

Submission to the Inquiry on Commissioning Public Services from the Third Sector
Public Administration Select Committee

Summary - The Baring Foundation, March 2007

1. The Baring Foundation is an independent grant making trust. In 1996, the Foundation launched the Strengthening the Voluntary Sector (STVS) grants programme. This programme reflects the Foundation's belief in the value to society of an independent and effective voluntary sector.
2. William Beveridge argued that voluntary organisations can be allies *with* government, but not servants *of* government. The Baring Foundation believes that it is desirable and possible for the third sector to work with government. Government and the sector need to find ways of working together that allow the experience and resources of both to flourish.
3. In 2006, the Foundation launched the STVS – independence programme. This helps organisations to establish and manage productive relationships with government. It does this by supporting them to increase their *legitimacy* and their *confidence*. The programme was vastly oversubscribed. The evidence contained in the 515 applications forms the basis of this submission.
4. The growth in government funding to the sector is welcome. However, current mechanisms for transferring funding to the third sector, in particular commissioning, form a significant threat to the sector's independence. This threat is being felt across the sector.
5. Third sector organisations feel most under threat when shifts in government policy result in budgets cuts or changes that jeopardise core services. 92% of applicants to STVS – independence said that their ability to provide core services was under threat. 69% said that their organisation or their project risked closure. The commissioning relationship creates a paradox: the third sector is viewed by government as an important partner, but organisations feel unable to influence government when they believe change will result in poorer services to the people they support.
6. There are practical measures that third sector organisations and government can take to make the commissioning relationship more productive. For sector organisations this is about strengthening their legitimacy and building their confidence. For government, this is about genuinely understanding and valuing the contributions made by those outside government. Third sector organisations are better placed than the public and private sectors to gather evidence from the front-line about changing needs and what works in meeting these needs.

Section 1 - Background

- 1.1 This submission consists of a statement of the Foundation's position on commissioning and the third sector and concludes with direct responses to the questions listed in the Questions and Issues paper. These responses are restricted to areas for which we have direct evidence, rather than giving general opinions. We would be keen to elaborate on these answers in oral evidence, should the Committee wish.
- 1.2 The Baring Foundation is an independent grant making trust. Since 1969, the Foundation has given over £93 million in grants to voluntary organisations. The Foundation's purpose is to improve the quality of life of people suffering disadvantage and discrimination. Its work is based on a belief in the fundamental value to society of an independent and effective voluntary sector.
- 1.3 Most relevant to the Committee's inquiry is our experience of providing funding to organisations through our Strengthening the Voluntary Sector (STVS) grants programme. Since 1996, this programme has supported organisations to strengthen the core strategies, structures, systems and skills that all organisations need in order to operate efficiently and effectively.
- 1.4 In 2006 the Foundation added a focus the STVS programme. The trustees had noted the increasing significance of funding relationships between third sector organisations and government, in particular through the 'contract culture'. Of special interest was the impact of these relationships on the independence of third sector organisations. 'Independence' does not mean existing in isolation. This is simplistic, unrealistic and undesirable. Rather, independence is about how, in the course of managing complex sets of relationships, organisations can establish and maintain a set of important freedoms. The freedom to:
 - agree their own values;
 - carry out work that delivers the stated purpose of the organisation;
 - negotiate robustly; and
 - challenge others and engage in public debate.
- 1.5 Whilst the increase in government funding has been welcomed by the third sector, the Foundation recognised that the ability of organisations to maintain these freedoms at the same time as receiving government funding varied considerably. Some organisations had used relationships successfully to attract funding for services at the same time as preserving, or even extending, these freedoms, for example by using the funding relationship to influence policy design and contribute to service review. Others had not and feared that their values, their distinctive methods, their relationships with the people they exist to support and their ability to challenge government had been eroded.

1.6 The Foundation was interested in understanding the circumstances under which organisations achieve a productive relationship with government, where the experience and resources of organisations and government combine to greatest effect. The Foundation decided to focus the STVS programme on exploring this question. Grant application guidelines were issued which listed a range of practical activities that could help to enhance independence. This is a new programme, but it has so far generated evidence through a number of means including:

- in-depth interviews on independence with 30 third sector organisations;
- 515 applications to the STVS - independence programme;
- visits by Foundation staff to 31 organisations to assess proposals; resulting in
- grants to 22 organisations;
- output from a network that brings these organisations together;
- an independent analysis of the applications to the programme carried out by Cathy Pharoah¹;
- external evaluation of the programme, currently establishing base-line positions.

Section 2 - The Baring Foundation's position on commissioning from the third sector

Allies not Servants

2.1 The third sector has its roots in the spirit of voluntary action. This is the spirit that inspires individuals to seek to improve conditions for themselves and for others. This spirit is present in other sectors, but the fundamental characteristic of voluntary action is its independence from public control. It is action that has, in the words of William Beveridge, 'a will and a life of its own.'² Like this, voluntary action can be an ally of government's but not its servant.

2.2 The Foundation believes that it is possible and desirable for voluntary action to work with government to tackle society's most intractable problems. Indeed many of society's proudest achievements are the result of collaboration between voluntary action and the state. The third sector works at the front-line and government has the capacity to ensure universal provision and to coordinate services. Of prime importance is to manage the relationships between the sector and government in ways that maximise the contributions of both and allow the experience and resources of both to flourish. Preserving and nurturing the independence of the third sector is fundamental to achieving this.

2.3 The government knows well the benefits that the third sector can contribute. HM Treasury recently listed the following attributes:

¹ Former Head of Research at Charities Aid Foundation and an expert on third sector resource issues.

² Beveridge W (1948) *Voluntary Action: a report on methods of social advance*. George Allen and Unwin. London p. 8.

- A strong focus on the needs of services users;
- Knowledge and expertise to meet complex personal needs and tackle difficult social issues;
- An ability to be flexible and offer joined-up service delivery;
- The capacity to build users' trust;
- The experience and independence to innovate;
- An ability to involve local people to build community 'ownership';
- An approach that builds the skills and experience of volunteers; and
- An ability to increase trust within and across communities, thereby building social capital.³

This is a good list, but it might also include:

- An ability to provide independent advocacy for services users engaging with statutory authorities.
- An ability to represent the needs of service users to government;
- The knowledge and local networks to engage people that government finds 'hard to reach';
- An ability to identify new and emerging needs more quickly than government;
- An ability to address people's needs in a more holistic way;
- A commitment to support service users to become volunteers and workers and thereby deliver services that are non-stigmatising and appropriate.

- 2.4 One of the problems is that the terms used to describe the various mechanisms for transferring funding to the sector are often applied in a confused way: making grants (unrestricted and restricted), contracting, tendering, commissioning, procuring, agreeing service level agreements.

The Select Committee's inquiry defines its focus as 'commissioning'. A recent HM Treasury report which sought to provide guidance on improving financial relationships between government and the third sector used the word 'procurement'. We take both terms to mean the process of 'acquiring goods and services in line with the government's policy of value for money, normally achieved through competition.'⁴

- 2.5 Some organisations are coping with these new arrangements. For example, Martin Narey, Chief Executive of Barnardo's noted that at the same time as receiving large scale government funding, in recent months Barnardo's has 'criticised Asbos; highlighted the poor educational outcomes for children in care (criticising some of the local authorities for whom we provide services);

³ HM Treasury (2006) Improving financial relationships with the third sector: guidance to funders and purchasers. HM Treasury: London. p. 14

⁴ HM Treasury (2006) *ibid.* p. 13

highlighted the plight of young carers; and made a sustained attack on inhumane treatment of asylum seekers' children; persuaded the government to introduce the use of polygraphs for child-sex offenders; continued to campaign against the introduction of any sort of "Sarah's law"; (and) with other children's charities, we have helped to reinvigorate the End Child Poverty campaign.⁵

- 2.6 Many organisations that provide excellent services are not coping. This is captured in the following quotation from an application to the STVS – independence grants programme:

*"We struggle to 'justify' full cost recovery to local funders, particularly if they think they can access a 'free' service elsewhere. We constantly have to justify our model and why we deliver (even though they really value the high quality of our work). We are under constant pressure to review and justify costs...instead of...allowing us to get on with the job and to deliver results. With a focus on the short term, this leads to our inability to plan and operate strategically. In this new climate, we are in fire-fighting and short-term crisis mode, hindering the organisation's growth and development."*⁶

- 2.7 Threats to independence are being felt by organisations from right across the sector, rather than certain focused areas. Just over one third of applicants to the STVS – independence programme were working at local or community level and an almost equal proportion was providing specialist care. 58% of applicants were direct service providers representing a wide range of needs including older people, children, the environment, and many specialised groups including mental health, prisoners, learning disabilities, drugs and alcohol and women. 20% of the applicants were umbrella bodies.⁷
- 2.8 Third sector organisations feel most under threat when shifts in government policy result in budgets cuts or changes that jeopardise core services. Organisations are not opposed to change, their problem is dealing with the paradox created by the commissioning relationship: on one hand the third sector is viewed by government as an important partner because organisations have unique insights into the nature of needs and how to meet them, at the same time organisations feel unable to influence government when they believe change will result in poorer services to the people they support. Applicants to the programme had a range of relationships - with central government departments and local authorities.
- 2.9 Whether change was inevitable, forewarned or even valuable, the crucial issue is that, in spite of partnership rhetoric and the implementation of the Compact, voluntary-sector change or organisational development is still being triggered by

⁵ Narey M (2007) 'Our charities are not co-conspirators.' The Guardian 14th February 2007.

⁶ This has been edited to preserve the anonymity of the applicant.

⁷ Pharoah C (2007) Sources of Strength: an analysis of applications to the STVS grants programme. Baring Foundation: London p.8

external threats. It is not planned or strategic, and does not leave organisations, many of whom are providing for a high level of client need, in control of the agenda.

- 2.10 As well as undermining core services, threats to independence undermine organisations' growth and their effectiveness. 17% of applicants to the STVS – independence programme said that the organisation was unable to develop its skills for influencing others, 15% said they were unable to improve internal systems.
- 2.11 There are things that sector organisations can do. In developing the grants programme, the Foundation looked at the characteristics of independent organisations and identified two: the ability to demonstrate legitimacy and the ability to act with confidence.

The practical activities which organisations can carry out to enhance these characteristics include:

Demonstrating legitimacy:

- involving users or beneficiaries in organisational review, planning and management for the first time or in a significantly better ways;
- developing or improving ways of collecting evidence of the needs of users and beneficiaries or potential users and beneficiaries;
- introducing appropriate ways of assessing the quality and impact of the organisation's work;
- developing ways of listening to complaints and responding;
- introducing a new organisational or management structure;
- strengthening the governance of the organisation;
- reviewing the values of the organisation.

Building confidence:

- developing skills, capacity and confidence in negotiation, campaigning and communication;
- diversifying sources of restricted funding;
- developing systems and expertise in calculating full costs recovery and the pricing of services delivered under contract;
- making use of the Compacts with central and local government and other statutory bodies;
- improving skills or knowledge about how to work with the media;
- developing communicating with members, supporters, customers, the media or the wider public in significantly better ways.

- 2.12 Organisations have a responsibility to ensure these characteristics are in place. They can be helped, by independent funders and by government through initiatives such as Capacitybuilders, but, in the end, no-one else will do it for

them. There is a cohort of groups that have grown in confidence under the new commissioning arrangements. Anthony Lawton, Chief Executive of Centrepont describes this as 'getting on the front foot' - for example refuse to accept short term contracts, that do not provide full costs recovery. Other organisations need more legitimacy and confidence to argue like this. Being able to challenge government is good for the relationship. It is what government says it wants from the sector.

- 2.13 Government can also act to make commissioning a valuable and effective process. It has to build on the expertise of the sector and maximise its contribution. This has to start with a genuine belief that the sector has attributes that will enhance the quality of public services. This means involving the sector in design, planning, delivery and review.
- 2.14 In this way the relationship will be productive and the users of public services will benefit.

The inquiry questions

1. What are the benefits of contestability to the users of public services?

a. Have services which have been transferred to third sector organisations shown improvements in quality?

1.1 A number of academic studies have shown clearly that the use of third sector organisations to deliver some public services can bring considerable advantages and benefits.⁸ However, this is something that organisations find hard to prove on their own. 15% of applicants to the STVS – independence programme asked for support to help them compile better evidence of impact.⁹

1.2 At local authority level it is difficult to get a clear picture of what happens when services are transferred. Government Accounting rules do not require local authorities to note whether a contract has been awarded to a third sector provider or a private sector provider.

b. Is loss of accountability a threat of commissioning services? If so, how can this best be managed?

1.3 Loss of accountability to whom? Commissioning *increases* the accountability of third sector organisations to government, but potentially *reduces* accountability to service users. 28% of applicants to the STVS – independence programme said that their ability to define client / member needs was under threat.¹⁰ The problem with this is that the priorities of government are not necessarily the same as

⁸ HM Treasury (2006) Improving financial relationships with the third sector: guidance to funders and purchasers. HM Treasury: London. p. 13

⁹ Pharoah C (2007) *ibid.*

¹⁰ Pharoah C (2007) *ibid.*

people who need support. If commissioning does not begin with careful analysis of needs, with the necessary involvement of knowledgeable third sector organisations, then it reduces the capacity of government to be an effective commissioner. 62% of applicants to STVS – independence said that their ability to stay true to their values was under threat.¹¹

2. Is the third sector more likely to provide better public services than the state or the private sector?

a. Is there evidence that where services are provided by the third sector, that they are popular with those that use them?

2.1 There is evidence that the third sector is more effective at reaching some priority groups that government finds it 'hard-to-reach.'¹² But beyond the issue of 'popularity', there are services that are provided by the third sector that *cannot* be provided by the state e.g. independent advice or advocacy.

b. Is there evidence of demand for more services to be provided by the third sector? If so, who from?

2.2 Anecdotal evidence from all our applicants shows that demand for services is huge.

c. Do public services provided by the third sector more accurately reflect the changing needs of those that use them?

2.3 The third sector has knowledge and local networks to reach and engage people that government cannot. It uses this closeness to identify new and emerging needs more quickly than government. For example voluntary sector providers were quick to identify and start to tackle the needs of refugees and asylum seekers who were 'dispersed' to new areas of the country. Of concern is the finding that 28% of applicants to STVS – independence said that their ability to define their client / member needs was under threat in the current funding environment.¹³

d. Is there evidence that contracting to the third sector leads to greater scope for innovation in public service delivery?

2.4 It depends. One good example is work done by the Partners in Reducing Reoffending (PiRR) network in collaboration with their local National Offender Management Service (NOMS) commissioner. The network, led by the Revolving Doors Agency, is designed to help small charities work together so that they are able to bid to run services in the new NOMS market. A big concern for the charities involved was that all contract specifications would include the requirement that the delivery agency would have to take a coercive approach, for instance, to report any user of the service that broke the terms of their offender

¹¹ Pharoah C (2007) *ibid*.

¹² Buchanan A *et al* (2004) *The Impact of Government Policy on Children and Families age 0-13 at Risk of Social Exclusion*. London: Office of the Deputy Prime Minister.

¹³ Pharoah C (2007) *ibid*.

agreement. The charities involved in PiRR felt this would compromise their ability to engage former prisoners. This ability is dependent on the organisations' place *outside* the system, and their ability to work with people based on their needs, not the terms of their sentence plan. PiRR took this argument to the Regional Offender Manager, explaining the value of non-coercive approaches. Following negotiations, NOMS in London agreed to recognise the value of non-coercive services in its delivery plan. This is a good example of new innovation being taken on by government. Both sides involved in this negotiation deserve great credit – PiRR for speaking up, and NOMS for listening.¹⁴

2.5 This sort of good practice is unusual. We have seen this case study reported in several different places, suggesting it is perhaps unique! 21% of applicants to STVS – independence said that, because of the restrictive nature of their contract, their ability to be innovative is under threat.¹⁵

2.6 Government has put great emphasis in its rhetoric on listening to communities using the language of “genuine partnership.” In order for this to be a useful process, government has to ask itself why it is involving those outside government. Is it because public services are a ‘product’ which can be improved by market testing, or because there is a genuine attempt to give people more control over their lives and the institutions they use? The first ‘consumerist’ approach invites ideas from outside but with no commitment to take suggestions up. The second more democratic approach ensures that participants have the opportunity to make change happen.

2.7 The danger with the commissioning model is that it perpetuates a view that people are passive consumers of public services. As such, government is at best unable to incorporate views from outside or, at worst, is unconvinced that third sector organisations genuinely have good ideas and a right to see them put into practice. Evidence from our grants programme suggests that we still need to put the ‘public’ back into ‘public policy.’¹⁶

3. Does commissioning benefit the third sector?

a. Will contractual relationships with the state improve stability within the sector?

3.1 Generally the third sector has welcomed the significant increase in government funding but current contracting practice does not improve stability. 47% of applicants said that policy changes had resulted in budget cuts or budget switches. 37% said that contracts that are tied to specific performance targets exclude key activities. The exclusion of particular kinds of work, and a narrow vision of how clients and communities could best be helped was a huge source

¹⁴ Case study reported in Blake et al (2006) *Living Values: a report encouraging boldness in third sector organisations*. London: Community Links.

¹⁵ Pharoah C (2007) *ibid*.

¹⁶ These points are explored further in Smerdon M and Robinson D (2004) *Enduring Change: the experience of the Community Links Social Enterprise Zone*. Policy Press: Bristol.

frustration to organisations. Overall, 92% of applicants to STVS – independence said that their ability to provide core services was under threat. 69% said that the organisation or the project was at risk of closure.¹⁷

3.2 Third sector organisations feel most under threat when shifts in policy result in changes in budgets or budget cuts that jeopardise core services. Organisations are not opposed to change, their problem is dealing with the paradox created by the commissioning relationship: on one hand the third sector is viewed by government as an important partner because organisations have unique insights into the nature of needs and how to meet them, at the same time organisations feel unable to influence government when they believe change will result in poorer services to the people they support.

3.3 It is important also to consider the role for umbrella bodies and infrastructure support. Their work on representing their members and communities, for example, work on identifying needs and services and for supporting local organisations to develop new skills such as impact measurement, can fall outside contractual provision.

3.4 Funding from government *could* provide stability if the following characteristics are met – funding is long term, there is mutual understanding between commissioner and supplier and if both make a real commitment to the relationship. The context of public spending levels needs to be taken into account. Stability will always be dependent on this context.

b. Will close involvement with service provision prevent third sector organisations retaining the ability to be critical of government?

3.5 The STVS – independence received 515 applications. This astonishing level of demand (approximately 3 times the number we anticipated) suggests that the Foundation had touched a nerve. Some organisations are able to maintain the balance between receiving funding and speaking out, but many are not. 25% of applicants to the STVS – independence programme specifically said that their ability to ‘speak out’ was under pressure. 92% of applicants said that their ability to provide core services was under threat.¹⁸

c. Is there a risk that the service providers will become increasingly bureaucratic?

3.6 Yes there is a risk, but in arguing for a better relationship, we believe the manner of the relationship could minimise the risk of this.

d. Is there a risk that third sector organisations will lose their independence, their identity of their distinctive ethos?

3.7 Yes. As we have argued, some organisations are faring better than others.

¹⁷ Pharoah C (2007) *ibid*.

¹⁸ Pharoah C (2007) *ibid*.

The vast majority are struggling.

3.8 The Compact has an important role. Interestingly, only 7% of applicants to STVS – independence requested support for work on making better use of the Compact.¹⁹ We conclude that most are not aware of it or are currently unconvinced of its value. Work by the new Compact Commissioner and the Compact Advocacy Programme at NCVO has to disseminate case studies of successful challenges and increase people's awareness of Compact, and their confidence in it.

e. Might the third sector become polarised between large service providing organisations and more radical groups? If so, would this matter?

3.7 This question assumes that the size of an organisation is the most important variable in being radical. Some of the smallest voluntary organisations can be very conservative.

4. Does commissioning services from the third sector have any benefits for the state?

a. Does the state risk losing control of service delivery in a way which might be damaging?

4.1 Not inherently.

b. What capacity will the state need to ensure that it can be an intelligent customer of services?

4.2 Government has to get better at listening. Government has to be open to contributions from outside. It has to believe that these contributions are valid and useful. Third sector organisations can be helped to do this better through investment in improving skills and capacity in collecting evidence of what works.

4.3 Public policy must be designed in collaboration with, and based on evidence generated by, those with direct experience of the issue the policy is trying to tackle. Government at both central and local level can increase its capacity by making much greater use of secondments, short-term attachments and back-to-the-floor techniques in front-line public sector agencies and third sector organisations.

4.4 Policy budgets could contain an element which is designated for local managers with responsibility for delivery to allocate on the basis of local needs. This enables commissioning to take account of local distinctiveness and to respond to changing local conditions. 37% of applicants said that contracts that are tied to specific performance targets exclude key activities. The exclusion of particular kinds of work, and a narrow vision of how clients and communities could best be helped was a huge source frustration to organisations.²⁰ For

¹⁹ Pharoah C (2007) *ibid.*

²⁰ Pharoah C (2007) *ibid.*

example, an organisation working with asylum seekers and refugees, being told that from now on funding will only cover work with under 25 year olds. This is only one part of their client group.

4.4 There was evidence in application forms of difficulty in preserving adequate budgets for specialist care within mainstream services (for example caring services). This included instances where authorities were reluctant to work across local authority boundaries, and it was difficult to make the case for some specialised needs simply from potential client numbers in one geographical area.

c. How is duplication of effort in order to monitor and manage contracts best avoided?

d. How good is the state at managing bidding processes and defining contractual obligations when commissioning services?

5. What are the financial implications of providing services through the third sector compared with directly provided by state services?

a. Are services cheaper to provide?

5.1 There is an assumption behind the commissioning model that competition will drive down costs. For example, Sir Peter Gershon's review of public sector efficiency explicitly examined scope for delivering *savings* in the 2004 spending review through strategies for greater use of public, private and voluntary sector intermediaries.²¹ The best value framework provides scope for commissioners to take into account cost and quality, but substantial anecdotal evidence suggests that lowest cost is the primary criterion. For example, a local community transport provider that was told by the commissioning panel that their bid was excellent and met all the tests on quality and community benefit, but that the decision 'would come down to cost'. A national private sector provider was awarded the contract.²²

5.2 Cheapness should not be the only criteria. The third sector, because of the range of attributes it has, is often in a better position to provide 'best value' services. Many of their services are also 'preventative' in nature and secure savings to society in the long run.

5.3 Third sector organisations have to pay substantial sums every year in irrecoverable VAT unlike local authorities and commercial companies which can recover the VAT that they pay.

²¹ Gershon P (2004) *Releasing Resources for the Front Line*; independent review of public sector efficiency. London: HM Treasury.

²² This third sector organisation wished to remain anonymous.

b. Are there 'hidden costs' such as contract oversight?

5.4 Research by the British Association of Settlements and Social Action Centres (bassac) highlights the costs of time spent by third sector organisations on making bids.²³

c. Are the benefits of the third sector participation in public service provision so great that it is appropriate to have financial rules which encourage this, or should the aim be to have "competitive neutrality" between public, private and voluntary sectors?

5.5 In section 2.3 above, we listed the particular abilities that third sector organisations have. If government values these attributes and believes they can help to bring about effective public services, then it has to ensure the third sector's ability to bid for and be awarded contracts. Some private sector companies have good values. Those bidding for public services should be required to demonstrate these.

6. Are the costs and benefits to the state the same when commissioned from the third and private sectors?

6.1 We believe in the benefits of commissioning with the third sector. There is sound evidence that the sector does a good job. It is different in character to the private sector, whose profit motive drives activity in a different direction.

The authors

Tessa Baring CBE, Chairman of the Baring Foundation, former Charity Commissioner, former Chair of Barnardo's and a trustee of other voluntary organisations including Intermediate Technology Development Group and St. Michael's Fellowship.

Professor Ann Buchanan, trustee of the Baring Foundation, Professor of Social Work, University of Oxford and Director of the Centre for Research into Parenting and Children. Recently she completed a review

Supplementary material – publications by the Baring Foundation on the relationships between third sector organisations and government.

Smerdon, M (2006) *Allies not Servants: voluntary sector relations with government: a discussion of the thinking behind the new focus of the Baring Foundation's STVS grants programme.* STVS Working Paper No.1. London: Baring Foundation.

Pharoah C (2007) *Sources of Strength: an analysis of applications to the Baring Foundation's STVS – independence grants programme.* STVS Working Paper No.2. London: Baring Foundation: