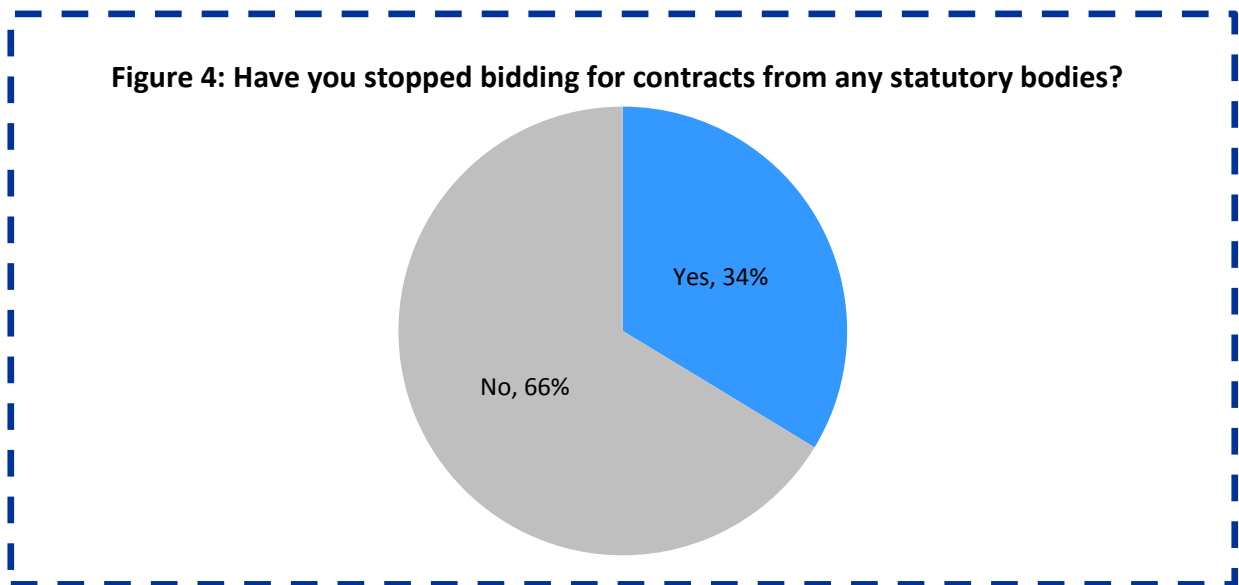
Outside Hampshire

Bristol CC (1)
 DoH (1)
 Dorset CC (2)
 DWP (2)
 Education & Skills Funding Agency (1)
 NHS (2)
 MoJ (2)
 North Somerset CC (1)
 Police & Crime Commissioner Dorset (1)
 West Sussex CC (1)
 Wiltshire CC (1)

¹ We suspect that some of these may in fact be grants rather than contracts.
 Action Hampshire, Feb 2018

3. Have you stopped bidding for contracts from any statutory bodies?

Respondents were asked if they had stopped bidding for contracts from any statutory bodies. As can be seen from [Figure 4](#) below, of those who were eligible for the analysis², 34% said that they *had* stopped bidding for statutory contracts.



The reasons given for stopping bidding for contracts were varied, however some clear themes emerged:

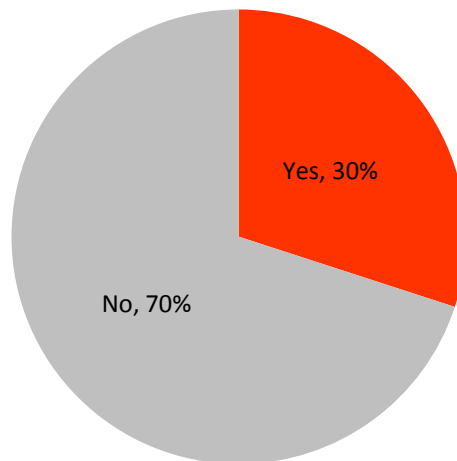
- **Complexity and time consuming nature of process**
- **Contracts becoming larger and less appropriate for small/medium sized organisations**
- **Contracts underfunded and likely to cost charities to deliver**
- **A sense that commercial organisations are preferred**
- **A feeling that the playing field is not level, so tendering would be a waste of their time**
- **Processes are “inaccessible, hostile, biased and riven with interpersonal politics”.**
- **Commissioners seem to want “sparkly new ideas”, rather than effective tried and tested solutions**
- **Timescales are often too tight**

² Respondents who reported that they hadn't bid for any statutory contracts in the past 5 years were excluded from this analysis.

4. Are you considering stopping bidding for contracts from any statutory bodies?

As a follow up to the previous question, we asked respondents if they were *considering* stopping bidding for statutory contracts. 30% of eligible³ respondents said that they are considering not bidding for further contracts.

Figure 5: Are you considering stopping bidding for contracts from any statutory bodies?



Most cited the same reasons as were outlined in Section 3, but some additional reasons were provided:

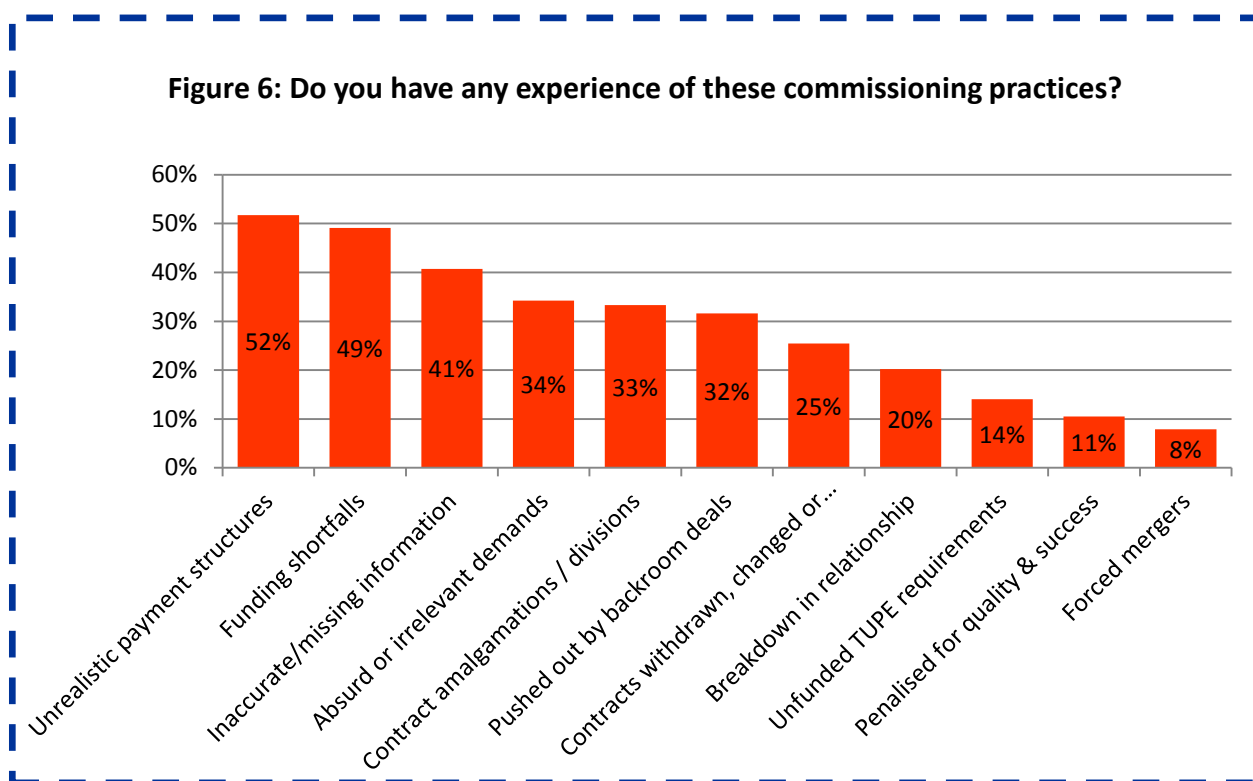
- **Lowest price wins, regardless of quality. Weighting of contract prices can be 80%, even for highly technical projects.**
- **Payment terms unhelpful, particularly for smaller organisations**
- **Difficult and time consuming to access the data that commissioners want included in tenders**
- **Bias towards current contract holders**
- **Being expected to adopt unsafe or unethical practices to save money**

³ Respondents who reported that they hadn't bid for any statutory contracts in the past 5 years were excluded from this analysis.

5. Experience of Poor Commissioning Practice

The “Commissioning in Crisis” [report](#) highlighted a number of areas of poor practice in public sector commissioning that were identified nationally. We asked respondents if they had experienced any of these issues at a local level (Figure 6).

Of those who responded, **85%** of organisations had experienced one or more of the following issues, considered by the Lloyds Bank Foundation to be ‘poor practice’.



Unrealistic payment structures (e.g. inappropriate use of ‘payment by results’)

52% of respondents reported that they had experienced unrealistic payment structures being applied.

“SCC did Edge of Care contract insisting there was a SIB⁴ involved (not needed, PBR⁵ would have been more appropriate) and then failed to award and took work in house. The SIB companies advised that the payment structure was not-doable”.

⁴ Social impact bonds (SIBs) - Social Investors pay for the project up-front, then receive payments based on the results achieved by the project.

⁵ Payment by Results (PBR) contracts involve suppliers delivering activities, and payment is contingent on the verified achievement of agreed results.

Funding shortfalls (e.g. being expected to use charitable reserves to meet the contract if demand for the service is high)

49% of respondents reported contract funding shortfalls.

“Many contracts do not have any budget to pay if the targets are exceeded, but the provider is expected to carry on delivering. Contract envelopes are only just about enough to deliver a service - not to carry all the TUPE risk as well. This is particularly an issue where the staff being TUPE’d are on LA or NHS payroll, pension schemes etc”.

“TUPE spreadsheets sent out by local government departments which don't ask the right questions so all of the information on them is not complete and you have to ask loads of supplementary questions. Not enough information about pensions is ever given and inheriting an expensive pension scheme can be a deal breaker”.

Inaccurate or missing information (e.g. information on TUPE processes)

41% of respondents reported tendering information being inaccurate or missing.

Absurd or irrelevant demands (e.g. insisting you evidence a ‘hard hat policy’ for a social care contract)

Absurd or irrelevant demands were reported by 34% of respondents.

“We have had 58 page contracts that include links to standards that we could never comply with and require specialist training to understand. As we have been told that these must stay in, we have highlighted this in an email accompanying the contract to try and cover ourselves”.

“Portsmouth City Council have amalgamated Advocacy for Looked After Children with CSE and Missing From Home work which is a very different skill set ...”.

Inappropriate contract amalgamations and divisions (eg. services packaged up into contracts that do not reflect the nature of services and providers in the area)

33% of respondents reported inappropriate contract amalgamations or divisions.

Being pushed out by backroom deals (e.g. another provider being given money without a proper process)

32% of respondents reported having been pushed out by backroom deals.

“Deals were made in secret with current providers/contract-holders, false allegations were made to undermine potential new providers and false information was used by current providers/contract-holders in the bidding process”.

Contracts being withdrawn, changed or delayed at a late stage (e.g. contract being withdrawn after tenders have been received)

25% of respondents reported contracts being withdrawn, changed or delayed at a late stage.

“We were notified we were successful when bidding for a contract through the tender process, and then the contract was withdrawn 4 days before it was due to start (over Christmas). There was no compensation for setting up the service and no explanation or acknowledgement of the financial implications of withdrawing the contract at such short notice”.

“We won the [name removed by author] contract for 40 accommodation placements, only to be told that due to funding pressures they needed to reduce the contract to either 5, 10 or 20 placements. The contract eventually went ahead with 20 placements.”

Breakdown in relationship (e.g. being penalised for questioning/negotiating a contract that you know will fail)

20% reported a breakdown in relationship. No specific examples of this practice were provided.

“A lot of emphasis is put on the financial modelling for any service we bid for and then afterwards you find out that full information wasn't given, you end up paying large enhanced redundancy payments unexpectedly etc, etc. Some organisations refuse to disclose any TUPE information that is meaningful blaming data protection which is nonsense as TUPE regulations override this as long as it is kept confidential”.

Unfunded TUPE requirements (e.g. commissioners deciding on 'TUPE Plus')

14% of respondents reported experiencing unfunded TUPE requirements.

Being penalised for quality and success (e.g. already holding a quality mark and therefore not having a transition plan)

11% of respondents reported being penalised for quality.

“Word limits in tender documents have recently disadvantaged us in an education provider framework tender as we offer a wide range of courses where another provider might only offer one course. This has affected our quality score as we had only a few words per course whereas the other providers could use all 500 words to describe the need for just one course”.

“SCC tendered for CSE services on a Framework, appointed 2 providers and then made them work in partnership not on a call off basis, where one agency did not want to work in partnership”.

Forced mergers (e.g. commissioners insisting that you merge back office/admin functions)

8% of respondents reported mergers being forced upon them.

A number of additional themes emerged from the survey responses:

Being expected to 'tag on' another client group or role to a contract, even though it may not be appropriate.

"Being asked to provide accommodation and support for a client group that is outside of our current support model"

"Date of agreement only days before contract starting, and implications on staffing".

Contracts being awarded at an extremely late stage, and the provider being expected to mobilise immediately.

Unilateral changes to payment terms and contract conditions mid-contract.

"...the Council have recently changed their payment terms without any notice. First we heard was when they rejected our invoice, even though it complies with our contract and has done for 2 years. The Council now want us to do their administration for them and absorb the extra cost of it".

"We were given a choice with 3 weeks to go before the end of the contract - to accept a 25% cut or lose contract".

Contractors being put in a position where they have no choice but to accept funding reductions.

Services being tendered for, and then taken in-house.

"A couple of our proposals have, of late, become services delivered by the Council".

"Boundary areas not relating to either natural geography, existing services or anything else we can work out".

Peculiar geographical boundaries to contracts that do not appear to fit with anything else.

Additionally, it was felt that these practices (which Lloyds Bank Foundation terms 'poor practice') have become normalised, and are now standard operating procedure.

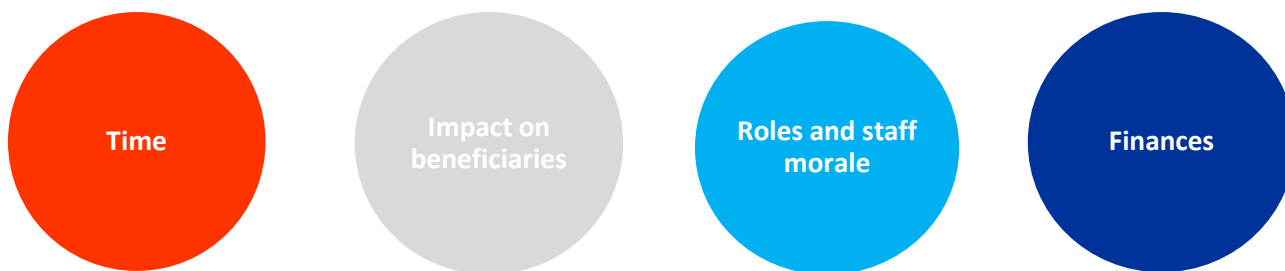
"Many of these issues have become 'normal' practices/expectations when tendering for services".

6. What impact does tendering have upon your organisation?

Respondents were given a free text box to enter their responses to this question.

Overwhelmingly, respondents said that tendering and procurement has a huge impact on their organisation – most notably, the opportunity costs of spending large amounts of time on additional work without the necessary resources.

The 4 key impacts that emerged were:



❖ Time

Virtually every respondent said that the biggest issue was time. Time spent on applying for contracts has an opportunity cost. Often, delivery or leadership suffers.

“I am not available for the running of the charity which is what I am paid for. We have only 3 staff and it means they are short-handed on running sessions when I am doing bids - I also have to work at home in my own time which is a big demand as I am part-
...”

Timescales are often too short, particularly when partnership or consortia have to be built. This means that everything else has to be dropped. It also has a huge impact on staff stress levels and therefore morale.

“In our experience, there is a short window to tender and when looking at a partnership approach there is often insufficient time to develop this fully and/or the tender will come out in a holiday period when people are on leave.”

Time of year: Tenders are often released during the summer holidays, Christmas or Easter. This causes additional complexity and pressure.

“...There is also a lot of added stress due to some authorities not being able to stick to their timetable for getting the tenders out and for releasing tenders at very difficult times of the year E.g. over the Christmas period or during August when we have to cover a lot of annual leave.”

"A time consuming exercise for often small amounts that could easily be made in grants."

Unnecessary extra work: Some contracts would be far more suitable and cost effective as grants or SLAs.

Pre-tender work and assessing whether to even pursue a bid takes a lot of time, and the organisation may not eventually apply for the contract.

Recently we seem to be spending more and more time assessing tenders which we have to decide not to progress due to financial constraints created by ever decreasing commissioning pots."

"The pre-tender stages around relationship -building is time consuming - attending consulting meetings with commissioners, only to find back door/larger regional groups consortia work together to remove opportunity to compete."

Deadlines. Commissioners often don't meet their own deadlines, which adds to the pressure. It can mean that timescales for contract mobilisation get shorter and shorter and the eventual contractor has to pick up the pieces.

"The commissioners wanted the contract to start in August and said they would let us know in July whether we had been successful. We didn't hear anything in July then there was a long gap when they didn't answer our enquiries. They finally answered our e-mails in September and said we were through to the final round and they would let us know in October. It's now November and we haven't heard anything yet. I'd love to just withdraw from the whole inept process, but they have us over a barrel."

❖ Negative impact on beneficiaries

Service delivery suffers as the focus is diverted to writing a tender return.

“It ... takes our focus away from delivering our current services so ultimately they [beneficiaries] suffer”.

“...reduces time staff spent on frontline supporting clients.”

“...every meeting takes time away from working with service users.”

VCOs are forced into competition with each other: A number of respondents said that they felt that VCOs were being pitted against each other. This was not seen as a healthy or beneficial outcome for beneficiaries, or the VCOs themselves.

“Time is one thing, but the main impact is that it forces us into competing against other VCS groups. Over the long term, this destroys the fabric of local communities just when they are needed to work together as never before. You don't get the best out of community assets by putting them in a room and making them slug it out till there's only one left standing”.

❖ Roles and staff morale

Role: People's jobs change.

“I've become a bidder, not a leader”.

Staff morale: staff morale can be negatively impacted – by uncertainty and by excess workloads.

“When re-tendering for current contracts the staff are unsettled not knowing whether they will stay with us or have to transfer to an, as yet, unknown organisation. Staff leave in anticipation of this causing further problems.”

“Lack of support for clients and extra stress every few years on staff which leads to sickness and leaving the sector which then leads to poorer services.”

“Takes management attention away from operational issues and also puts pressures on core staff who are already juggling resources.”

❖ Finances

Financial planning: financial planning becomes very challenging.

“Short term contracts and payment by results makes financial planning extremely difficult and has resulted in lower staff morale. We have to be really careful to avoid mission drift but it is tempting to tender for lots given the reduction/scraping of grants. The bureaucratic requirements to proof results in order to claim money are a total nightmare!”

“A lot of emphasis is put on the financial modelling for any service we bid for and then afterwards you find out that full information wasn't given, you end up paying large enhanced redundancy payments unexpectedly etc, etc.”

Contract values squeezed: Contract values don't allow organisations to recoup the cost of the bidding process.

“There are less opportunities to cover the real cost of bidding than was the case 10 (or even 5) years ago; i.e. contract values are insufficient to absorb the cost of bidding.”

“The availability of funding for core activities is very limited so the more complex the bid process, the higher the cost and the knock on is that organisations then need to do even more fundraising for the money to achieve it.”

7. Do you have any examples of good local commissioning processes or practices?

A number of examples of good local commissioning practice were identified, primarily:

- **Effective communication**
- **Commissioning by outcomes**
- **Proportionate and 'sensible' process**
- **Stakeholder involvement**
- **A desire to enable small and medium sized charities to compete**
- **Commissioners having knowledge about the service they wish to commission**

Effective two-way communication

Many respondents found it extremely helpful when commissioners were willing to provide additional information, including web based information, and were responsive to questions and concerns.

"Being able to talk through the process is always helpful, whoever the funder might be"

"...pre-tender information briefings which were designed to bring partners together at an early stage."

"Portsmouth CC have a very organised approach and are very easy to contact and responsive to questions and concerns"

CCGs were cited several times as examples of positive commissioning practice:

- "Proper needs assessment including stakeholder feedback and consultation undertaken"
- "Opportunities to question and explore aspects of the process and impact on the organisation"
- "Co-production with the CCG including patient engagement"
- "CCG gave us enormous help when it came to a single tender and what information we needed to produce and when"
- "Only VCSE organisations permitted to tender for a contract"
- "Close liaison ensured understanding by all parties"
- "CCG supported our VCS consortium by co-commissioning external evaluation of our service"

Commissioning by Outcomes

One commissioner (Surrey County Council) was praised for providing information about the outcomes it wanted to achieve and left the service design to the providers, allowing for innovation.

Proportionate and 'sensible' processes

Another local authority (Winchester City Council) was highlighted as a commissioning body that approached contracts in a proportionate manner, stuck to deadlines and gave sensible feedback.

Stakeholder involvement

Many respondents commented on how valuable it was when stakeholders were involved in the commissioning process. Although there could be more work involved initially, the 'pain' was far less, and the results far better.



"The commissioning process in Southampton is thorough, involves stakeholders and this is to a large extent reflected in tenders".

One respondent commented that when the Local Implementation Team (NE Hants and Surrey Heath) was in place there were a number of good local processes and practices being developed including:


- Consultation exercises / workshops involving local public and third sector
- Feedback documents sent out publically after each tendering
- Much greater transparency in tendering

However once the LIT had been disbanded it was felt that these practices were lost.


A desire to enable small/medium sized organisations to compete

A few respondents commented that there seemed to be a desire (generally on behalf of CCGs) to enable small/medium sized charities to tender. One respondent reported that they had encountered a CCG in North Hampshire who had released a tender for which only voluntary sector organisations could bid.

Other comments were:



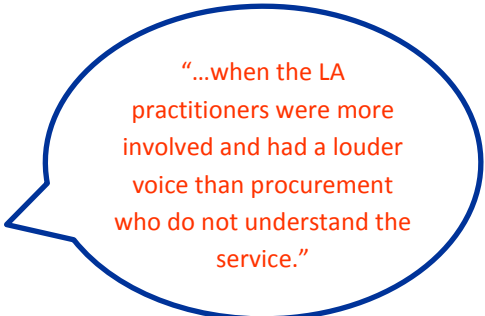
"West Hampshire CCG and Hampshire County Council organised a meeting with the National Development Team for Inclusion to explore how they could support "boutique providers" like us to thrive. When there was concerns about our pricing structure the GGC met with us to discuss and find a mutually agreeable solution"



"The overnight respite tender asked us to tick that we could meet the service specification. This did away with lengthy questioning."

Commissioning with knowledge about the service

Unfortunately there were some examples of what had worked but in the respondents' opinion no longer existed.



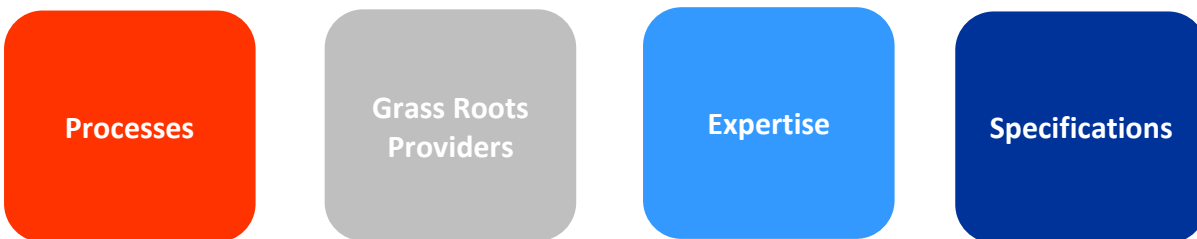
"...when the LA practitioners were more involved and had a louder voice than procurement who do not understand the service."

8. Do you have any suggestions for local commissioners about how to improve commissioning processes?

It was felt that plenty of good commissioning guidance existed, but this was not being implemented in reality.



A range of suggestions were made about how local commissioning could be improved. These were broadly focussed around:



❖ Processes

The main suggestions made about tendering *processes* were: to try to make the process itself more straightforward and in proportion to the contract size; communicate effectively; have realistic timescales (and stick to them); consider commissioning by outcomes; have an understanding of your risk appetite (i.e. do you want innovation and therefore risk, or ‘tried and tested’ – you can’t have both); don’t make unilateral contract changes; and don’t lose sight of value for money.

Make the process more straightforward

- Use plain English language, and use terms consistently
- Ask straightforward questions which make it clear what is being asked for
- Don’t bury the actual specification within reams of legal blurb
- Tell us what the commissioner is actually seeking to achieve

- Don't be too prescriptive – allow experts the scope to deliver the service in the most appropriate way
- Don't ask for the same information in lots of different ways
- Standardise processes as much as possible
- Give more notice of intention to tender – provide a timetable
- Reduce paperwork
- Have a “go to” person
- Improve the on-line portals (several negative comments about Curtis Fitch and Bravo Solutions)

“Our experience with HCC has been positive with the exception of their contracts. These tend to be very long 58 pages, we don't have a legal team and what we do could be covered in 4 pages”

“It would be nice if it wasn't so complicated. There are huge contracts to read through and getting these in place is often very complex”

“Where small local charities are involved, as seems to be the intention, we do need more support in terms of simple questions which make it clear what we are being asked and less proscriptive descriptors which mean that our individual processes can still be admitted as evidence. I had to re-tender for the contract we are already adequately delivering as I did not use ‘the right wording’ for the safeguarding part when we are fully conforming to the requirements already”.

“Review the endless questions on costs which appear the same but are asked in different ways.”

“Just accessing and saving bids you are working on with a better IT system would be good.”

“Don't drown VCS organisations in requests for policies and procedures that are not relevant to the contract or proportionate to the value of the contract.”

Be proportionate
Respondents felt that the process should be proportionate to the contract size.

“Ensure communication is clear and that all parties have an opportunity for discussion and clarification: this should not affect fairness or objectivity providing it is available to any, and boundaries of discussion are clearly defined.”

Communication

Respondents felt that communication could be improved and more useful feedback provided.

A couple of respondents felt it was important for commissioners to build and sustain relationships with providers through dialogue and review, to understand who they are dealing with. Be flexible and communicate clearly about the process including “not delaying and changing the goalposts”.

Respondents felt that **feedback** was important in improving the commissioning process. This would help successful and unsuccessful providers learn for future applications. It was felt that there was some reluctance to provide meaningful feedback.

Timescales

Many respondents made a plea for longer tendering windows, particularly if commissioners want partnership or consortia arrangements. Having tenders out over holiday periods was considered particularly unhelpful.

“Allow plenty of time for submissions and where timelines change, make sure potential bidders are informed and are made aware of these changes as soon as possible. We do not all have a bid team – our staff have day jobs too and have to set all of this aside to concentrate on bid activity”.

Respondents said it would be helpful if commissioners published calendars, timetables and timelines which would allow providers to better plan their work. However there is a caveat that it is so important for commissioners to then stick to these:

“Do what you say you are going to do, when you are going to do it. Don’t hide behind legislation – we must do it this way because of some legislation”

“Even if the paperwork isn’t ready, it would be useful to know that a service around x theme is likely to be commissioned in y month, with an approximate contract value of z.”

A plea was also made for more realistic lead-in times between notification of decision and contract start date.

Understanding what commissioners are trying to achieve

Some respondents mentioned that they wanted to know what commissioners are trying to achieve in terms of targets, objectives and outcomes. "All too often we are told how they want to achieve this, rather than relying on the sector to use its credible experience of what works well to help achieve the end goal". As another respondent said "focus on impact e.g. be clear about the outcomes they want providers to achieve and ensure that service users exit services when outcome thresholds have been achieved, not when set programme timescales have elapsed".

Meeting with commissioners to discuss the outcomes was considered useful and in particular having the opportunity to clarify what could and could not get through the two stages. One suggestion was that "a second stage meeting with parties to discuss and ask questions – like dragons den would help."

Experience v innovation

A tension between experience and innovation was reflected in many responses.

There were those who echoed the sentiment that "there seems to be bias towards something new and sexy rather than recognising that existing charities do a fantastic jobs and have evolved to meet current service users demand".

Some remarked that clients want consistency of service and to know where they stand. One person suggested that commissioners should "look at existing services and models and consider continuation of funding or collaboration of organisations rather than always looking for innovation".

"Commissioners need to stop saying that they want change and then when innovative bids are submitted state that they want experience in previous methods of operation."

"There is also the feeling that it has to be new so services that have developed and responded to the needs of their users on a continual basis may be discounted".

"Permit applicants to find their own solutions rather than saying "this is how it must be done". There will be better outcomes and value for money. Apply the spirit of the Social Value Act, even if it is under the legal threshold".

However, for others this was a frustration as they considered that commissioning may not be the best way to attract innovative approaches to service delivery. "Commissioning stifles innovation. With innovation comes a risk we can no longer take".

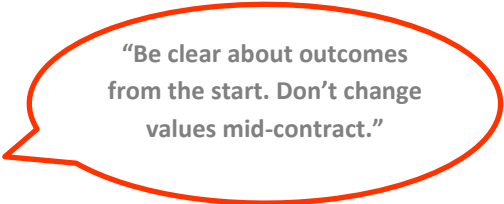
Changing contracts

Some issues with contracts were raised:

"No cut and paste contracts that are inaccurate."

It was suggested that commissioning for longer contracts (5-7 years) would be beneficial for all – this would reduce the need to re-tender frequently, would provide more stability for front line staff and reduce costs for local authorities.


Some respondents had issues about changing terms in mid-contract.



“Be clear about outcomes from the start. Don’t change values mid-contract.”

However, someone commented that the system needed to be realistic and less bureaucratic and allow for small changes to contracts without having to go through a bureaucratic process – the example was a request for a small increase to fares on a transport contract which was rejected by the commissioner as it would need a contract change.

Cost v. Quality Contracts

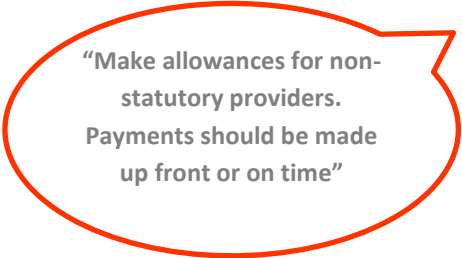


“T19 seems to have put commissioning onto a clear cost basis only, not about value”.

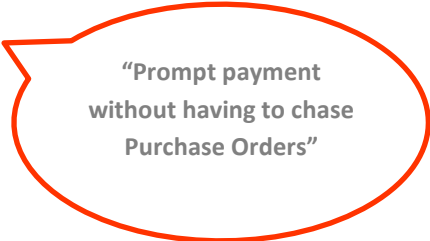
One respondent asked commissioners to offer “realistic amounts of money in order to make the targets achievable – avoid offering 50% price / 50% quality contracts”.

Payment

Issues raised were about better liaison between payments departments and the local charity to ensure invoices were paid within the terms of the contract.



“Make allowances for non-statutory providers. Payments should be made up front or on time”



“Prompt payment without having to chase Purchase Orders”

But also “Payment by results is going to be unsustainable in the long term as core grants are abolished”

Partnerships

One issue that has been apparently raised before but not addressed was that the process does not allow for true partnership applications because “one partner has to lead and the other play, or be, supplicant. An old issue, often discussed, but no change evidenced”. Where partnership or consortia are expected to bid, respondents said that there should be recognition of a longer timescale required before submission.

❖ Grass roots providers

The main thrust of respondents' comments, were that if commissioners seriously want to support local 'grass roots' providers, they need to ensure that their processes enable these organisations to complete. This may involve providing additional guidance and support; commissioning at a more local level; or considering how you might actively encourage applications from these groups (e.g. VCS only tenders). Others suggested that the move to contracting has "thrown the baby out with the bathwater" and in some contexts, a well targeted grant scheme would deliver improved results at a lower cost, and keep funds within the local economy.

Respondents were keen to see smaller and more local organisations having an opportunity to deliver their services through the commissioning process. Suggestions included making the tendering process more accessible for organisations that are great at delivering the service, but perhaps not experienced at filling in forms. Providing guidance and support for smaller organisations to work in credible partnerships or to start up or join consortia.

Several respondents expressed frustration that contracts are awarded to national organisations and corporates who, in turn, contract with local organisations to deliver.

"Make it easier to use small charities who are already on the ground rather than large corporate providers who duplicate work already being done and have no local knowledge or links".

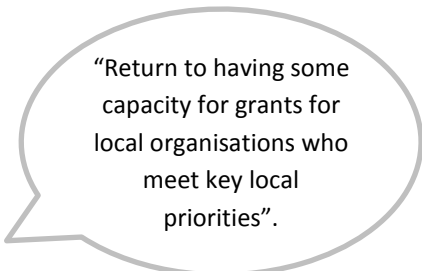
"Commissioning can have the unforeseen consequence of putting local VCS organisations or services out of business or force them to be sub-contractors to larger organisations, who do not have the experience of working in a particular area with, the community. Commission local consortia, not individual organisations, to maximise community assets".

"With money so tight – delivery expectations are unrealistic for smaller organisations. The principle of localism has failed as contracts go to national / corporate companies who don't always provide the quality that local organisations focus on. Either that or they contract us in to deliver the work at greatly reduced rates and cream off the top".

"Commission at a neighbourhood level to allow community assets to engage. Commissioning at large scale disadvantages local groups and leads to parachuting in of large organisations with no knowledge of, or relationship with, the community. Commission local consortia, not individual organisations, to maximise community assets".

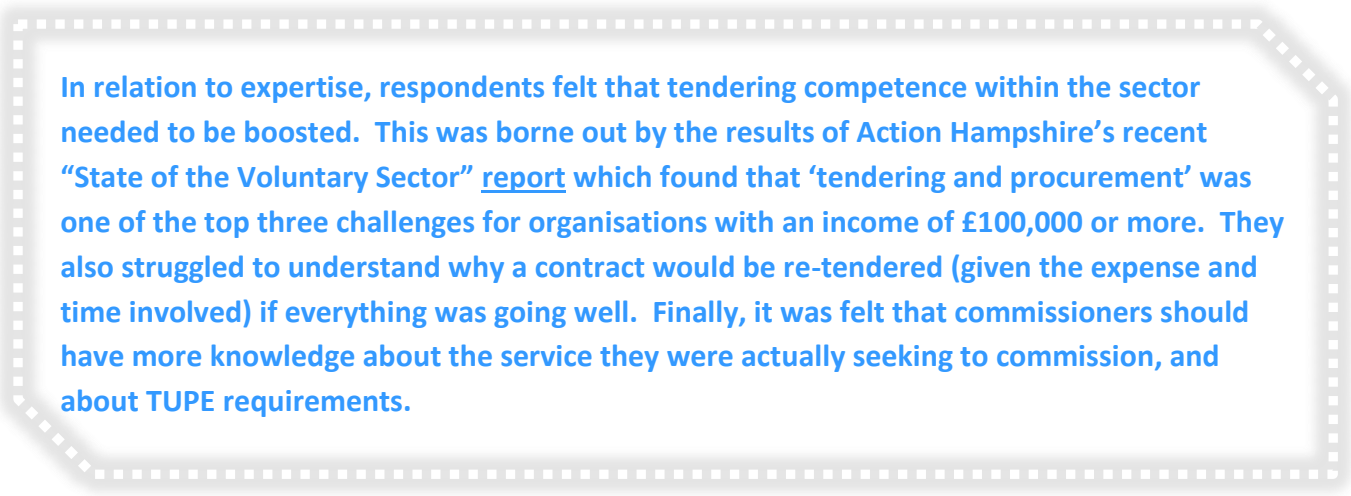
A suggestion from several respondents was to “...weight applications from smaller organisations that have invaluable local contacts and experience of working in a particular community.”

Some respondents suggested that keeping a grants scheme for small amounts would, in fact, be cheaper and benefit local organisations that meet key local priorities. Small voluntary organisations that want to help are finding that the ‘system’ will not allow them to.



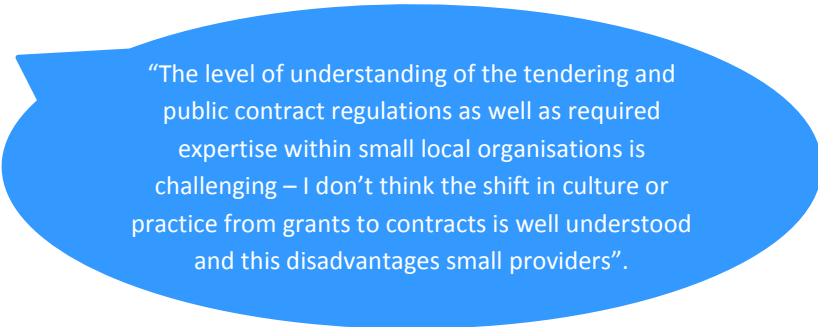
“Return to having some capacity for grants for local organisations who meet key local priorities”.

❖ Expertise



In relation to expertise, respondents felt that tendering competence within the sector needed to be boosted. This was borne out by the results of Action Hampshire’s recent “State of the Voluntary Sector” [report](#) which found that ‘tendering and procurement’ was one of the top three challenges for organisations with an income of £100,000 or more. They also struggled to understand why a contract would be re-tendered (given the expense and time involved) if everything was going well. Finally, it was felt that commissioners should have more knowledge about the service they were actually seeking to commission, and about TUPE requirements.

One respondent pointed out that there was a need to ensure tendering competence in the sector before moving from grants to contracts.



“The level of understanding of the tendering and public contract regulations as well as required expertise within small local organisations is challenging – I don’t think the shift in culture or practice from grants to contracts is well understood and this disadvantages small providers”.

Several respondents commented on whether change was always necessary:

- “If a contract is being delivered to the service specification and in budget why undertake procurement? Time is very often an issue”.
- “Fund services that are already in place and working rather than trying to reinvent the wheel with what you think is required!”
- “Get to know your providers and not change things for the sake of change”

- “Consider whether a low value contract has been awarded via a competitive tender process could be better if the process was done through a simple grant application process”
- “The tendering processes are expensive for us and the local authority and not always necessary”
- “Think about the appropriateness of the tender process for some activities”
- “Avoid it wherever possible, particularly where the current provider is delivering on all outcomes”

There was also some concern about whether commissioners always have enough knowledge to make appropriate decisions.

“The commissioning agents need to understand the difficulties. Without understanding the user group they cannot understand what is achievable.”

Some people felt that commissioners should “...actually know something” about the services they are commissioning.

As one person put it “some commissioners need to actually understand what the real need is before tendering so the end result is the provision of services that are effective and meet real need.” Or even better:

“Let local people [officers] make the decisions, who know your organisation, know your work, know your outcomes and capabilities, not a procurement dept who have limited knowledge and understanding of the work with the community. Commission local consortia, not individual organisations, to maximise community assets”.

A more specific suggestion was to contract or commission a local infrastructure organisation such as a CVS to provide a panel and take over the process, thus recognising local need better. It was also felt that CVS input would be more constructive, effective and efficient.

TUPE issues were raised many times:

[Commissioners need to] “understand TUPE regulations more clearly”

“Improve TUPE information and be realistic with pricing”

❖ Specifications

Respondents made a plea for specifications to be created with reference to the local expertise, knowledge and lived experience of local voluntary sector organisations and individuals. Only then would contracts meet the real needs of local people.

Many respondents felt that it was beneficial for commissioners to talk to providers **before** tendering and involve them in designing and refining the tender: "...we know the problem and we have a better chance of knowing the answers."

"Do meaningful stakeholder consultation and actually take notice of the results"

"Talk to and listen to existing and new providers – don't write a tender that is time / results driven and expect a

Also having these discussions would help organisations to make informed decisions as to whether it is the right contract for them.

There was a feeling, however, that commissioners might be reluctant to do this, for example because:

"I think there is still a culture of you cannot talk to providers especially VCSE providers for fear of being seen to give favouritismif they did involve us early we could be clear with them what works and what does not. This would not prevent them being able to commission for innovative practices"

However it was suggested that commissioners should just say what the problem is, how much money is available and "...then leave it to the experts to tell you how they would do it."

"Run an expression of interest and pre-tender qualification process to reduce the number of suppliers that are invited to tender. It should be compulsory to demonstrate/evidence value added in the local community as part of the qualifying criteria."

Other respondents were keen that it wasn't just the providers who were involved in any pre-tendering consultation but that there was also a benefit involving communities "**before** any internal discussions (NICE quality standard)". Thus tenders should be able to reflect local differences.

Co-production

Many respondents supported a co-production approach:

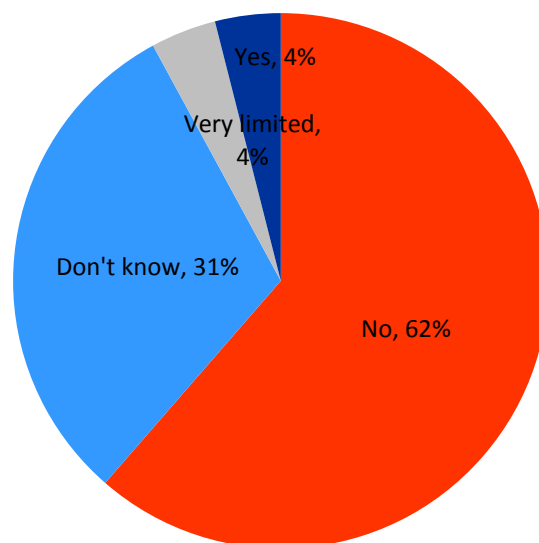
- Working with service users and carers to identify what is needed and how to provide flexibly with service user choice of provider
- To produce the service specifications
- To review the price / quality scoring systems
- Commissioners should work more closely in sharing their strategies and targets. Joint working would focus activity on what is needed
- Working with potential providers from the start ensures that the final commissioned service reflects what was actually desired.

8. Do you think the Social Value Act has any impact (positive or negative) on your organisation, or on local commissioning practices?

Respondents were asked whether the Social Value Act had any impact on their organisation or on local commissioning practices.

85 respondents provided a written response to this question, with the overwhelming majority (92%) of respondents saying either “no” or “don’t know”.

Figure 10: Do you think the Social Value Act has any impact on your organisation, or on local commissioning practices?



A fairly large number of respondents admitted that they either weren't aware of the legislation, or didn't really understand it, and suspected that many commissioners may also not be fully aware of the Social Value Act.

Typical commentaries included:

“I think it's all about saving as much money as possible. The Social Value Act is lip service which neither benefits us nor does demonstrating social value in a tender score many brownie points. The organisation who can deliver a specific service and often narrowly defined outcomes the cheapest wins the tender.”

“It could be a positive vehicle for commissioners to award extra points to local organisations but doesn't seem to work like this.”

“No. I have seen no evidence that it is considered in any (significant) part of Local Authority Commissioning processes in our area.”

“It has been a sham as we have been asked to reduce our social value statement as it 'looked too high'.”

The three respondents who felt that the Social Value Act had made some impact locally said:

“The use of SVA has had a very positive impact in highlighting knowledge, understanding and evidence of being able to meet local needs and priorities for small providers.”

“This has had a positive impact on a contract we bid for.”

“Yes, it seems that the LA want as much for nothing as possible. It can be difficult to justify how we align our organisation's social values

9. Is there anything else you would like to tell us?

A number of the responses to this question have already been covered under Q 7 or Q 8. However, there were some clear additional themes that emerged:

There was some concern raised that the **experience and expertise of the sector** were not always being taken into account:

“As a small community centre we feel our applications are not considered equally despite the range of qualifications and skills we have to deliver”

“We are a bit fed up with the same people / organisations gaining services simply because they have been there longer than our organisation even though we have more expertise and experience to deliver the services locally”

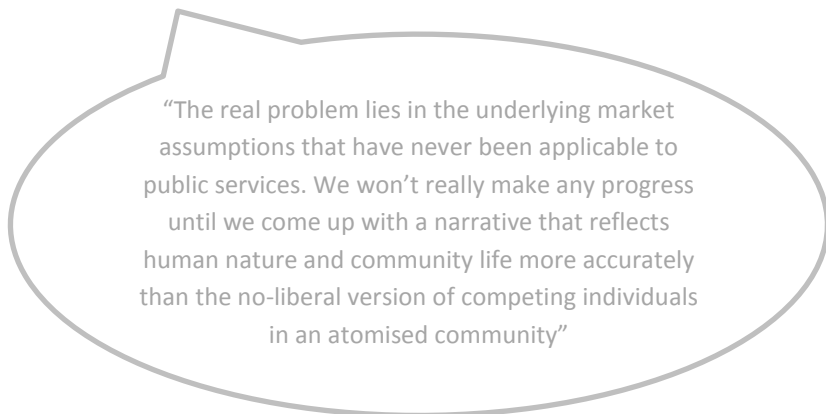
“We’d always be interested in tendering locally and across our district and would hope our experience and success in our field would almost be like a practical exam ie it shouldn’t always be about what you write in support of a tender, what you’ve already achieved can and should support the tender”.

At a time when the focus is very much on saving money and value for money, several respondents highlighted that as a result the **impact on people** is not always recognised.

“Commissioning has been used as a blunt instrument to reduce costs, with little regard for service users who often remain confused and unaware of changes resulting. It is also hard for other agencies to keep up with organisational and service changes emerging from commissioning, as there is rarely a communications plan.....usually adversely affecting the most vulnerable...”

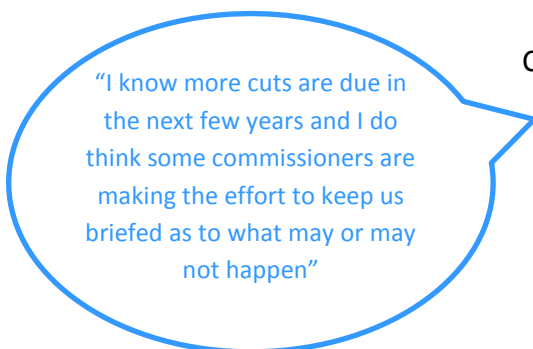
“There is far more emphasis on value for money and less time for human contact or one to one support”.

A number of respondents felt that the move from an effective grant programme to commissioning was impacting negatively on people's choice and flexibility as well as leading to the withdrawal of good *local* services.



"The real problem lies in the underlying market assumptions that have never been applicable to public services. We won't really make any progress until we come up with a narrative that reflects human nature and community life more accurately than the no-liberal version of competing individuals in an atomised community"

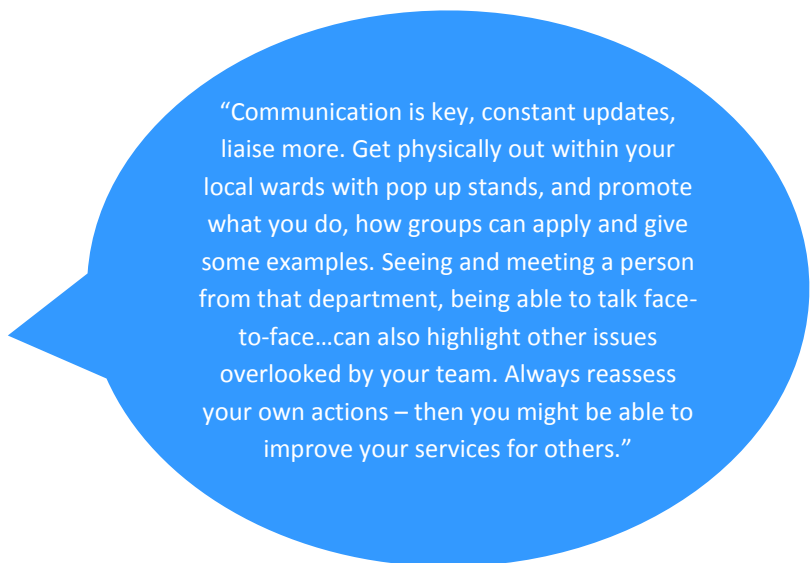
Some respondents raised issues about **the contracts themselves**.



"I know more cuts are due in the next few years and I do think some commissioners are making the effort to keep us briefed as to what may or may not happen"

Communication was also commented upon. Reference was made to where this was (beginning to) work well:

But also suggestions as to how this could be improved:



"Communication is key, constant updates, liaise more. Get physically out within your local wards with pop up stands, and promote what you do, how groups can apply and give some examples. Seeing and meeting a person from that department, being able to talk face-to-face...can also highlight other issues overlooked by your team. Always reassess your own actions – then you might be able to improve your services for others."

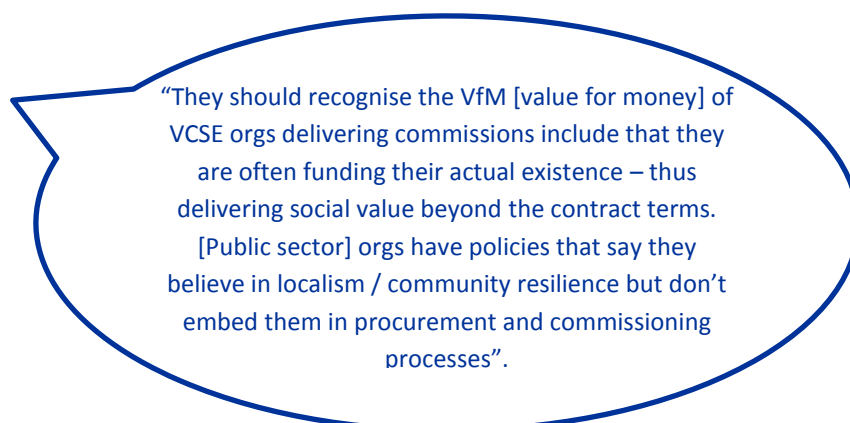
10. Do people think that things could improve? Mixed messages



Some respondents highlighted **financial considerations and costs** that they felt were not being recognised:



And as well as financial considerations it was pointed out that there are often additional benefits to contracting with the sector:



Conclusions and Recommendations

Many **local voluntary sector organisations** want to bid for contracts. Any many **statutory providers** want to receive credible bids from local voluntary sector organisations. So what's the problem?

Our research suggests that current commissioning practices are unwittingly (we hope) creating significant barriers preventing smaller voluntary sector organisations from applying for contracts.

Our research has only investigated commissioning problems from the local voluntary sector's perspective – we haven't yet heard the commissioners' perspectives. However, voluntary sector organisations have told us that the key changes they would like to see are:

1. Follow existing good practice guidance such as the National Audit Office's [8 Principles of Good Commissioning](#) (part of the NAO's "Successful Commissioning Toolkit")
2. Prize the additional social value that many voluntary organisations bring. Build the principles and spirit of social value into commissioning frameworks, regardless of contract size.
3. Consider commissioning by outcomes and leaving tenderers to work out the delivery mechanisms. At the very least, ensure potential providers are able to understand what the commissioner is ultimately trying to achieve.
4. The statutory body's stated values should be embedded in procurement and commissioning practices. E.g. If a statutory body believes in promoting localism and community resilience, their procurement practices should reflect and enable this.
5. Make the commissioning processes as straightforward as possible e.g. clear communication, straightforward language, standardisation, having a 'go to' person.
6. Be proportionate in your requirements of bidders.
7. Understand that most local voluntary sector organisations do not have specific tendering resources. Every hour spent on a tender, is an hour not spent on beneficiaries.
8. Publish planned commissioning calendars in advance and allow plenty of time for submissions (particularly where partnership approaches are encouraged). Avoid tender windows during major public holidays.
9. Consider the needs and constraints of small and local organisations. If you value their services, ensure that tendering processes do not automatically rule them out.
10. Ensure that commissioning is driven by officers who have a sophisticated knowledge of the subject matter (including TUPE and other relevant legislation) rather than by 'process'.
11. Share risk – don't make voluntary sector organisations shoulder all the risk.
12. Consult stakeholders about service commissioning plans. Apply co-production principles.
13. Cost vs Quality. Don't lose sight of overall Value for Money in the quest for financial savings.
14. Experience vs innovation. Sometimes 'tried and tested' is the best way – there's a reason it works. If commissioners want innovation, accept that it comes with risk.
15. Accept that contracts are not always the best way. Sometimes, a well targeted grants programme will provide better (and cheaper) outcomes for everyone.

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