Third Sector Research Centre

Working Paper 122

Public sector commissioning of local mental health services from the third sector

James Rees, Robin Miller and Heather Buckingham

May 2014

Abstract

Growing attention has been given to the role of commissioning as part of a policy environment that has emphasised the promotion of greater supplier diversity in the provision of public services, with the public sector acting primarily as 'system leader' rather than 'direct deliverer'. In contrast to earlier policy which referred to *procurement* of public services, the shift to commissioning offered the hope of a cyclical purchasing process that is grounded in the needs of its population, encourages innovations in service design, sensitively manages a local 'market' of suppliers, and can create well integrated, comprehensive services. From a third sector perspective commissioning is viewed, it seems, with a mixture of guarded optimism and concern due to its crucial importance in shaping the nature of the relationship between that part of the sector that delivers services and the state which funds it.

This working paper provides an initial report on research that sets out to discover the realities of commissioning from the perspective of the public sector bodies responsible for its implementation and the third sector organisations who choose to engage with commissioners as part of achieving their missions. Based on a case study service field (mental health) and geographical locality (an urban conurbation in the UK), a survey and series of semi-structured interviews were undertaken with key stakeholders from the public and third sectors to understand the practices of commissioning. Due to the key focus (and often concerns) of third sector organisations on procurement this was explored in particular.

The findings suggest that within, this case study locality and service field, at least the commissioning cycle is not yet in full operation. For both commissioners and TSOs the procurement and contracting elements continue to take precedence. Whilst there is evidence that practice around these elements has changed to some extent (in particular the greater use of contracts rather than grants and more competitive processes), there is also considerable continuity in the importance of personal relations between the commissioner and provider and which organisations receive funding. In contrast with previous studies, many of the TSOs welcomed regular tendering as an opportunity to expand their services and also as it involves the public sector reviewing what they fund. From the perspective of TSOs the public sector can improve its practices through ensuring that its commissioning staff have the skills and experience to undertake these roles, that the organisational processes are undertaken effectively and fairly, and that the different commissioning teams work across the user and service group silos. The tendency of the public sector to undertake whole system (e.g. health) and internal organisational (e.g. social care) changes appear to lead to considerable disruption in the commissioning process and the relationships that underpin it. From the findings of this study commissioning is still to fulfil its expected potential in relation to improving outcomes for people with mental health problems and efficiencies within the system. It is not possible to infer if this is purely a question of commissioning not being implemented thoroughly as yet or if its principles are fundamentally flawed – what is clear is that without the necessary capacity, time and expertise it is unlikely to succeed.

Keywords

Public services, commissioning, procurement, purchasing, mental health, third sector.

Acknowledgements

Contents

Introduction

The concept and discourse of commissioning has grown rapidly in prominence in UK public policy and public services in recent years, with particular resonance in discussions about the state's engagement of third sector and other non-state actors delivering in an increasingly mixed economy of public services (Murray, 2011; Dominey, 2012). Commissioning is not a sudden innovation, but rather is consistent with wider international trends towards the diversification of providers within public services, and dissatisfaction with existing contracting models (especially in relation to state-third sector organisation (TSO) relationships). In an international context the term 'commissioning' is rarely used and would be considered to be part of processes of externalisation, contracting out, or privatisation (Ramia and Carney, 2005). But the prominence given to commissioning has an important national UK dimension and is closely linked to a number of active debates, especially the rise of interest in mechanisms that are concerned to specify, incentivise and reward particular outcomes, in particular Payment by Results (PbR), commissioning for outcomes, and the related ideas of Social Impact Bonds (SIBs) and social return on investment (Arvidson et al., 2011; Sturgess et al., 2011).

These developments have in turn been driven by doubt over the ability of states to bear the costs of welfare spending and particularly to control and reduce demand in the context of fiscal stresses on public spending (Bartlett, 2009). The current UK Coalition government has developed policy that has put commissioning very much at the heart of public service reform; amidst other drivers that include diversification of provision, personalisation, and a greater emphasis on rewarding 'outcomes' (including through the use of the aforementioned PbR) (HM Government, 2011; Rees et al., 2013). In doing so it has built on the work begun under the previous Labour government to use 'commissioning' as a process to facilitate improvement in the design, delivery and assessment of publicly funded services. Despite this continued belief Macmillan (2010) and Rees (2013) note that we still do not fully understand how commissioning actually changes the outcomes delivered on the ground: "less research attention has been given to the nature of the services commissioned [and] whether new commissioning processes are leading to service improvement" (Macmillan, 2010: 4).

In relation to the third sector in particular, as highlighted by Macmillan, "commissioning and procurement is acknowledged to be a complex set of processes, with numerous reports of how difficult, confusing and uncertain TSOs find the new service delivery landscape" (Macmillan, 2010, 2). In the conclusion to Macmillan's review it was recommended that research attention be paid to commissioning models, the responses of third sector organisations (TSOs) (including the potential of partnership and collaboration), and the impact of commissioning on individual organisations. Responding to these recommendations, this paper reports on research into the experiences of third sector organisations (TSOs) of public sector commissioning of services for people of working age with mental health needs, in a large conurbation in England. The research also builds on other work in the TSRC's service delivery stream, for example considering partnership working and the commissioning of the Work Programme (see Damm, 2012; Rees et al., 2013). The research explored three central themes:

- Is commissioning (and procurement and contracting as part of this) different to what went before?
- What are TSOs' experiences of procurement and contracting under a 'commissioning environment?
- What factors appear to influence the positive implementation of commissioning?

The paper is organised as follows. The first section reviews key issues connected with commissioning in general and mental health specifically: its definition, the importance of commissioning for the third sector and the current context within mental health services. The second section describes the data and methods that were employed in the research project and the third the findings of the research in detail. The fourth and final section discusses the findings, sets out initial conclusions and key recommendations for policy and future research.

Section 1: Setting the Context: commissioning, the third sector, and mental health

1(a) Defining commissioning

Commissioning has its roots in the movement of public services away from the public sector that began with the adoption of New Public Management (NPM) based reforms from the 1980s onwards, and that began with contracting out through the Compulsory Competitive Tendering (CCT) regime (Entwistle and Martin, 2005). Resistance to some of these approaches led to a greater emphasis on partnership working and collaborative procurement approaches, expressed in particular through the adoption of the Best Value regime, Public-Private Partnerships and the Public Finance Initiative in the 1990s (Powell, 1997; Bovaird and Downe, 2006). A discourse of partnership was particularly in evidence in relation to the promotion of third sector involvement in public service delivery in the New Labour era – a period that has been characterised as one of 'hyperactive mainstreaming' – and which was enshrined in a state-voluntary sector Compact (Carmel and Harlock, 2008; Lewis, 2005; Kendall, 2009).

However as noted, the general shift underlying this was of state withdrawal from direct provision, expressed perhaps most concisely in Osborne and Gaebler's (1993) prescription that governments *should steer, but not row* – commissioning is clearly consistent with this principle. Commissioning has been defined by the Cabinet Office (2006: 4) as "'the cycle of assessing the needs of people in an area, designing and then securing an appropriate service" (see also Kimantas and Dawson, 2008; Dominey, 2012). This definition resurfaced in the Coalition government's Green Paper on Commissioning (Cabinet Office, 2010: 7), although the word 'outcomes' was used instead of 'service'. Commissioning has long been thought of as ideally operating as a 'cycle' and as Bovaird et al. (2012) have found, the widespread adoption of commissioning across Government involved acceptance of the basic cycle model, although there was considerable variation in the specific emphasis accorded to parts of the cycle between different departments. Indeed, the Cabinet Office has presented commissioning in an even more stripped down version as 'understand-plan-do-review' (see figure 1b for a similar scheme). Moreover, a further point of enduring debate within the commissioning policy

discussion has been the distinction with 'procurement' (Tanner, 2007; Martikke and Moxham, 2010). As Macmillan puts it:

> Procurement is the range of processes involved in purchasing goods and services from provider organisations, in whatever sector. Commissioning is a broader set of service delivery processes which involve consultation, needs assessment and service planning and design. If procurement is about shopping, commissioning is about deciding what to buy and how. (2010: 9)

As Bovaird and Davies (2011) point out, commissioning in public administration was originally more akin to a straightforward procurement or purchase decision. Later, the 'first wave' of modern commissioning was associated with the introduction of CCT in the 1980s which embedded the 'purchaser-provider' split as an enduring aspect of public service reform. The 'second wave' Bovaird and Davies identified as a shift to 'strategic commissioning' associated with the Every Child Matters White Paper and the development of a strategic commissioning framework for the Children's Act (2004). From this point the concept of strategic commissioning rapidly spread across government particularly in those departments concerned with personal services, and the language of commissioning has come to dominate political and practice discourse.

In common usage though commissioning is perhaps just as likely to be used to mean 'being purchased to provide a service', even though this may well muddy the water in terms of a distinction with procurement. Commissioning proper arguably *should* mean 'where the cycle operates in full' but where the reality falls short or is circumvented in some way – might the implication be that the term should not be used? Commissioning might be intrinsically unstable in its meaning, and seeking a consensual definition could be doomed to failure. There is also a potential conflict – particularly in local government, and especially now that deep budget reductions are being made – between commissioning as something that is about securing cost savings and driving outsourcing, and where commissioning is a description of something more collaborative, trust-based and networked and about participative planning for social outcomes. It may therefore be useful to view commissioning as operating on a continuum – between 'intelligent/collaborative' commissioning on one side and 'commissioning on price/procurement' on the other.

1(b) The realities of commissioning

The concept of commissioning appears broadly consistent with the idea of the 'enabling state' continuing to step back from direct delivery. However, there has been unhelpful confusion as to whether delivery is part of, or quite separate from commissioning. The Labour-era central government policy documents reviewed by Bovaird et al. (2012) are inconsistent: some explicitly separate 'commissioning' from 'providing' while others state that delivery is part of the commissioning cycle. Arguably more important though is that a number of additional agendas have been loaded onto commissioning, including the New Labour government's stress on inter-agency and cross-sector partnership working, the aspiration to better involve citizens in design of services including the rise of interest in personalisation (Lewis, 2005; Needham, 2010), and the growing interest in commissioning for *outcomes* rather than *outputs* (Bovaird and Davies, 2011; Sturgess et al., 2011).
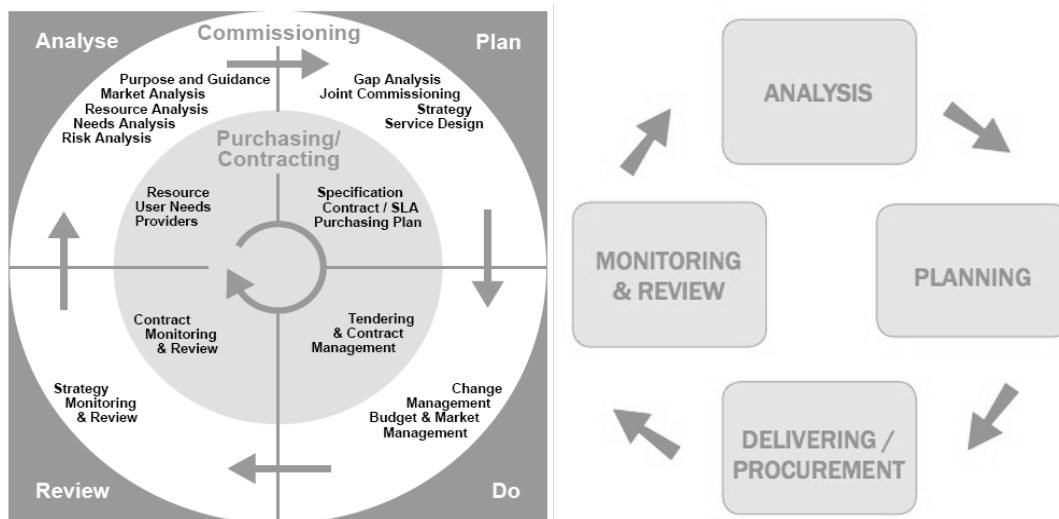
Figure 1. The commissioning cycle model. Source: (a) Bovaird et al. (2012), (b) NAVCA (2010)

Although there appears to be a level of consensus surrounding what commissioning is and how it should operate (at least as a 'model'), there has been a persistent feeling to date that the model rarely if ever matches reality and that even where a tendering process has been labelled as 'commissioning' what is actually occurring is in fact 'procurement' (Packwood, 2007). From a third sector perspective, there has typically been a range of complaints that TSOs have not been involved in the full cycle, particularly service specification/re-design (See Figure 1) (Martikke and Moxham, 2010). Despite the apparently widespread influence of commissioning, because of the complex and multi-tiered reality of service delivery due to the balance of responsibilities between central government, local government, and executive agencies of government, real practice in public sector commissioning is likely to be highly divergent. Practice in one service delivery field (e.g. employment, health or advice services) could have little bearing on or relation to the realities of practice in another. The interaction of commissioning practice in local government with that in other public services is complex and further uncertainty seems likely to be introduced by the profound public service reforms that are occurring, particularly to the NHS (Miller, 2013). For these reasons generalisations are likely to be very difficult to make. Particular variation can be observed in the reaction of local authorities to the commissioning agenda. Pro-commissioning councils can be identified as those which have adopted aspirational titles such as 'Total Commissioning' or brands such as the 'EasyJet' council. Dissenting councils have adopted alternative broad strategies such as co-operative or mutual ('John Lewis') council models. It can be argued that there is further group who have resisted through inertia or withdrawal. For the third sector therefore (as well as private and other public agencies) who might want to provide commissioned services, the picture of who is commissioning services, and in what way, is likely to be an intricate one.

Unfortunately, one of the legacies of the earlier phase of policy development has been confusion in practice over the core meaning of commissioning. Although there has been more experience of commissioning in the health and social care policy arenas, Checkland et al. (2012: 540) were still moved to comment that "we also found that both commissioners and providers struggled with the

more fundamental ideas underpinning commissioning", suggesting that shared understanding is far from the norm. In the health field in particular, further uncertainty is caused by the potentially profound institutional upheaval caused by a combination of funding reductions and the structural reform of the NHS (Dickinson and Miller, 2011). All of this suggests that the essential meaning of commissioning – and hence its application – is quite contested: on the one hand it could be used to facilitate or emphasise competition, market-testing, contestability and transparency, on the other it could be more about collaboration, partnership, dialogue and negotiation. The third sector clearly has a stake in this debate.

The previous Labour government acknowledged that the third sector might deserve special consideration in policy. The Department for Communities and Local Government (CLG) (2006) proposed government adopt 'intelligent' commissioning meaning that the sector could expect sustainable and longer term funding with a level playing field with the private sector and a framework that could allow innovation to flourish. Similarly the Office for the Third Sector (2006) advocated 'commissioning principles' that essentially posited a framework that involved a strategic focus on outcomes, a diversity of providers, and the involvement of service users and providers in the full cycle. Third sector-based reports have advocated improved commissioning processes in specific service fields such as welfare to work that take better account of the third sector's contribution (and might result in more commissioning from the sector) (Third Sector Task Force, 2009). NAVCA (2010) also favoured the idea of intelligent commissioning, describing it as practices that enable good outcomes for people, that are value for money, and that enable genuine collaboration between commissioners, the voluntary sector, and service users.

With the arrival of the 2010 Coalition government policy there has arguably been another shift, with commissioning even more high profile but set within a rather more narrowly instrumental agenda: as a tool to promote greater contestability, competition and provider diversity (HM Government, 2011). On the other hand, there has also been a recognition of similar sorts of constraints as the previous administration, more recent policy developments have emphasized improving the skills of commissioners through a 'Commissioning Academy' and 'levelling the playing field' through the requirement for commissioners to consider social value in the Social Value Act (HM Government, 2014).

1(c) The mental health policy context

Whilst there have been numerous strategies, guidance and acts of parliament over the past two decades (Hardy, 2011), none have arguably had as great an impact as the National Service Framework for Mental Health. Published in 1999, this required local areas to develop a range of new community services as a means to reducing reliance on in-patient beds and facilitating the closure of remaining long-stay NHS institutions. It emphasised key principles that people with mental health problems could expect, including a right to be involved in the planning and delivery of their care, to be offered choice and to experience support that is co-ordinated around their needs (DH, 1999). These principles, and the dual focus on enabling access to and delivery of services for those who have a mental health problem and their families, alongside promoting the mental well-being of the general population continue to underpin current thinking (Bennett et al., 2011). Key policy developments since

the NSF include a greater focus on recovery (which requires a holistic approach to supporting people that moves beyond symptoms to consider their overall quality of life and social situation) (Slade, 2009, Shepherd et al., 2010), improved access to psychological therapies, and the introduction of user-held budgets in social (and now health) care. Whilst health and social care services still have key roles, the current strategy (DH, 2011, DH, 2012a) attempts to more clearly articulate the responsibility of other public sector services to achieving its objectives (see Text Box 1). Particular emphasis is given to the roles of housing and criminal justice in responding to the particular issues faced by the homeless and those who have offended (ibid), and employment services due to the well-established impact of not being in work due to mental health problems and a consequent loss of self-esteem, exclusion from societal networks, and limited income (ibid, McManus et al 2012). There has also been an increasing focus on the link between physical and mental health (DH 2012b, Kings Fund & Centre for Mental Health 2012) and the need to ensure that both aspects of people's well-being are dealt with 'parity' (Centre for Economic Performance 2012, Health Select Committee 2013).

Text Box 1: Objectives of 'No Health without Mental Health' (DH 2011)

More people will have good mental health

More people with mental health problems will recover

More people with mental health problems will have good physical health

More people will have a positive experience of care and support

Fewer people will suffer avoidable harm

Fewer people will experience stigma and discrimination

National guidance regarding the commissioning of mental health services has largely been targeted towards health, or health and social commissioners (e.g. Bennett et al., 2011, NMHDU, 2009, NICE 2011). The proposed cycles are variants of those outlined above, with an expectation that they will operate at different levels – the individual person, the GP practice, and for whole populations. In comparison to other models there is a more explicit emphasis on managing risk and putting people who receive services at the centre of the process. The latter has been described as a vital component due to the statutory and regulatory requirements, greater likelihood that people accessing services will be receive a service that they value, and previous evidence that it results in essential improvements being achieved (NMHDU, 2011). A 'values based' approach has been developed that builds on the importance of active engagement of people accessing services in the cycle. Described as 'a new and innovative way of commissioning mental health services', values based commissioning 'moves away from the dominance of clinician experience and scientific evidence that has been prioritised over service user values and experience in traditional commissioning processes' (Perry et al., 2012: 6).

In line with other English health services, responsibilities for mental health has been restructured under the recent reforms so that the majority of local clinical services are purchased by Clinical Commissioning Groups led by GPs, specialist health services (such as secure provision for offenders, services for people who are deaf and for adults with eating disorders) by the national body NHS England, and public mental health and social care services by Local Authorities. A number of

concerns have been raised regarding these changes, including the ability of GPs to take on these new and very different responsibilities, and the potential for fragmentation due to a new set of boundaries and inter-organisational relationships (APPG, 2012). There are also fears that mental health care may be more vulnerable due to the majority of funding being tied up in single block contracts which can be more easily top-sliced than the payment by activity systems within many physical health services (Health Select Committee 2013). There have been attempts to introduce 'payments by results' within mental health, but these are proving to be extremely complex and the financial regulator has questioned if it is feasible or desirable to do so (Lintern, 2013). A new payments system was seen as an important step towards further diversifying the market of mental health care. Whilst approximately a quarter (26%) of the services purchased by the NHS in 2011/12 are provided by non-statutory (i.e. private and third sector) organisations (Mental Health Strategies, 2012), NHS providers continue to dominate key service areas such as crisis support, clinical care and community teams. User-held budgets are another means through which to introduce market pressures, and whilst take up of direct payments has been slower in relation to mental health than other service areas, national evaluations highlight that the benefits may in fact be greater (Jones et al., 2013).

The Department of Health (DH, 2007) estimated that between 25% and 30% of the 35,000 third sector organisations identified in their national mapping exercise work with people with such needs. Common services provided were advice, counselling and education, with the third sector also being dominant or strong players in advocacy, employment, respite and home support services (Miller 2013). Beyond their role in direct delivery, TSOs have historically played a significant role in raising awareness of the needs of people with mental health problems, in developing and sharing new approaches to support, and in campaigning for changes in law and policy (ibid). These roles continue to this day, with for example significant involvement in the development of the implementation framework for the current national strategy (DH, 2012a) and recent hosting of a major review regarding the future of mental health services (MHF, 2013). The potential benefit of involving the third sector in both the commissioning process and in service delivery has been underlined within policy and guidance. For example, the APPG (2012: 10) stated that 'The voluntary sector offers a wealth of expertise and experience in providing support services alongside the NHS. Often, it is the peer-to-peer support offered by voluntary sector organisations that is most desired by service users'.

Section 2: Data and Methods

The research proceeded in three main stages. Between late summer and winter 2012 a review of academic and policy literature was conducted, summaries of which were published in Miller (2013) and Rees (2014). A case study conurbation was identified which incorporated three local authorities. In this same period we carried out a small number of key informant interviews with respondents from sector bodies, high profile TSOs providing mental health services in the conurbation, and national organisations. The aim was to explore initial understandings of the issues and to scope out the feasibility of further research into commissioning in the mental health field in the chosen conurbation. In particular we identified in broad terms who the most significant commissioning agencies were likely to be, namely local authorities through adult social care, Supporting People, and the NHS.

In March 2013 we conducted an online survey of third sector organisations involved in the mental health field in the conurbation. The main themes explored in the survey were: TSOs' experience of being 'procured' by the public sector, their involvement in, and experience of the wider commissioning cycle, and their attitudes to the wider application of commissioning and its impact on their organisation. Potential respondents were identified through lists or databases of mental health organisations held by local infrastructure bodies, discussions with local third sector representative bodies and mental health commissioners, and through web searches. The means of contacting them varied between different local authorities, which meant that the questionnaire was well targeted but also that there was no way of establishing the response rate. The questionnaire was conducted entirely online[1]. The survey received nineteen responses but three were removed from the sample because they were discovered to be out of the area or were not in fact responses from organisations, leaving sixteen valid organisations and their responses were collated and analysed in a qualitative manner due to the small sample. There was a relatively equal split between the number of organisations responding in the three local authority areas. Although the sample was not large and did not permit any quantitative analysis, the survey was nevertheless very useful in identifying some broad experiences of and attitudes to commissioning, further identification of the agencies involved in commissioning mental health services, and crucially, provided a core list of TSOs who could be approached for further involvement through qualitative interviewing.

Building on the respondents to the survey a purposive sample of third sector organisations was developed which reflected the range of services provided by third sector organisations for people with mental health difficulties in the conurbation. These services were primarily: advocacy and representation, social care (including domiciliary care, residential care and day activities), supported housing, employment, advice, and support for carers. Initially it was thought that the organisations would be categorised by the main services that they provided to enable comparison between say a housing provider and a social care provider. In reality, reflecting the move to hybridity that is commonly reported in relation to the sector, organisations tended to provide a range of services. The main exceptions to this were the organisations which provided advocacy support. In view of this and the very different role that such organisations play, in the findings sections quotes are therefore attributed to TSOs in general or to an advocacy organisation. In the case of commissioners, a generic description of their setting within a public sector agency is given.

Interviews were conducted in the period of early summer 2013 to autumn 2013. The interviews covered three main topics:

- views on the commissioning cycle as well as longer-term relationships with the public sector;
- experiences of the commissioning cycle as a whole, and more specifically the experience of procurement and contracting; as well as the impact of commissioning on organisations; and
- exploration of respondent's perception of the impact of commissioning on a range of issues including the involvement of users, the specification of outcomes, and the extent to which commissioning was joined up between the different public sector service areas.

---

[1] Using Bristol Online Survey, see www.survey.bris.ac.uk

In the cases where interview respondents had previously returned the questionnaire, their answers to the questionnaire were probed in more depth, once this was exhausted conversation was continued with the aid of a semi-structured interview schedule. Through the interviews and wider research process, we identified key individual commissioners and requested interviews with them. These commissioners worked in local authorities or CCGs, and included those from a social care, supporting people and general practice background. Interviews were conducted in a similar manner, and in the same period, using a revised semi-structured interview schedule. Overall, 23 TSOs were sampled. Some interviews involved more than one TSO respondent. Six commissioners were interviewed (one was interviewed twice, towards the beginning and towards the end of the fieldwork period). All interviews were recorded and transcribed and all of the completed transcripts were read by the authors in order to identify a number of key emergent themes. Key data was then entered into a spread sheet matrix organised according to the identified themes – allowing systematic analysis of groupings within the interview data. The sub-themes were refined through discussion within the research team and re-examination of the original data.

Section 3: Research Findings

The findings section is structured around the three research questions and the main sub-themes that arose in the interviews in response to these.

3(a) Is commissioning (and procurement and contracting as part of this) different to what went before?

We were interested at the outset in the extent to which respondents (both from TSOs and commissioning agencies) felt that commissioning – both as a policy agenda and a specific set of processes and practices – had made a real difference to practice on the ground and to inter-organisational relationships. This focus begged the essential question of whether it was possible to discern a 'before' and 'after' commissioning. First, however, it was clear to us that it was necessary to establish the extent of respondents' understanding of commissioning as a contemporary experience: particularly whether people felt that the commissioning cycle was actually achieved in practice. Finally, a closely related issue was the extent to which procurement, as a core process within commissioning, had been influenced by these wider trends in commissioning practice.

(i) The extent to which the 'ideal' commissioning cycle has actually been achieved in practice

As noted, we questioned respondents about whether they felt the commissioning cycle actually operated as the model outlined in Section 1 would suggest. Overall very few reported a belief that there was a sense that commissioning operated as a cycle: the general impression was that few respondents from TSOs gained a sense from the public sector that it did, or should operate as a cycle. Many suggested instead that commissioning felt very disjointed and inchoate, although it was acknowledged that this was perhaps due to the strategic nature of commissioning processes, and that it was difficult for individuals to gain a strong overview of such relatively long term processes.

Of the parts of the cycle that did appear to happen, many mentioned consultation of different forms, although they were often critical of particular aspects of this, and suggested that more could be done, or done better. Certainly, some TSO respondents were clear that they felt valued in this part of the relationship with the public sector, and it was a key area where the third sector contributed to service development and delivery:

> we do tend to have some input [earlier in the commissioning cycle] because with our service… What we do is when we work in an area, we look at a lot, not just advocacy service delivery in that area, but we get in all the aspects of that area… So for example, there's a joint strategic needs assessment that's been circulated for local authority, our service users may have some input into that… So, [you look at what the needs are]… Then you look at what you're going to commission. And then you start the commissioning cycle. So I think we try to have an input in that consultation process at the start because they are statutory services and non-statutory services. (Advocacy TSO)

A number of TSOs indicated that their role went beyond just being included in consultation and providing information about needs and 'on the ground intelligence', they also felt that they were part of detailed service design, which suggests an endorsement of the possibilities of 'intelligent commissioning':

> I have been involved… Looking at some of the redesign of services. But that is not necessarily because of I've been invited – it's because of just some of the relationship that I've got with the commissioning team. So, really, that's why I've been involved with some of the redesign. But I think it needs to happen from that stage – there needs to be more involvement from the third sector organisation. (TSO)

However, as this quote suggests, even here a doubt was expressed that commissioning worked in quite the 'technocratic' (and transparent, market-based) way envisaged, instead long-running personal relationships were also a crucial factor. We heard this many times and explore it in more detail below.

It appeared that in the view of the participants that consultation had been stronger in particular specialised fields within the mental health arena and in the commissioning of particular projects. Examples included instances where specific services had been re-provided and re-designed and TSOs were positive about the careful consultation and dialogue that commissioners had engaged in. Some participants also suggested that historical experience of Supporting People commissioning was very positive in this regard. Equally, it was made clear that such positive experiences were not generally the case and that the different elements of the cycle were often not joined up. Similarly the majority view was that commissioning did not always operate in a transparent manner in which all stakeholders contributed to and were clear about the strategic plan. Rather, many respondents gave the impression of being 'in the dark' and somewhat remote from the commissioning process and the resultant decisions. Many TSO respondents reported frustrations including times when messages came from the public sector that certain things would happen, followed by long delays and uncertainty, contributing to a feeling of broken promises. At the same time, TSOs could recognise that many of these delays could be explained by the complexity and uncertainty (particularly with shifting or uncertain funding) – but it seemed to have introduced a lack of trust, or wariness into the relationship. Again, the reasons for this are explored in more detail below.

Interestingly, in contrast with the national guidance, most commissioners acknowledged that they did not always regard commissioning as having to operate as a formal cycle. Instead, the reality was a rather more complex and dynamic process of interaction in which elements such as consultation were included throughout:

> so we have been very much assessing what we've already got; understanding what's good quality and what isn't... we are absolutely convinced that patients involved at all levels of commissioning is a really, really good thing and will be better for the public in every way. We have made that as a value principle as a CCG and we are trying to do that more and more. Yes it takes time and yes you've got to get the right people involved, but for us we hold that as a strong principle.... (Health commissioner)

Another finding was that feedback mechanisms and channels for dialogue occur through a wide variety of ways that would not necessarily be regarded as part of commissioning. These include through the contract management process and a wide range of institutional settings such as partnership boards, forums and user groups, and finally the importance of lynchpin individuals are important channels of communication between the public sector and TSOs.

Another consideration in relation to the commissioning cycle is that there are multiple such 'cycles' in operation at any one time. These operate at different levels (i.e. population, locality, and individual), within sub-fields related to policy areas and/or needs, and in relation to the retendering of specific services:

> you need a cycle, there's a lifetime for the contract from the point of view that the way that the NHS and the council are looking at services that's changing quite fundamentally at the moment so we need to be able to say we now will procure organisations that will carry out these functions for us. But that doesn't mean to say that there's only one commissioning cycle, there are a number of different cycles that go on. (LA commissioner)

There was, though, at least one example of an overall 'cyclical' process being explicitly followed to develop the local commissioning strategy, with considerable effort being taken to engage people accessing services from the outset and to use their views to shape the subsequent delivery models and specifications. From the perspective of the commissioner this was radically different to previous commissioning approaches:

> we are designing services that can meet needs, so we have listened and we have heard, we have looked at what services we are going to do, and now we are actually designing them, to see if we can actually meet needs. It is a complete change. (CCG commissioning manager)

For this commissioner this emphasis on engagement of people accessing services arose out of the 'value base' that had been agreed within their CCG, highlighting for them the potential for local bodies to shape what commissioning looks like in practice.

(ii) Is commissioning different to what went before?

If there was doubt over whether the commissioning cycle operated in practice, there was also considerable diversity of opinion as to whether a real break could be identified between a period where commissioning was in operation and a time before. On the one hand, most of the organisations had long-standing funding relationships with particular elements of the public sector and so whilst the processes may have changed the core basis (i.e. that public sector funds the third sector to support people) was continued:

> and I know it's changing, isn't it, from grants to contracts and things, however, whether it's a grant or a contract, you still have to be paid, and it's always late. (TSO)

Building on this financial connection many pointed out that their organisations had been working with the public sector more broadly for many years. As one commented:

> if you go back, we had very positive relationships with what *weren't called commissioners then*, in the 80s. [I say positive], because you'd be part of the bigger committee and discuss that you put proposals forward, bids, or where there are such developed services. So for a lot of years we had a very positive relationship... I mean the issue is quite complicated isn't it, in terms of when the commissioning actually replaced what was there before, because there's all the overlap is there in terms of contracts and… [there is doubt, therefore] I think, *whether commissioning actually is that different...* (TSO, emphasis added).

Others suggested that at the same time as there being this evidence of strong continuities with past approaches, it was possible to identify a clear difference and that was linked to a growing sense of a clearer steer coming from the public sector that a more rigorous commissioning approach and commissioning cycle was being implemented. There was a sense in which commissioning had heralded a more professional and co-ordinated approach to planning, purchasing and providing:

> the difference probably is, and it's a good difference, is that whoever is commissioning the services are now *tightening up on their monitoring and evaluation procedures*, which they should've done in the first place basically. I've been in a really weird position of having to ask… people who commission services from us to provide targets, to provide monitoring outcomes basically, and it's been a long time coming. And I think people are getting their act together now but it's ridiculous that the people who provide the services are having to ask for that. (TSO, *emphasis added*)

As we have already noted, this picture was not consistent across all geographical areas and all public sector agencies. However, many also reported that the public sector now had a better awareness of what money they were actually spending and were therefore able to review how it was being used:

> it was only a couple of years ago when the commissioners, who as I say have got their act together, were, sort of like, "Oh, we're paying for a recovery worker, what's all that about?" We're like, "Well, you've been paying it to us for the last ten years and we've been delivering on it, and we've been providing you with monitoring information on it." ….it took them a long time as well to figure out what they were paying for and then to, sort of, remodel it.' (TSO)

For many, their experience of commissioning was consistent with their experience of the general interface with the public sector, that is, of complexity, opacity and inconsistency of communication.

Asked if commissioning was different to what went before, one TSO replied:

> I'm thinking, I'm not actually sure. Outwardly, because the structure's different in terms of the commissioning teams and the people who are responsible for commissioning in specific areas, I think that all looks different. However, the way that it's actually done and the way that services are procured, I don't think it has changed that much, to be honest. … in my experience in working with commissioners, they seem to work in quite an erratic way. (Advocacy TSO)

Linking to the point made above regarding TSOs' perspective of the existence of a 'commissioning cycle' many participants found it difficult to reflect if commissioning was different to what had come before as they felt disconnected from the process, with a lack of information and awareness of how commissioners operate. Others seemed to have a more detailed knowledge about the changes that had happened within the relevant part of the public sector in relation to the development of a commissioning approach. However, this illustrates that it appears to depend very much on individual experience and exactly who – both in terms of the agency and the individual officer concerned – was involved in commissioning the service. And again this highlights the importance of inter-organisational networking and personal relationships.

One TSO respondent felt that there were clearly continuities in terms of the long-running nature of contracts they held with the public sector; and they acknowledged that in the past some commissioning relationships had perhaps been a bit too 'cosy' and based on personal relationships and the maintenance of a status quo. But they felt equally strongly that commissioning – and arguably more specifically the procurement process – had now gone too far the other way: becoming too 'clinical' and 'dehumanised'. This seemed to be summed up by the move to procurement often being conducted online. Numerous respondents complained about decisions being based on the strict and inflexible application of 'tick box' approaches, rather than the more flexible and informal approaches experienced in the past.

Drawing some of this (admittedly very diverse) experience together, a clear overall finding was the sense of considerable underlying continuity – not least because many had contracts that had been 'rolled over' for many years, or had continued to be re-commissioned in some way; and that close, seemingly co-dependent relationships had developed between the public and third sectors. Where difference was identified this was largely in relation to the procurement and contracting element of the cycle rather than, for instance, in the needs analysis and service redesign elements. This was joined by considerable difficulty in identifying real evidence of a significant shift in the practice of commissioning and in the shift from one 'mode' to another.

Many commissioners had an interesting perspective on these issues. On the whole they confirmed the finding that there was a significant degree of historical continuity. But they also tended to argue that commissioning had ushered in a much more rigorous approach focused on systemic service improvement; indeed they argued it had become less 'tick boxy' over time:

> I think it has moved from a more contractual type relationship and arrangement to much more of a – what I would say is a stock commissioning response in terms of you know that really having everything driven by your Joint Strategic Needs Assessment, you know the sort of engagement with service users and carers is *much more second nature* now

than perhaps it used to be. If you know – you have to – you would struggle to justify not involving service users and carers now in any of your sort of planning and commissioning processes.... (LA Commissioner, *emphasis added*)

And that this was linked to a much more rigorous approach to performance management and effectively building a cycle approach to commissioning:

I think we're getting more sophisticated than that because the information's getting better. In the past you know trying to get any mental health information was just an absolute nightmare. You know, you couldn't rely on it, it was never reconciled, it was never validated, you know a lot of it was paper records, a lot of it wasn't put on in a timely way. It was really difficult to have reliable information that you could – you could base your work on, so I think hence why it was much more of a historical, contract sort of basis relationship that, "You keep underperforming on this so we'll take money out" (emphasis added). (LA Commissioner)

It is perhaps unsurprising that commissioners could clearly articulate an aspiration and ambition for how commissioning should be conducted, while TSOs 'on the ground' perceived a more complex and problematic reality.

Finally it is worth noting that commissioning is evolving over time. This appeared to be in part due to the public sector developing its competence in some aspects of the cycle (although see section below) but also due to the change in policy requirements about who should be involved in the process. In the mental health sector, the move to Clinical Commissioning Groups and the role of GPs as overall leaders was understandably flagged up in particular. At the time of the research CCGs were still bedding in, and therefore the impact for TSOs had been minimal. The commissioners were starting to notice the difference this could make – whilst it was too early a stage to provide any meaningful comment on what this would be, the move was seen (by commissioners) as a positive one in principle:

what we're going to be doing is looking at reviewing all of those services then being able to say to the GPs "This is what we've got at the moment, you tell us what are the gaps there or how we might do things differently" so that when we come to re-procure those services we can have something that's very clinically led and therefore will be much more attuned to the kinds of problems that they're being asked to cope with in their surgeries. So that's a much better way of doing it. (LA Commissioner)

(iii) Procurement and contracting: is procurement different under commissioning?

As outlined already, most participants reported the process through which funding was transferred from the public sector to the third sector had changed over recent years, even if this change could not be convincingly ascribed to the advent of commissioning. This was usually described as a change from 'grant' based mechanisms to those based on 'contractual' processes. Whilst there was a lack of clarity about what was meant by a 'grant' or a 'contract', the latter was usually connected with a more competitive process that was more specific about the purpose of the funding and how performance would be monitored:

even though they're on a contract, believe that they have a grant. …And so therefore are still operating on the, "We don't really have to tell you anything because it's a grant" and we're saying, "No it's a contract". (LA Commissioner)

what's changed is how things are actually procured. There's certainly been a shift from grants to more formalised tendering processes. (TSO)

For a few TSO participants the previous grant based system was seen as being preferable. Reasons given for this included: a less cumbersome process to gain funding, more certainty about what funding would be provided, and fewer conditions connected with the award of a grant. These were seen as requiring TSOs to spend less time and energy in pursuing potential funding pots and therefore enabling them to focus primarily on how to respond to the needs of their beneficiaries:

> I suppose the difference is when you're actually trying to get them because the hoops you have to jump through for a contract are far worse and then you usually have to go and do a presentation, whereas for a grant you fill in what's probably not a too demanding form. (TSO)

> so in the good old days we used to have block contracts for both outreach services and for accommodation-based services and we knew what we'd got to spend, we staffed up to the maximum that we could. (TSO)

In contrast with much previous research, the majority (but not all) of participants could though identify positives in this perceived shift in procurement practice. In part these were centred around their observation that previously the public sector had not been sufficiently diligent with how it had used its available funding. This translated into services being continued that were potentially not the most efficient or beneficial approach to achieve an outcome and similarly providers who may not have been best placed to deliver a service being guaranteed that they would carry on doing so:

> we were in danger of some services just being re-commissioned and re-commissioned and re-commissioned without much thought going into are these clients actually achieving long-term outcomes from using this service. So I think the change from grants to contracts is a good thing. (TSO)

> a lot of the contracts or a lot of the things being delivered have been delivered for years; in my words, "Pet projects of commissioners". But essentially, they hadn't got a grasp of what they were paying for. (TSO)

Alongside a better targeting of the available funding, the move to 'contractual' arrangements was connected with more accountability for TSOs in how the resources were used. This was largely through tighter performance management reporting. On the whole this was again welcomed on the basis that it would help to ensure that money was being used effectively, and also that TSOs would be able to evidence the impact of what they had delivered (which in turn would make it more likely that they would continue to receive funding):

> the difference probably is, and it's a good difference, is that whoever is commissioning the services are now tightening up on their monitoring and evaluation procedures, which they should've done in the first place basically. (TSO)

An interesting issue that was raised by a few participants was the extent to which the third sector had been willing to go along with the previous regime and its more lax arrangements. They described some TSOs as having not always having adequately scoped what they had proposed to commissioners, and that the void in relation to performance monitoring potentially led TSOs to be less

focused and efficient. These views would suggest the rigour provided by a more engaged procurement process is beneficial to TSOs as it provides an additional challenge to the stewardship of their resources:

> I think some of the historic contracts that I've seen were bloody stupid at the outset; what on earth possessed us to suggest it and what on earth possessed the commissioners to buy it, in terms of the nature of the service and the cost of it? (TSO)

> too often we get complacent and we deliver something that's comfortable and not necessarily what people want. (TSO)

The TSOs who provided social care support reported a further move in procurement from block contracts with the local authority to individual purchasing arrangements with the person accessing the service. This was less pronounced than would probably be the case with other adult service user groups in which personalised budgets are better embedded. There were mixed perspectives on this shift to more personalised funding mechanisms. Positive views included the additional flexibility that it provided as TSOs could negotiate directly with the individual rather than having to go back to a commissioner or care manager to seek approval, and a support for the underlying principles behind the policy:

> personalisation has made commissioners think, you know, just because you're in that commissioning situation doesn't mean, you know, that everything has to be led by you, it's now led by the individual that needs that care and support… it's more people taking control. (TSO)

Those who were less positive were principally worried about the financial instability that could result from personal budgets in comparison to the guaranteed annual income that was provided through a block contract arrangement. Such financial concerns were also raised in relation to payment mechanisms in which providers were funded for delivering activities or outcomes in respect of individuals:

> I think that they won't have charities engaging because they won't be able to do it, they won't be able to fund it. Most charities can't fund it upfront from the staff costs. (TSO)

Financial insecurity aside, being paid for achieving positive outcomes was seen as having considerable potential for the third sector. This was on the basis that the TSO participants believed that they were providing a more holistic service than the public or private sectors, and were therefore in a better position to take advantage of such payment mechanisms:

> I mean I think the great opportunity it offers for the third sector is again is to have a wider role and because, if you pay by results and are genuine outcomes, you are forced to do what the third sector I think is intuitively much better than statutory services, is take broad view of meeting people's needs. (TSO)

As ever the detail within such payment mechanisms was seen as vital in its introduction, and because of its clear importance we come back to the issue of outcomes later in the paper.

3(b) What are TSOs' experiences of procurement and contracting under a commissioning environment?

Throughout this research, we were reminded that the financial relationship between commissioner and provider organisation is of crucial importance. It was therefore not surprising to consistently find that TSOs were most concerned about the performance and functioning of this element of the commissioning cycle in particular and interviews rapidly focused on this element in particular. Their comments have been themed under three areas of concern for the respondents – *tendering* (i.e. the process of selecting a purchaser for a service), *contracting* (i.e. the process of formalising what the chosen provider will deliver and then monitoring this delivery) and the *dynamics of competition* within these processes.

(i) Tendering

TSOs and commissioners both agreed that an important pre-requisite of a good tendering process was being clear about what was required and the funding that would be available to deliver the service and outcomes:

> I think they have to be very clear what it is they want when they're procuring services, which hasn't always been the case in the past, and organisations have just gone off and done what they think is best, but it's not necessarily always right. So I think there's two things. They need to be clear from the start, when they are procuring new services, what they actually want. (TSO)

Commissioners themselves recognised that this had been an area of weakness in the past, but felt that it had improved in recent years:

> I think people get the opportunity to have their say as to what's being proposed and the specification that's being developed, and that's all publicly consulted on. So there is a process in place that that is done. (LA commissioner)

TSOs reported that the approach taken to specifications varied considerably between public bodies and localities, suggesting that best practice in such procurement is yet to be established and/or adopted across the public sector:

> if I was given a blind trial I would guess that I could tell the difference between authorities just by reading where the emphasis lay in the specifications and the amount of detail that the different commissioners put out. (TSO)

Echoing the comments in the previous section, a common frustration related to delays in expected tenders being advertised and the uncertainty that this caused for TSOs in relation to developing their services (and so the support they could provide to their beneficiaries). There were also concerns from a number of participants regarding the advertising of tenders, with once again the smaller organisations finding greater difficulty due to their lack of internal capacity to keep abreast of what tenders were being released:

> it doesn't really advertise well what tenders are up or what are coming up. So by the time some people hear about the tender, it's… Or if you're not constantly logging on, you

haven't got staff just dedicated to look at this website all the time to see what tenders are coming up, easily missed, definitely, for smaller organisations as well. (TSO)

Communication was repeatedly a source of frustration in relation to the outcome of tendering processes, with one TSO having to chase repeatedly before an answer was provided and another being erroneously told that they had been awarded a sum of money which was then significantly reduced:

we didn't hear anything for a while, so we were trying to make contact with the commissioners and we didn't hear anything. And then they informed us in writing, but only after we'd tried really, really hard to get some sort of correspondence. They aborted the tender process because of some illegality that they had not been adhering to the correct protocol, so the tender process was aborted. (TSO)

first they sent us a ridiculous letter saying we'd been awarded [£X amount] a year, the next day they emailed saying, "Oh, we've sent you the wrong letter". …So then they sent us another letter saying actually we'd been awarded [£Y amount] which was quite a bit less than our previous grant. (TSO)

There were calls from some respondents that smaller TSOs should be given additional support to ensure that they were aware of what was available, but this did lead to concerns from commissioners that they could be seen to fall foul of the rules that they must not discriminate for or against any type of provider:

the thing is you can't show preferential treatment. You can't say "Oh, you provided this so we'll keep you in the loop. We'll let you know when it's going to happen". Otherwise everybody has to have the same. … Whoever they are should be able to get all the documents, so I don't really accept the argument that people don't know. (LA commissioner)

That said, support was provided in most areas to enable the third sector to be in a better position to apply for tenders through the work of infrastructure bodies. One CCG also highlighted that they provided information and engagement opportunities for the third sector in particular –

we also support the voluntary sector with joint education and training. There is a monthly open mike forum, which they come to, anyone can come to, anyone can attend, and can ask questions and we have themes. (CCG commissioning manager)

Tendering was also seen by some as a means to have assurance at least in the medium term about what funding would be provided to them, and this was compared favourably to scenarios in which a grant was renewed on a short-term basis whilst longer-term decisions regarding commissioning priorities were made:

even if ultimately the commissioning process doesn't favour us, I think it would be a positive step that everything is firmed up because it's been like walking in quick sand, certainly the last eighteen months. And it takes its toll on morale, staff morale, they don't know whether they are coming or going. (TSO)

Contracts did not however remove altogether the lack of certainty regarding funding, as they also appeared at times to be renewed on a temporary basis whilst the commissioner considered the options and funding available:

> I've currently got about four different extensions on the go from the local authority, because they are just slowly getting their acts together, aren't they? The situation we're at at the moment is that we are uncertain beyond September whether we've got any NHS work under contract. (TSO)

> it was only the last week of March that we heard that one of our NHS subcontracts was being rolled over for a year so we just had to leave staff, we couldn't put their jobs at risk, but people kept saying, "Oh it's going to be rolled over," so we decided it was better to trust that, but it wasn't 'til the last minute we actually got that in writing. (TSO)

There were still examples (in the view of respondents) of a more open approach not being deployed, and these were perceived negatively (at least by TSOs that were not beneficiaries of such an approach) as they denied the opportunity for them to demonstrate what they could offer:

> it seems to be where you've got a good provider who's doing the job, it kind of just… rolls on, and rolls on, and rolls on. (TSO)

> there's this closed group of providers and they keep having their contracts rolled over.(TSO)

Furthermore regular tendering was also described by some participants as preventing their organisations from taking a long term view which could potentially enable them to better support more disadvantaged communities. This was seen as being a misplaced belief by commissioners that they always had to put services out to tender:

> that's businesses; that's where the business acumen comes in to play. But we can't get that message across to them. And under EEC law they don't even have to go to procurement, they could develop partnerships and frameworks where they're constantly working to evolve and grow the quality of the services that are delivered. But whatever is in their heads they would rather spend millions of pounds going through a procurement exercise than actually saying "No, let's do a framework and let's work with a select number of providers to deliver our services for the future."(TSO)

(ii) Contracting

Having awarded the tender the procurer of the service has to then issue a contract setting out what will be expected of the provider. For a number of TSOs, simply getting a copy of their contract appeared to be a challenge in itself:

> it's still sometimes all too difficult to finish off with a commissioner the niceties of contractual agreements and other things and so it can be hard work getting proper documentation about contracts that you're commissioned to provide. (TSO)

A common issue raised was the tendency of health bodies to use the standard NHS contract rather than the service level agreements that had been used previously. The standard contract was seen to be overly detailed and demanding and more suitable to the letting of large contracts with bigger organisations than with smaller TSOs. This was linked for some respondents to the lack of flexibility

and bureaucracy they had experienced in the tendering process. Contracts which involved more than one agency were seen as particularly complex:

> some of these services are delivered by very small organisations and a 140 page contract, that includes requirements that most – many organisations won't have an understanding about, seems inappropriate and inflexible on the part of the commissioner. (TSO)

> when you see some of the contracts, the multilateral contracts that come out… It was different when it was Service Level Agreements – it was based on what was agreed there and then with your organisation, what you're going to do, what we're going to do. But then the multilateral contracts came out, which is one standard contract, and as you get different services come in, then they just update that contract – so add another bit in, add another bit in. Some of the jargon that's in there! (TSO)

Monitoring of contracts was described as often being more based on quantitative measurements of service uptake rather than capturing the experience of people who were supported. This was seen to reflect a 'hands off' approach by commissioners in relation to the contracted services and several participants expressed a wish for greater engagement and more robust and holistic monitoring processes:

> we used to have shared values, good communication on service users' needs and a joint understanding of local service delivery and now it is a contract that could just as easily be in regards to refuse collection. (TSO, Survey Response)

> we were commissioned by both the PCT and the Trust, we had very little contact with either of them, maybe quarterly they'd just ask us to send some stats in, etc, etc, and that was fine, and to some degree you think, "great, leave us to get on with what we're doing. Brilliant," but I think there also has to be an element of responsibility and accountability. (TSO)

> they're very used to quantitative targets, if you know what I mean, and giving you numbers and number-crunching and all this sort of thing, but they don't pay attention to the soft outcomes and they don't pay attention to the amount of time that it takes for people like support workers, for example, to have to deal with a case, and every case is different. (TSO)

Commissioners recognised the importance of thorough contract monitoring, but struggled to achieve this in practice due to both capacity and expertise. They reported differing experiences of the willingness of TSOs to engage with such processes, with examples of TSOs resisting attempts for more robust frameworks but also those in which TSOs had been pro-active in opening up the possibility of more holistic approaches and engaging people who access services in the reporting mechanism:

> there's a combination in terms of commissioning you've got to really have that sort of level of discipline to have both sides in it. You can't just give me a verbal update; we've got to have that evidence of what they've done and all the rest of it. So yes, it's a combination of things really. (LA Commissioner)

> they've had patients come to their six monthly review meetings presenting their view of the service and why we should continue it or adapt it accordingly. Never before have I

entered a contract negotiation meeting, where the patient has led the meeting. Now that's impressive. (CCG Lead)

These comments also highlight that in some times and in some places, elements of the 'ideal' commissioning cycle clearly can and do operate, and that there are aspects of 'good practice' happening in the system.

(iii) Dynamics of competition and collaboration

As highlighted above a more competitive and open process to allocation of funding has been introduced as part of the move to a commissioning approach. As mentioned above there is no legal or policy requirement that commissioners will deploy competitive approaches to the awarding of all grants and contracts, but there is an expectation that they will consider all the potential procurement options and be able to justify why a grant or contract was rolled over or newly allocated to a single organisation rather than being put out to tender. Commissioners suggested that they did try to deploy the mechanism that they saw as most appropriate for the service in question, and this included working developmentally with one organisation if they were seen as being uniquely placed to respond to the identified need:

> you can't tender everything all at the same time anyway so I think it's got to be a process where new services come in and the way that we tender them, the way that we specify them, that's going to change; that's where we can do a lot I think and we can influence what's being provided. (LA Commissioner)

And as a commissioner in a different authority noted:

> we again went formally through the single provider route to procurement because actually what we wanted to do was ensure that we've got the same providers so that actually the capacity across the localities could be flexed according to where the needs were presenting. (LA Commissioner)

Reflecting the positive comments regarding the move to a more 'contractual' approach, there was support from many TSOs regarding the opening up of funding opportunities to other organisations rather than an existing recipient being supported *ad infinitum*, and also as opening the door to new ways of working. This was described as having benefits in terms of a better use of public sector funding. But equally for TSOs it was seen as a positive move that enabled them to provide new service offers in line with their overall mission and to achieve greater economies of scale/scope through increasing the range of services and/or the areas in which they worked:

> it probably has opened up more things for us being able to do than we might have done in the past, so I think when you had grant, sort of grant sort of based regime of doing things, I think it limited the third sector to doing, a quite narrow niche of activities which were, on the whole, to the periphery of things. (TSO)

> it's quite positive in some ways because we're an organisation that does all of the services, we've got a potential opportunity there, to, you know, be the sort of, the single provider of all the services in one area. And that's good for a third sector organisation because by doing that, you can have more stability. You can improve some of your infrastructure, you can identify economies of scale yourself internally. (Advocacy TSO)

Competitive tendering was still a source of considerable anxiety for a number of the respondents, as it had or may in future lead to the funding for their TSO being lost. This was particularly the case for smaller organisations, who were concerned that they would not have the infrastructure, capacity or business skills to compete against larger third sector, private or NHS organisations:

> you're not as good as this all singing, all dancing bid that's coming in. And I think the commissioners need to understand where you're coming from when you're doing that bid when you're not a big organisation maybe. They can't treat everybody the same, can they? (TSO)

> we're very good at the grass roots level work and require us to get some good results, but we're not good at doing the business end and building the key relationships, marketing what we do, selling what we do. We don't have the resources. We've never built that kind of skill-set within particularly small organisations. (TSO)

Competition had also opened up the local market to a greater variety of providers, with several TSOs describing their main rivals as increasingly being from the private rather than third sector. Whilst commissioners largely valued the characteristics often seen to be connected with the third sector their primary interest was in purchasing from an organisation that could deliver what they required rather than the sector it came from:

> some of those organisations have developed into provider organisations now, so you'd have to say "Well, we wouldn't treat them any differently to a private company or indeed an in-house service" but what we'd want to know is: is that providing a good quality service; have we got something that can tell us that; is it providing it at a cost that we're willing to pay. And so as long as someone provides the right service for the right person at the right price it's not for us to judge as to whether they happen to be registered with the Charity Commission or floating on the stock exchange, it's our job to concentrate on the person who's receiving the service.' (Joint Commissioner)

'Framework agreements' (from which people accessing services would individually select a provider through their personal budgets) were seen as having benefits in this regard, as it was less onerous for smaller organisations to apply and they were then competing through 'user choice' rather than for a single large contract. Other TSOs were more confident in both competing for business and also in undertaking relationship building with commissioners as a way of 'soft selling' to commissioners. The latter approach had led to TSOs being allocated new funding without going through competitive processes, and those TSOs were happy to receive this (despite the general support for greater transparency in how funding was allocated):

> I managed to narrow down who the person was, who the lead was. She then got me into their re-provision meetings, she then said, "Okay, next residential unit that closes we're going to give it to…" (TSO)

Strategies deployed by TSOs to win additional funding without a tendering process included piloting a service through their own resources and then using the evidence of its impact to convince a commissioner that it should be picked up by the public sector, or proposing how a commissioner could meet a new legal responsibility:

> I wrote a paper saying this will be the effect and this is what I'll need to do it and that went through to the Health Commissioners and also the Local Authority Commissioners and they granted the money and the contract… (Advocacy TSO)

A positive relationship with a commissioner was also described as enabling flexibility within a contract so that the resources could be used in a different way, and/or providing the opportunity to gradually add more services over time:

> we then went back to ... and said, "Look, this is what's happening, these are the sort of people we've got in this house and we also see the merits for a floating support service, so can we talk about that?" And so we did and we came up with the idea that... you know, she said, "Well you've got these hours, we really can't sort of commission any more hours but if you want to we will agree that you can use excess hours. (TSO)

In one locality the local NHS Foundation Trust had been delegated responsibility to procure a range of services on behalf of the commissioner. This was seen as a less satisfactory arrangement due to the potential that the Foundation Trust may be looking for evidence that they were better placed to deliver the service, in contrast with a commissioner whose role was solely to purchase and would therefore not have a blurring of interests. Furthermore, as the Foundation Trust controlled the allocation of activity they were seen as being in a position to potentially distort this in their own interests:

> you work under a dilemma of outlook where you think that if we don't do it better, more than likely, when they are contracting out again, they will not contract the third sector. (TSO)

> the referral numbers are down because we're in that slightly perverse position I think whilst the foundation trust are contracting to us to deliver work, it's the same work they are doing, so it's almost like we are in competition. So, of course, they are going to take referrals for themselves first to keep their numbers up and then we tend to get from the NHS whatever is left. (TSO)

In many respects the participants concerned understood why there would be a pressure on the Foundation Trust to behave in such a manner, and there was a sense that this purchasing role had been forced upon them rather than being something that they would have chosen to adopt.

3(c) What factors appear to influence the positive implementation of commissioning (and in particular procurement and contracting)?

In this section we consider the key ingredients that appear to have influenced the way that TSOs have experienced commissioning and which from their perspective at least can be seen as contributing to the successful realisation of the commissioning process. It focuses less on the nuts and bolts of procurement, or on problems and barriers, and instead on some of the issues that seem to be universal to the (relatively) successful implementation of commissioning. Each one also represents an important area in which policies have been addressed to improve particular aspects of the commissioning functions of public bodies, notably the desire to improve the skills and capacity of commissioning staff and the general commitment to improved coordination and information sharing between different public sector agencies.

(i) The quality of personal relationships

A wide range of respondents consistently highlighted the importance not just of personal relationships but also their longevity, not least because it clearly takes time for trust to develop between public sector commissioners and individual TSOs. Despite the move to more formality in funding processes, most TSO participants emphasised the importance of their relationship with the commissioning organisations, and more specifically their relationship with key players within the commissioning process:

> the relationships are important… the director took a particular interest in our mental health, so we built up this good relationship with him... with the authority, I should say. (TSO)

> I spoke to somebody else and they said, "You've actually met the commissioner?" and I said, "Yes, she's really nice, she's really got an open door policy and if you've got something to say then contact her". So I was pleased that she was able to enter into that dialogue. (TSO)

A positive relationship with the individual commissioners was seen as an important element of developing trust between the organisations. This in turn opened up the possibility of greater flexibility from both parties in what was delivered within a contract, and more informal sharing of ideas and gaps. An established relationship meant that commissioning decisions to put out a current service to tender could be more easily accepted, although a commitment to continue investment was clearly welcomed:

> a lot of decisions are made face to face; I think commissioning is often about, it's about people, it's about having those relationships. (TSO)

> our relationship with the commissioners has been sufficiently strong for us to say pretty much what we want to say. She's lovely, lovely, and I mean, she's as straight as a die…she said to me basically, you know, in 2014 we're going to have to be looking at all advocacy services with a view to tender. Well, okay, fine. (Advocacy TSO)

> the recognition of our efforts to fund new services over the years by bringing in funding such as lottery has been acknowledged and when this funding ends they have tried to pick up the costs - even at this difficult time - as they recognise the value of the service we have developed and how it fits in with local agendas e.g. advocacy, healthy living working with people who have experienced domestic abuse etc. (TSO, Survey Response)

Being a part of the third sector was reported by TSOs as being positively responded to by commissioners, in part because they believed there was a shared value base and also for those who had been working in a locality for an extended period because they had an established track record of delivering what was required (although as mentioned this did not mean that TSOs would be necessarily be favoured in the tendering processes). Nevertheless, relationships were often seen as crucial to the achievement of particular funding and service outcomes:

> because the overriding factor for me with all of this commissioning, year after year after year, is that the commissioners will come to us as a third sector body... okay, so they sort of like us, it's easier to deal with us than it is with a for-profit organisation… (TSO)

The local dimension was reflected by one of the commissioners in particular:

> I always worry that it could be so much easier to get a national contract couldn't it, with MacMillan and say, "Okay, can you provide this service?" and it's done nationally. But actually I probably might lose all the nuances of our area in that and the *one thing that the third sector brings, far more than anyone else – anything else – is that local experience.* I really, really, really want that. I want you to know about the little wood that you can go walking in, I want you to know about the shop keeper who is more friendly to the people with Downs Syndrome. (CCG Lead, *emphasis added*)

As the discussion in earlier sections showed, many could acknowledge that such personal relationships might be seen as having a dark side in the risk of complacency and a 'closed shop' of providers. For many, this close working relationship between the public sector and the third sector was justified by the added value that the latter were seen to bring: the experience and the expertise on the ground that the commissioner couldn't gain on its own. This sometimes amounted to a real sense of inter-dependency: the same TSO quoted just above described asking commissioners for strategic guidance for the future, and was surprised that:

> the answer always comes back, "Well we don't really know, what do you think?" And I don't think that I'm simplifying it, on occasion it has been as blunt as that, "Well how do we get out of this mess?" So we are proud of the relationship that we've nurtured locally but if we can't nurture a good relationship like that then there's something wrong with us; we're local, we're community-based, we're third sector, we're not-for-profit, you know, our interest is [this local authority area] and we've been here a bloody long time. So if we play the game right then we should be expected to have a good working relationship. (TSO)

Naturally as one might expect with a close and longstanding relationship, communication problems can sometimes be an issue. Other more negative experiences included one smaller TSO highlighting their perspective that smaller TSOs were not treated equally to the larger organisations:

> I think they treat the third sector with disdain, really. They don't prioritise the third sector, unless, of course, you are a large third sector….. you're large and cumbersome and quite bureaucratic, much like their organisation, and they seem quite happy to deal with those third sector organisations more speedily, more readily than small to medium-sized ones. (TSO)

One of the downsides of the centrality of individual relationships to the commissioning process appeared to be the fragility of such personal arrangements. Whilst many of the TSO participants had been working in the organisation and locality for a considerable period, there appeared to be considerable instability in commissioners. This was in part due to individuals seeking promotion or other opportunities, but most commonly mentioned was the disruption caused by regular restructuring within public sector organisations and/or in the public sector system as whole. This is discussed in more detail in the following section.

(ii) Public sector competence

Recent Government policy has encouraged a focus on improving the skills and capacity of commissioners and enhancing the professional standing of the role. This focus appears justified given

the very considerable range of comments from respondents regarding the significant difference that individuals make to the success or otherwise of the commissioning function. There was considerable nuance in the way that TSOs thought of commissioners, with both positive and negative assessments of the abilities and capacity of individual commissioners:

> I'm also struck at the moment by just how much individual members of staff make a difference. We've gone through – we're on our third contract manager for this work. First one was completely relaxed, second one wanted to tighten up a little bit, this third one has an intent to tighten up at some point in the future. But it just seems to come from partly their workload, partly – I don't think they are clear on what the expectations are. (TSO)

The approach taken by a commissioner in relation to procurement was thought to relate to their individual knowledge, skills and perspective, with some participants questioning the ability of those in commissioning roles to undertake such tasks:

> if I'm totally honest I think some commissioners – it's not personal or anything like that – *som*e commissioners moved into positions rather than having the training or experience. (TSO)

Commissioners recognised the complexity involved in procurement and contracting, with some of them being candid about their own confidence and the capacity of their organisations to respond sufficiently to these demands:

> contracting is a very, very specialist skill. You know I as a commissioner have not got the contracting nous or the legal knowledge....You know, that's one of the big difficulties. You need proper contracting capacity to be able to deliver those. (LA Commissioner)

> I've got something like 150 contracts with third sector organisations. It's an absolute nightmare to manage. So getting the CSU to manage them is really, really hard. And there's a set of quality standards and a set of outcomes and you know, "Should we put in CQUINs into all of these?" And you know who the hell is going to do that? I haven't got a team that can do that at all. It's an absolute nightmare. (CCG Lead)

A major doubt expressed by many was the position of individual commissioners vis-à-vis wider processes of change or instability in their organisation. Responses to the current financial austerity and changes in national policy were highlighted as particular drivers for restructuring:

> I think in one area I had three commissioners in four weeks. For the same thing. (Advocacy TSO)

> we need the commissioners on board I guess and I think the changes in the infrastructure and the management and all of that, I think that kind of impacts on the consistency of where we go. We get so far and I think it kind of halts because suddenly the commissioners change or there's a reshaping of the structures and we kind of stand still for a while and then we go back a bit and then we go forward a bit. (TSO)

The loss of established personal relationships as a result of the churn in individuals and their organisations was made worse by a perceived lack of good information and contractual systems within the public sector. This meant that TSOs often had to repeatedly provide basic information on their

organisations and what they had been commissioned to provide, and to re-educate commissioners on the underlying thinking behind local strategies:

> it sounds chaotic, even basic things like getting the right information, even the right contractual information... You know, confusion about who's who, who the right person is, changes, people being made redundant. (TSO)

> the PCT in particular, we've had five different commissioners in the last two years. So in terms of continuity, we've found ourselves having to repeat things over and over again, thinking that they will have passed that on to those commissioners. (TSO)

As a result of major reforms underway, particularly in the health service, the process of setting up new organisations, developing alternative commissioning structures and appointing individuals to work with these has caused a degree of chaos and delays in key decisions being made. This again had a negative impact on some TSOs as it meant that their funding was only extended for a temporary basis and they could not meaningfully plan for the future:

> the last year has felt enormously chaotic. Simple things like staff being made redundant, moving on, staff are re-positioning themselves to their advantage, so we've got people from commissioners moving over to the NHS trusts in senior positions, so everybody is very reluctant to make decisions, hence we get late in the day, after much badgering, 'We'll just extend your contract.' I hear from 30 other organisations and they're all doing the same. It doesn't feel planned, it feels reactive. (TSO)

(iii) Co-ordination of commissioning between public sector service areas
Successful co-ordination between the work of different service areas of the public sector has been recognised as a vital issue in general and within mental health in particular. Such co-ordination appears to be a challenge on a number of levels: commissioners might be separated from allied staff and functions within their own organisations, there may be barriers between them and other public sector organisations that are nominally responsible for particular areas of policy, and there might be numerous challenges when thinking about whether services are experienced by users 'at the frontline' as integrated and coherent. Space and the research priorities only really permit a focus on the first of these challenges.

Our findings suggest that for those TSOs who were procured by more than one public sector body, or indeed more than one department within a single public sector body, there was a common experience of the different commissioning teams not successfully co-ordinating their work. At the most basic level, this appeared to be connected with public sector organisations being responsible for different aspects of mental health support and this included the NHS in which all the organisations are in principle at least part of the same overall 'family'. This structure seemed to be replicated within public sector organisations, with individual or teams of commissioners responsible for planning and purchasing services for a particular user group:

> we've got three sections, we've got an adult section, a young carers section and a young adult carers section, and we had a commissioner for the young carers section and then we had another commissioner for the adult section, which was ridiculous. (TSO)

I'm not sure necessarily that having commissioned originally through the PCT was ever joined up in the first place. I think there was NHS within NHS within NHS still. There's four levels of NHS that aren't talking to each other already potentially. (Advocacy TSO)

The structural separation of commissioners and commissioning teams was thought to be mirrored in the organisation of budgets, with TSOs perceiving that commissioners were in competition to attract or maintain the budget available to their user group. This led to a number of examples in which commissioners appeared to be in dispute about who should pay for a contracted service, which resulted in TSOs being passed between organisations or teams:

I don't think it's quite there yet, because I still think there's arguments over pots of money – where that pot of money sits, who should commission that. (TSO)

there was a letter to say – from SP – "We've done a review and realised that we're funding your service and really we shouldn't be, it should be the NHS… So SP spoke to... I think it was the commissioners to say, "Look, you need to take this up". PCT said, "Well we commission the Mental Health Trust to commission all our Mental Health services so really it should fit within there, so if they've got any spare cash then they should actually commission the services". The Trust then went, "No, no, no, no, we're really maxed out, we haven't got any spare cash, it should be the commissioners, they're the ones that give us...." (TSO)

Linked to the emphasis that some commissioners seemed to place on protecting their own budget there appeared to be a lack of understanding or interest in considering the public sector purse as a whole, with TSOs reporting examples of duplication in spending and those in which a commissioner would introduce an initiative that would reduce the costs to their budget whilst increasing the expenditure for another part of the public sector. This also was thought to result in commissioners not being that interested in services that they paid for which would result in savings to other commissioners:

you're not spending £2.84, but of course, the Local Authority don't really care about that because it isn't their money that I'm preventing from not being spent... (Advocacy TSO)

going to supported living, it meant that there were three funders, Housing Benefit, Supporting People and the Health Authority and the Council together. But the Health Authority thought it was great because at that time they renegotiated their Section 75 money with the Council so they weren't paying anything. So no wonder the mental health commissioner from the Trust thought it was wonderful, but it was costing more for less. Mad. (TSO)

The periodic restructuring within the public sector seemed to add to this fragmentation, as settlements that were reached between different commissioners were disregarded, and agreements negotiated between the new commissioners:

I think that's being challenged now that Public Health have gone into Social Care, there's a row going on about who's doing the commissioning. (TSO)

you've got Supporting People, you've got elderly people provision, you've got mental health, you've got learning disability... what a mess! (TSO)

The commissioners recognised that their structures and processes were not as integrated as would be ideal. They too highlighted the complications that resulted from separate budgets and financial responsibilities, and also the complexity caused by public sector organisations having different contractual requirements. The most recent restructures had led in one area to health commissioners being now based within the Council, and it was hoped that the informal contacts that this would foster may lead to better joint working in practice. One TSO participant reported that the downsizing of the commissioning team may have addressed the fragmentation they had experienced through replacing multiple roles with just one, however the viability of such an arrangement in the long term could be questioned:

> because our council has gone through the lean process we've now got one commissioner. So although it's not very good for her because she's doing three times the amount of work in the same hours, it's very good for us because it's the same person sort of going all over. (TSO)

Linked to this, there was often a sense of greater trust in the commissioner for mental health rather than those working in other service areas, which presumably arose from the personal connections and a shared interest in this user group:

> mental health commissioners have finally levered away from the old SP pot so for the first time from this April the mental health commissioners have autonomy over all of the money that the PCT and the Council have determined will be spent on mental health. That means they can join it all together much more effectively. (TSO)

Section 4: Discussion and Conclusions

The research reported here was guided at the outset by a set of three main questions about the place of commissioning in mental health services, as follows:

- Is commissioning (and procurement and contracting as part of this) different to what went before?
- What are TSOs' experiences of procurement and contracting under a 'commissioning environment?
- What factors appear to influence the positive implementation of commissioning?

In addition to seeking the perspective of TSOs in relation to these questions, we were determined to garner the views of commissioners: we wanted to consider the third sector *and* the public sector side of this relationship.

As a general rule, in relation to the prior question of 'who commissions' we were struck by the relatively limited range of public sector organisations that were responsible for, or engaged in, the commissioning of mental health services. The survey that was directed at mental health TSOs across the conurbation was open-ended in its questions about relevant public sector organisations, and the general finding was that the main locus of commissioning was in local authorities and the NHS. In one locality, for example, it is notable that there were joint commissioning arrangements for mental health, based in the local authority. In terms of the 'how', this has been addressed throughout the findings in

the reporting of the experience and opinions of TSO respondents and commissioners. However, it has rarely been possible in this report to go into great detail about mechanisms and specific processes – and there are indeed interesting ways in which specific elements of commissioning have been conducted – because the elements would be recognisable and would therefore breach the confidentiality we have afforded all respondents (and indeed to the geographical location of the research).

In practice, the research has highlighted a considerable degree of complexity surrounding commissioning – even in this limited policy field and geography – and for the sake of simplicity and space we have structured the report and discussion in a way that highlights some key themes that emerged in the course of the analysis. The remainder of this section draws the findings together, based on three key themes are of particular importance, before reflecting finally on further issues of interest and future research challenges.

4(a) Commissioning policy and practice: continuity and change?

A clear overall finding was that very few research participants, including commissioners, felt that commissioning yet operates in the cyclical manner that is encouraged (and perhaps sometimes assumed) in policy. The impression instead was that commissioning tended to be conducted in a more *ad hoc* manner, with some elements of the cycle being more evident – for instance consultation and sometimes service (re)design – but without forming a coherent and consensually agreed whole. It was common in the interviews for respondents from both the third and public sectors to quickly focus on commissioning as the procurement and contracting element of the cycle, with the term becoming interpreted more as a replacement for procurement (i.e. 'to be commissioned'). This could suggest that this is the element that is of most interest to participants due to the necessity for commissioners to allocate their funding and TSOs to access it. There were also some interviewees for whom the 'commissioning cycle' was little more than a somewhat abstract concept, with the 'softer' elements being forgotten due to their current absence.

Understanding this lack of coherence in the here and now is closely linked to the complex picture about the development of a commissioning approach in a recent historical context. In other words it is difficult to put commissioning into a current context without understanding its longer term development and other associated changes in policy and practice. Perhaps the most identifiable change was that where services have been re-commissioned, or re-designed through a commissioning process, respondents recognised that many of the principles of the commissioning approach had been enacted. Of course, for TSOs this very much depended on whether they had been involved in such commissioning, or had near hand experience, perhaps through talking to individuals in their network. In contrast, there is an accompanying picture of many other individual services being marked by continuity: particularly in the case of longer term accommodation-based services, it is quite understandable and defensible that contracts should have been continued for many years. In such cases, stability and continuity is clearly highly valued by commissioners, managers within TSOs, staff, services users and their families.

As a result, it is not possible to say (nor indeed, perhaps realistic to expect) that even within the relatively narrow field of a particular service area, there is a coherent, single picture of an approach to

the commissioning cycle. Across all respondents, it is clear that it proved very difficult to establish a commonly-agreed periodisation: namely, a clear *before* and *after* commissioning. The issues here are three-fold. Firstly the central (contractual) relationship between the public sector and TSOs has been subject to gradual and piecemeal change, so there is no clearly identifiable point in which commissioning was introduced. It would simply not be practical to expect that revolutionary reform could have been introduced in this way. Secondly – and we lack precise information on this – it is likely that commissioning approaches have been introduced into individual services fields and sub-sectors at different times and within the different public sector bodies responsible for administering the 'new' approach. Thirdly, there was clear evidence that individual contracts have endured in ways that appear not to have been influenced by changes to public policy shifts, including the rise of commissioning – for TSOs in such a position continuity is likely to mark the relationship. Closely associated with this is the longevity of many relationships between commissioners, TSOs, and individuals involved thus personal relationships can perhaps help smooth out disruptions caused by new policy priorities. More generally of course, TSOs and individuals will have experienced change in very different ways.

In many cases it seems that is as much the increased prevalence of the language or rhetoric of commissioning which has most changed. As a result of all of the above, respondents were able to talk in a very nuanced manner about the pros and cons of what we might call 'four Cs': change, continuity, contestability and competition. It also reiterates earlier findings that personal relationships are crucial to building longer term trust and facilitating communication (Martikke and Moxham, 2010; Buckingham, 2009; Osborne and McLaughlin, 2002). A final way in which commissioning and trends in wider public policy are having an impact on practice is in relation to outcomes and 'commissioning for outcomes'. Again though, the impression is of a very mixed picture between different providers, sub-sectors/specialisms within the mental health services field, and differences between areas. We also found that TSOs often support the move to specifying outcomes, in some cases pushing directly for the philosophical shift that it represents. Further, some TSOs made strong claims that they were ahead of the public sector in thinking about and operationalising this agenda.

4(b) 'The sharp end': TSO experience of procurement and contracting

One of the first reflections on this theme is that we did not get a unanimous sense of traditional complaints about 'contract culture'. In Buckingham's earlier work (2011), she categorised providers in the Supporting People into a four-fold typology. In this framework we would suggest that the majority of providers in this study could be considered comfortable or compliant contractors. We did however gather input from smaller and more peripheral organisations and they seemed to have less experience of commissioning: falling into Buckingham's category of cautious contractors or community-based non-contractors (2011). The key point however is that whilst some TSO participants do see regular tendering as disruptive, overall we did not hear as strongly as we expected the traditional concerns and anxieties over the impact of the 'contract culture' – that is fears about the impact on mission, voice, independence and financial sustainability (Macmillan, 2010). In many ways therefore, the sense was instead of organisations that had reached a 'mature' experience of contracting: they had

significant experience so the traditional concerns about the impact of contracting processes were perhaps lessened. It could also be that those 'left in the game' are those that find it easier to comply with contracting requirements.

Nevertheless, there were many complaints about the procurement and contracting process which suggests there is plenty of room for improvement. Sometimes these appeared to be examples of poor practice, such as contracts not being signed, payment not being received, confirmation of contract extension left to the 'last minute', changes to monitoring or reporting requirements changing without consultation or even notification, and a general sense of uncertainty or poor communication. Indeed, these were the sorts of problems which led to the development of the voluntary sector Compact, the central government commissioning principles, and the idea of 'intelligent commissioning' (Cabinet Office, 2006; NAVCA, 2010; Murray, 2011), so it is concerning to see these issues still cropping up.

More broadly, our findings suggest that there is a potentially major problem with a power imbalance between the public sector and third sector. Some respondents talked of an 'arrogant', overbearing public sector; or of feeling ignored and that the public sector could get away with sometimes cavalier treatment of providers. Conversely, there was also evidence of information deficits on the public sector side, with respondents reporting that the public sector sometimes comes to TSOs requesting information about issues on the ground, and how to improve/redesign services. TSOs sometimes felt that the help they willingly gave wasn't always reciprocated. This possibility – of weaknesses on the public sector side – has perhaps not been brought out so explicitly within the academic and policy debates over the involvement of the third sector in public service delivery. A more positive reading of some of the experience related by both TSOs and commissioners however is that there is an interdependency between the two sides – and a recognition of their respective strengths – indeed the concept of mutual dependence between purchasers and providers is one that is noted in the procurement literature (Lonsdale, 2012).

Finally, we identify four broad considerations when considering the public sector side of the equation. One is the general view about the *competence* of public sector organisations to do commissioning well. As part of competence we have highlighted a number of key issues. The first was about the skills and competence of individuals – many respondents drew attention to the importance of the individual carrying out the commissioning role, and the centrality of skills such as communication, expertise around contracting and procurement, the ability to play a brokerage role. This in turn raises the issue of whether enough sufficiently experienced and knowledgeable people are in these jobs and whether improved training and professional status would improve the experience of commissioning. The regular restructurings and redistribution of commissioning responsibilities between organisations is likely to disrupt such skills development. Secondly, TSOs reported a common experience of commissioning teams not successfully coordinating their work. There was a strong sense of different parts of the public sector – in principle all part of the same 'family' – being in reality quite based in separate silos, confusion over who is responsible for what, and that there are sometimes political tussles over who is responsible and who should pay. There was also a linked concern raised over the possible duplication of service spending – arising from or exacerbated by these structural divisions – and this may raise concerns over value for money and effectiveness. It is

also worth noting that many commissioners shared these concerns about barriers between them and other commissioning colleagues. Thirdly, and more generally, was the emerging sense that many of the complaints emerging from TSOs were of a more systemic nature: for instance the difficulties around tendering opportunities being communicated informally but then not materialising, disagreements over contractual arrangements, and changing goalposts in contract monitoring or inflexibility. In this case the issues seemed more to do with the 'bureaucratic' nature of complex public sector agencies, and were beyond the control of individual officers. Again a major fault line in relation to the systemic issues was the ability (or not) of public sector commissioners to work with the different institutions and processes of colleagues who were responsible for other user groups (e.g. between mental health and learning disability) or service areas (e.g. between housing and health care). Fourthly, and more generally still, it is impossible to ignore the potential impact of the very disruptive changes being caused by public sector (especially NHS) restructuring, spending cuts, and the considerable uncertainty including redundancies and staff movements. For example it was noted many times that commissioners had changed, or moved, or that staff posts were empty. Again the exact circumstances can vary but the general picture cannot be ignored.

4(c) Mental health commissioning: in the driving seat?

There is a general consensus in mental health policy and practice and between public and third sectors that the required direction of travel is to focus on mental well-being rather than mental illness and to facilitate recovery rather than dependency. Mirroring the challenge of the general health and social care system, this will require a shifting of resources from the acute and secondary sectors to community based and more preventative options. Commissioning is seen in policy as the process to achieve this shift, with commissioners in the driving seat. This research suggests that whilst commissioning is now embedded within the planning and purchasing of health, social care and housing support services it is yet to be in the position in which it can effectively oversee the system as a whole and drive through the necessary changes. The findings indicate that there either needs to be sufficient investment in the commissioning infrastructure and commissioners to ensure that they have the capacity and competence to fully take up this transformative role, or an acceptance that whilst commissioners will play a part other organisations (and in particular Foundation Trusts) will have to be co- or possibly main steerers of the process. The latter is somewhat at odds with the 'purchaser-provider' split emphasised in health policy in recent years (but which was also introduced in the social care in the community care reforms) and perhaps the move to 'lead provider' contracts can be interpreted as an attempt to maintain a symbolic supremacy of the commissioner whilst in reality giving much power to the larger providers. Again the evidence of this study highlights that this is not an easy solution, as such providers (even if they are part of the public sector) may have conflicts of interest regarding their own need for income and they may also lack the capacity and experience of managing such a supply chain.

On a positive note it would appear that whilst commissioning and in particular its emphasis on diversity of supply does pose potential risks for TSOs working in mental health, the TSOs within this study have largely maintained and in most cases grown their service offers. Furthermore the move to contracts rather than grants under commissioning was seen to have provided a helpful steer regarding

what was expected by their funders, and as a constructive and necessary challenge to TSOs who had not revised and updated their services for perhaps some time. The main aspiration of TSOs was not to return to pre-commissioning days but rather for the commissioning cycle to be fully implemented in mental health and for them to be engaged and informed throughout. It will always be difficult for an organisation to lose funding and therefore the opportunity to deliver their mission, but the overall sense was that TSOs were willing to accept that risk if they were able to participate in the process and that the delivered service was of a good standard (even if they were not the provider). This suggests again that a strengthening of mental health commissioning is required.

The move to more personalised funding in mental health in the form of direct payments and personal health budgets will provide similar challenges (albeit it on a more micro scale) to the introduction of more competitive tendering in relation to financial security. However there is also much to be said for the potential of these options to further open up the opportunities for TSOs to deliver services through public funding. Arguably the key issue for the TSOs and more importantly the mental health system as a whole is breaking up the large block of funding that is given to Foundation Trusts and enabling other providers to develop more innovative and community-based alternatives. Furthermore if they provide a good standard of service that responds to individuals' situations and needs they may have more rather than less security than at present as the service recipient will not be restructured or disbanded in the manner of public sector organisations and their commissioners. Outcomes based contracts also have some promise, but this will rely on the commissioners having the expertise, energy and endurance to properly set the performance measures and payment mechanisms. And they may not be appropriate in all services and for all individuals or groups of service recipients. Again involving TSOs (and other providers) in the development process will help to ensure that they are an enabling rather than distracting addition.

Finally, there is also consensus that ensuring good mental health requires more than just health and social care services but it involves a broader range of community resources and policy areas. Housing, employment and education are of particular relevance, although arguably most if not all have some bearing. In this study it was notable that commissioning of mental health appeared to be limited to the core sectors of health and social care – this was apparent in the initial scoping of who is engaged in commissioning (in which we had hoped to involve criminal justice and employment in particular), the experiences of the TSOs and the partnerships and inter-organisational links that were described by the commissioners. This highlights that we have different planning and purchasing arrangements within different sectors – all might be appropriate for the individual sector in question but such variance is likely to generate the conditions that prevent successful working across policy and organisational boundaries. As we are unlikely to have a common approach across these policy areas in the foreseeable future it may come down to the third sector, with all its diverse and varied interests and emphasis on the interests of the individual, to be a potential catalyst for bringing together these different areas of the public sector through demonstrating the potential value of working creatively across boundaries and traditional interests. In many ways this has been a role the sector has been fulfilling for many years, the question is whether this is sustainable in increasingly straightened times and in contexts in which partnership working (and trust) may be being strained in a contractual and

increasingly privatised service landscape – for instance in the Work Programme and Transforming Rehabilitation (see for example Dominey, 2012).

4(d) Conclusion and recommendations for future research and practice

The findings of this research suggest that within this case study locality and service area the commissioning cycle is not yet in full operation, and that for both commissioners and TSOs the procurement and contracting elements continue to take precedent. Whilst there is evidence that practice around these elements has changed to some extent (in particular the greater use of contracts rather than grants and more competitive processes), there is also considerable continuity in the importance of personal relations between the commissioner and provider and in which organisations receive funding. From the perspective of TSOs the public sector can improve its procurement processes through ensuring that its commissioning staff have the skills and experience to undertake these roles, that the organisational processes are undertaken effectively and fairly, and that the different commissioning teams work across the user and service group silos. The tendency of the public sector to be driven to undertake whole system (e.g. health) and internal organisational (e.g. social care) changes appear to lead to considerable disruption in the commissioning process and the relationships that underpin it. This undermines the ability of the public sector to oversee and lead the changes in service models which will in turn lead to better outcomes for people who access public sector funded support.

In relation to the third sector in particular a common perspective of both TSOs and commissioners was the uniqueness and importance of the third sector contribution. If this is a valid observation, there is a question mark over whether the resulting 'ecosystem', that depends on mutual recognition and collaboration, is quite fragile, and whether is it supported in the right way through commissioning. Some argued that 'price-led' and insensitive competitive tendering was a threat to this, indeed it was argued that driving down costs and reliance on the private sector had damaged service quality in some (non-mental health) services already. A related concern is about service coverage and integration, and indeed above and beyond this, was the sense articulated by many that services are stretched and people may be falling through gaps. There was a worrying sense that in the case of mental health, the public sector was not providing particularly effective oversight and leadership role – despite this clearly being part of the wider justification for the public sector's commissioning role. Again, mental health – often described as a 'Cinderella service' – sits in a complex relationship to the many disruptive wider influences discussed above, and the uncertain impact of welfare reforms and growing deprivation and need. One response to this might be research that is able to begin to map out the comparative advantage, and unique niches occupied by different types of third sector (and indeed other sectoral) mental health providers.

It is important to note that very few TSOs express an expectation that they deserve special treatment from the public sector, and they accept that funding is conditional on evidence of effectiveness and impact. There was real nuance to respondents' discussions of the complexity of responses to competition and collaboration/trust, re-emphasising that commissioning should be seen as – and can operate as, depending on the exact context – a continuum from full competition and transparency at the one end, to dialogue and collaboration at the other. It is not possible to view

commissioning as a singular entity or process that should always be followed and replicated elsewhere: there is no 'one size fits all' solution. TSOs fully recognised and were willing to discuss that there can be winners and losers in any funding process. There was considerable wariness towards 'incumbency' and overly comfortable personal relationships; complacency towards service quality, or to what were sometimes described as 'pet projects' of commissioners and local authority members. Conversely, there is often scepticism to the arrival of 'incomers', whether regional or national TSOs coming in to the area having won recently tendered contracts, or the (threat of) the encroachment of the private sector. On the one hand this can be partly explained by annoyance at losing a contract and some taken for granted relationships being disrupted/broken, but there is a genuine case that 'outsiders' can lack expertise and local knowledge, while expending significant resources on setting up new infrastructure, possibly at the expense of service users. There is also a fear that commissioning is being used as a convenient tool through which to drive down costs which, as some TSOs point out, may ultimately not be a sustainable approach, and may increase downstream costs for themselves and other agencies. Some TSOs feel that they are already being effectively called upon to cross-subsidise public programmes, and there are fears (though rarely expressed) about how long this can continue, and for the ramifications for organisations and service users.

Finally, commissioning can also be a tool through which to introduce and then to embed other kinds of policy changes, for example the redesign of 'outmoded' services and particularly the insertion of a greater outcome focus into services. This, we found, was generally accepted, and indeed welcomed by many TSOs, especially when it is accompanied by dialogue and negotiation with them – and perhaps, though unfortunately more rarely, with users. Equally, many TSOs argue strongly that it is them who are often trialling new approaches – innovating – and that the public sector relies on them to do this. Commissioning needs to remain flexible enough to ensure that this innovative potential can continue to be tapped. Again, this is a complex and interesting set of issues which would repay further research. It is also worth noting that despite the range of fears and doubts about the future noted here, there appeared to be evidence of considerable levels of trust and TSOs working together in local networks. So collaboration – for the time being at least – seems to have endured.

(i) Recommendations for future research

1. Better understanding of the diversity of TSOs even within narrow service based fields (which might draw on a variety of research within TSRC's existing corpus). Individual TSOs draw on very different resource bases, vary in size and capacity, and react with a variety of different strategies. One way of understanding this is further consideration of Buckingham's (2011) suggested typology of contractors, rooted in their resource bases and missions. But another addition might be thinking about the role of entrepreneurial/enterprising TSOs – for example those who consider they are anticipating the requirements of commissioners, or working outside of the framework of public sector contracting.

2. An examination of the emergence of a possible sense of 'comparative advantage' within particular niches of public services/collaboration with relevant TSOs in common. This might be a different way of thinking about collaboration across (apparent) public service/TSO boundaries. Drawing on insights from 'field theory' (Fligstein and McAdam, 2013) we might

begin to identify new ways of thinking about distinctiveness or alliances, or 'co-sanguinity' between particular parts of the sector (i.e. moving beyond traditional ways of thinking about 'collaboration').

3. What do we find when we look in other geographical locations and other public policy/service fields? Does this suggest alternative approaches to commissioning?

(ii) Recommendations for policy and practice

1. If commissioners are to lead the transformation of mental health services then there needs to be sufficient investment in their capacity and expertise to ensure that they have the tools and time to undertake this role. Protecting them from further restructuring for the foreseeable future would also have significant benefits.

2. There needs to be a greater emphasis on engaging TSOs (and presumably other providers) in all of the elements of the commissioning process as a means to understanding local needs and developing new models to address these. TSOs can also be facilitators for people with mental health problems being engaged which will further strengthen the outcomes.

3. Lead provider arrangements need to be treated with caution. Managing such a supply chain is a complex process which (from an economic perspective) could lead to a strengthening of the dominant position of one provider in the market and (from a practical perspective) Foundation Trusts may not be able to fulfil this role even if they are committed to fostering smaller third sector providers. Mirroring the recommendations regarding the commissioners, if lead provider arrangements are to be introduced then there needs to be a pragmatic acceptance of the skills and capacity required.

References

APPG Mental Health (2012) Health and Social Care Reform: Making it work for mental health

Arvidson, M., Lyon, F., McKay, S., and Moro, D. (2011) *The ambitions and challenges of SROI*, TSRC Working Paper 49, Birmingham: Third Sector Research Centre

Bartlett, J. (2009) Getting More For Less: Efficiency in the Public Sector, London: Demos

Bennett, A., Appleton, S.& Jackson, C. (2011) Practical Mental Health Commissioning: A framework for local authority and NHS commissioners of mental health and wellbeing services

Bovaird, T. And Davies, R. (2011) Outcome-Based Service Commissioning and Delivery: Does it make a Difference? In S. Groeneveld and S. Van De Walle, *New Steering Concepts in Public Management Research in Public Policy Analysis and Management*, Volume 21, 93–114

Bovaird, T. and Downe, J. (2006) 'N generations of reform: a loosely-coupled armada or ships that pass in the night?' *International Public Management Journal*, 9(4): 429-455.

Bovaird, T., Dickinson, H. and Allen, K. (2012) Commissioning Across government: review of evidence, TSRC Research Report 86, Birmingham: Third Sector Research Centre.

Buckingham, H. (2009) 'Competition and contracts in the voluntary sector: exploring the implications for homelessness service providers in Southampton', Policy & Politics, 37 (2): 235-54

Buckingham, H. (2011) Capturing Diversity: A Typology of Third Sector Organisations' Responses to Contracting Based on Empirical Evidence from Homelessness Services, *Journal of Social Policy*, 41(3) pp 569-589

Cabinet Office (2006) *Partnership in Public Services: An Action Plan for Third Sector Involvement*, London: Cabinet Office

Cabinet Office (2010) *Modernising Commissioning: Increasing the Role of Charities, Social Enterprises, Mutuals and Cooperatives in Public Service Delivery*, London: HMSO

Carmel, E. & Harlock, J. (2008) 'Instituting the 'third sector' as a governable terrain: partnership, procurement and performance in the UK', *Policy & Politics*, 36 (2): 155-171

Centre for Economic Performance (2012) "*How mental illness loses out in the NHS,* Available at www.cep.lse.ac.uk (accessed on 17th September 2012).

Checkland, K., Harrison, S., Snow, S., McDermott, I. and Coleman, A. (2012) Commissioning in the English National Health Service: What's the Problem?, *Journal of Social Policy*, 41(3) 533–550

Damm, C. (2012) *The third sector delivering employment services: an evidence review*, TSRC Working Paper 70, Birmingham, Third Sector Research Centre.

Department of Health (2007), "*Third Sector Mapping*", Available at www.dh.gov.uk (accessed on 17th September 2012).

Department of Health (2011), *"No health without mental health"*, Available at www.dh.gov.uk (accessed on 17th September 2012).

Department of Health (2012a), "*No health without mental health: implementation framework"*, Available at www.dh.gov.uk (accessed on 17th September 2012).

Department of Health (2012b) *A mandate from the Government to the NHS Commissioning Board: April 2013 to March 2015*

Dickinson, H. and Miller, R. (2011) GP commissioning: implications for the third sector, *Voluntary Sector Review,* 2(3) 265-273

Dickinson, H., Allen, K., Macmillan, R. and Glasby, J. (2012) Social Care and the Third Sector, NIHR

Dominey, J. (2012) A mixed market for probation services: Can lessons from the recent past help shape the near future? *Probation Journal*, 59(4) 339-354

Entwistle, T. and Martin, S. (2005) From competition to collaboration in public service delivery: a new agenda for research, *Public Administration* 83(1) 233.

Fligstein, N. and McAdam, D. (2011) 'Toward a General Theory of Strategic Action Fields', Sociological Theory 29 (1): 1-26

Hardy, S. (2011), "Equity and excellence in liberating mental health commissioning", *Journal of Public Mental Health*, Vol. 10 , Iss: 2.

HM Government (2011) Open Public Services White Paper, London: HMSO

House of Commons Health Select Committee (2013) *Post-legislative scrutiny of the Mental Health Act 2007 First Report of Session 2013–14*

Jones, K., Forder, J., Caiels, J., Welch, E., Glendinning, C. & Windle, K. (2013), "Personalization in the health care system: do personal health budgets impact on outcomes and cost?", *Journal of Health Services Research & Policy*, 18, suppl 2, 59-67.

Kimantas, P., and Dawson, J. (2008) *Commissioning and procurement,* London: NAVCA.

Kings Fund & Centre for Mental Health (2012) *Long-term conditions and mental health The cost of co-morbidities*

Lewis, J. (2005) New Labour's approach to the voluntary sector: Independence and the meaning of partnership. *Social Policy and Society*, 4(2) 121–131

Lintern, S (2013) Monitor questions payment by results for mental health*, Health Service Journal*, http://www.hsj.co.uk/news/updated-monitor-questions-payment-by-results-for-mental-health/5062972.article

Macmillan, R. (2010) *The third sector delivering public services: an evidence review*, TSRC Working Paper 20, Birmingham, Third Sector Research Centre.

Macmillan, R. (2013) 'Distinction' in the third sector, *Voluntary Sector Review*, 4(1) 39-54

Martikke, S. and Moxham, C. (2010) Public Sector Commissioning: Experiences of Voluntary Organizations Delivering Health and Social Services, *International Journal of Public Administration*, 33 790-799

McManus et al (2012) *Mental health in context: the national study of work-search and wellbeing.* Sheffield: DWP.

Mental Health Foundation (2013) *Starting today: the future of mental health services.* London: Mental Health Foundation

Mental Health Strategies (2012a) "2011/12 *National survey of investment in adult mental health services",* Available at www.dh.gov.uk (accessed on 17th September 2012).

Milbourne, L. (2009) Remodelling the Third Sector: advancing collaboration or competition in community based initiatives?, *Journal of Social Policy*, 38(2) 277-297

Miller, R. (2013) Third sector organisations: unique or simply other qualified providers? *Journal of Public Mental Health*, 12(2): 103-112

Murray, J. G. (2011) Third Sector Commissioning and English Local Government Procurement, Public Money & Management, p 279-286

NAVCA (2010) *A Bridge Between Two Worlds: A Study of Support and Development Organisations and Intelligent Commissioning*, Sheffield: NAVCA

Needham, C. (2012) *Commissioning for personalization: from the fringes to the mainstream*, London: CIPFA

NICE (2011) Commissioning stepped care for people with common mental health disorders

NMHDU (2009) The Commissioning Friend for Mental Health Services. A guide for health and social care commissioners

NMHDU (2011) Engagement in the commissioning cycle: A Guide for Service Users, Carers, the Public, GPs, Commissioners and other stakeholders in Mental Health Care Services

Osborne, D. and Gaebler, T. (1993) *Reinventing government: how the entrepreneurial spirit is transforming the public sector*. London: Penguin Books.

Osborne, S. P. and McLaughlin, K. (2002) Trends and issues in the implementation of local 'voluntary sector compacts' in England, *Public Money & Management*, *22*, 1, pp. 55–63.

Packwood, D. (2007) Commissioning, Contracting and Service Delivery of Children's Services in the Voluntary and Community Sector, London: VCS Engage

Ramia, G. and Carney, T. (2000) Contractualism, managerialism and welfare: The Australian experiment with a marketised employment services network, *Policy & Politics*, 29(1) 59-83

Rees, J. (2014) Public sector commissioning and the third sector: old wine in new bottles?, *Public Policy and Administration*, 29(1) 45–63

Rees, J., Taylor, R., and Damm, C. (2013) *Does sector matter? – understanding the experiences of providers in the work programme*, TSRC Working Paper 92, Birmingham: Third Sector Research Centre

Shepherd G, Boardman J, Burns M (2010). *Implementing recovery: a methodology for organisational change*. London: Centre for Mental Health.

Slade, M.2009) 100 ways to support recovery. London: Rethink.

Sturgess, G. L., Cumming, L. M., Dicker, J., Sotiropoulos, A. and Sultan, N. (2011) *Payment by Outcome: A Commissioner's Toolkit*, London: 2020 Public Services Trust at the RSA.

Tanner, S. (2007) *Common Themes on Commissioning the VCS in Selected Local Authorities in Greater London*, London: London Councils.

Third Sector Task Force (2009) Welfare to Work reform: the third sector's role: Final Report, available at http://www.acevo.org.uk/document.doc?id=42 accessed 12/12/12

About the Centre

The third sector provides support and services to millions of people. Whether providing front-line services, making policy or campaigning for change, good quality research is vital for organisations to achieve the best possible impact. The Third Sector Research Centre exists to develop the evidence base on, for and with the third sector in the UK. Working closely with practitioners, policy-makers and other academics, TSRC is undertaking and reviewing research, and making this research widely available. The Centre works in collaboration with the third sector, ensuring its research reflects the realities of those working within it, and helping to build the sector's capacity to use and conduct research.

Third Sector Research Centre, Park House, 40 Edgbaston Park Road,
University of Birmingham, Birmingham, B15 2RT

Tel: 0121 414 7073
Email: info@tsrc.ac.uk
www.tsrc.ac.uk

Service Delivery

From housing, to health, social care or criminal justice, third sector organisations provide an increasing number of public services. Working with policy makers and practitioners to identify key priorities, this work will cut across a number of research streams and cover a series of key issues.

Critical understanding service delivery by the third sector is important to policy making as the third sector now provides a major - and very different - option for public services, which may be more responsive to the needs of citizens and service users. At the same time, there are dangers inherent in the third sector becoming over-dependent on funding from service contracts – particularly in terms of a potential loss of its independence. The centre's research will help to inform the debate on the way in which service delivery is developing, the potential role of the third sector in commissioning as well as contracting, and the implications of different approaches to service delivery on the overall impact of the third sector.

Contact the author

James Rees

j.e.rees@bham.ac.uk **01214143673**

Hosted by: UNIVERSITY OF BIRMINGHAM

Funded by: E·S·R·C ECONOMIC & SOCIAL RESEARCH COUNCIL   BARROW CADBURY