

Public Sector Code of Practice for Commissioning Third Sector Services in Merthyr Tydfil and Rhondda Cynon Taff

Full Document

May 2010

Responding to the consultation:

You can:

- Access an on-line questionnaire and submit your responses on www.vamt.net
- Download or save a consultation questionnaire (word document) from www.vamt.net or www.interlinkcrt.org.uk, www.wales.nhs.uk/sitesplus/865/, or Cwm Taf Health Board or Council intranets
- E-mail, fax or post completed questionnaires or your comments to Margaret McLaughlin, Project Officer, on E: Margaret.mclaughlin@vamt.net Fax: 01685 353909 Address: VAMT, 89-90 High Street, Pontmorlais, Merthyr Tydfil, CF47 8UH
- Telephone your comments to Tel: 01685 353920
- Access the Summary Document on the websites mentioned above
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Preface

What is the Code of Practice?

It is a commissioning framework for public and third sector organisations. However, it is recognised that it relates to good practice in commissioning that can be applied more broadly. It has been designed to work alongside existing commissioning frameworks and guidance. It is intended to contribute to:

- Improving commissioning processes*
- Designing and delivering public services that are citizen centred, needs based and outcomes led
- Identifying and removing barriers to third sector involvement in public service delivery
- Developing a joint public services policy

How can the code of practice be used?

It can be used to:

- Demonstrate and support good practice
- Explain how public sector commissioners and third sector organisations can proactively engage with each other and seek a mutually beneficial relationship
- Show how involving the third sector effectively can help to achieve sustainable outcomes and value for money
- Highlight the value of local knowledge and expertise
- Describe the constraints of the powers and policy framework within which commissioners must work
- Promote more efficient use of resources
- Provide a mechanism for evidencing good practice in partnership working and commissioning
- Providing a rationale and basis for increased joint commissioning
- Strengthen learning between public service organisations

Who is the code of practice for?

Everyone in public and third sector organisations delivering public services in Merthyr Tydfil and Rhondda Cynon Taff

What service areas does the code of practice consider?

It can be applied to any area of public service delivery.

*Commissioning encompasses service planning for the purposes of this code of practice

What's in the code of practice?

- An overview of the **policy context**
- **Shared principles** to guide relationships between public service organisations in the commissioning context and bring greater consistency and cohesion to them
- **Checklists** that cover the key stages of the commissioning/ service planning relationship
- **Undertakings** from public and third sector organisations on what they can expect from each other
- A **template** for organisations to produce their own action plans for improvement in commissioning (see Appendix 1)
- A **glossary** of key terms
- References to a range of resources, including **good practice examples** and government guidance

How does the code of practice relate to the commissioning toolkit?

The commissioning toolkit is web-based and builds on the code of practice. It goes into considerably more detail and can be accessed on [www....](#) (website not yet set up)

How can feedback be given on the code of practice and the commissioning toolkit?

Those who use the code of practice and wish to provide feedback should do so through designated contacts in partner organisations (to be agreed).

Acknowledgements

Thank you to:

- The Big Idea Fund
- Cwm Taf Health Board
- Merthyr Tydfil County Borough Council
- Rhondda Cynon Taff County Borough Council
- Voluntary Action Merthyr Tydfil (County Voluntary Council for Merthyr Tydfil)
- Interlink (County Voluntary Council for Rhondda Cynon Taff)
- The Joint Local Service Board for Merthyr Tydfil and Rhondda Cynon Taff
- Value Wales Procurement Route Planner for Social Care team
- Voluntary Norfolk and National Council for Voluntary Organisations Third Sector Commissioning Guide

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Section 1 Introduction

Principles

- **Commissioning Principles**

Public services organisations in Merthyr Tydfil and Rhondda Cynon Taff aspire to work positively with each other for the benefit of citizens and communities, underpinned by the following principles:

- **Quality** in service planning and delivery based on achieving the outcomes that will meet citizens' needs
- **Engagement** with service users, families, carers and communities
- **Responsiveness** to changing patterns of need in local communities
- **Accessibility** through service delivery which promotes inclusion, independence and choice
- **Value for money** based on robust business processes
- **Partnership** working to deliver the best services for citizens
- **Innovation** in service design and delivery
- **Sustainable service models** in economic, social and environmental terms
- **Enhanced community well being** and enabling people to live fulfilled lives in their communities

- **Principles underpinning public sector relationships with the third sector**

Local public sector organisations are committed to operating an effective and sustainable funding framework for the third sector based on sound decision making and effective relationships, and underpinned by the following principles¹

1. Delivery of strategic policy objectives – acknowledgement of the role the third sector can play in delivering these through innovative solutions and often being able to reach groups that public sector organisations cannot

2. Respect for the third sector's independence – recognition that third sector organisations have a right to exercise independence irrespective of funding. This should be in line with their governing document and based on the best interests of the organisation and the needs of its beneficiaries.

3. Early and constructive dialogue – opportunities to discuss proposals well in advance of the formal application deadline and early in the budget planning cycle.

4. Timely decisions – written notification of in principle grant approvals for each financial year by 31 December of the preceding year unless, in exceptional circumstances, notice has already been given of an alternative timescale. Written confirmation of grant approvals by February following budget setting

5. Security of funding – longer term commitments, subject to performance to support a sustainable approach to funding: up to 3-5 years for strategic core funding and commitment for the life of any specific projects which are funded, providing firm year one funding and clear baselines for subsequent years. A

three years funding commitment will be seen as a minimum unless the source of funding does not allow it.

6. Fair funding levels – Levels of funding for the sector should be determined no differently than for other sectors or agencies in relation to planning for inflation and growth. Where the funding stream allows it, increases for inflation and growth should be allowed.

7. Full Cost Recovery – Levels of grant funding will be based on and reflect the principles of Full Cost Recovery.

8. Fair procurement – procurement funding will be based on price, not cost, and will follow the good practice guidance set out by Value Wales in *Procurement and the Third Sector: Guidance for the Public Sector in Wales*

9 Payment in advance – where a clear financial need is established, provision for advance payment of grant

10. Fair and reasonable treatment – prior discussion and reasonable notice before any policy changes or decisions that would lead to withdrawal or significant reduction of grants.

11. Joint approach to monitoring and evaluation - the simplest procedures consistent with ensuring proper use of public funds.

12. Who does what best – commitment to identifying where the third sector might take the lead in or contribute to the implementation of new policies, and ensuring that there are the appropriate funding mechanisms in place.

13 Clarity and consistency* – clarity about what, why and how services are commissioned; and striving for consistency in practice within departments and between departments and other public bodies

14 Transparency* –including publicising who is involved in what partnerships and commissioning groups, the terms of reference of these groups, advance notice of service planning arrangements and the criteria on which commissioning decisions are made

15 Accountability* - encompassing clear lines of decision making and reporting, effective public and stakeholder engagement and the embedding of equality.

16 Infrastructure support* – recognition of the importance of, and need to resource, a local third sector infrastructure to underpin the third sector's coordinated involvement in commissioning

The principles will be reflected in actions described in the sections below.

Any breach of the Compact principles can be referred to the Compact Mediation and Disputes Resolution Process (see Section 8 Implementation).

Background and Context

• Origins of the code of practice

This is one of the five codes of practice that underpin the tri-partite (third sector, local authority and the NHS) Merthyr Tydfil Compact and that set out practical undertakings for both public and third sector organisations. It is the first code of practice to be developed for the Rhondda Cynon Taf Compact.

The local Compacts² aim to develop the partnership between the public sector and the third sector by helping organisations to:

- Communicate better with each other
- Understand and respect each other's issues
- Work together more effectively to support the people of Merthyr Tydfil and Rhondda Cynon Taff and deliver services collaboratively

The code has also been developed under the auspices of the Local Service Boards (LSB), which have been set up in response to the review of local public service delivery led by Sir Jeremy Beecham in 2006 and the Welsh Assembly Government response³, to:

- Ensure local public service leadership is more effective and that the local leadership teams develop a new direct relationship with the Welsh Assembly Government (WAG)
- Improve local services for citizens by pooling resources and removing bureaucracy or other obstacles.

• National Policy Context

There are other recent Welsh Assembly Government policy developments that are highly relevant to, and influential for, this funding code of practice including those relating to public sector policy, commissioning and procurement policy and third sector policy.⁴ Their combined messages support:

- A focus on public services rather than public sector services
- More outcomes focused service development
- More citizen-centred services
- More joint commissioning and service planning
- Greater involvement of service users, carers, families and communities in what and how services are delivered
- Greater emphasis on promoting people's independence and well-being

• Local Policy Context

Aspects of the local context that are of particular relevance to this code of practice and which it will build on include:

- Partnership working – it is well established in the area in relation to the development of local statutory plans – the Community Strategy, Health, Social Care and Well -being Strategy, Children and Young People’s Plan and Community Safety Strategy; and through the Third Sector Compacts and Local Service Boards.⁵ Most of the partnerships are multi-layered and allow for involvement at different levels.
- Commissioning – local public services agencies have positive experiences of working well together, mainly via the key local partnerships, to undertake reviews of existing services and plan for future service development. The positive work that has resulted will provide much of the basis for the code of practice. In addition, both local authorities and the Cwm Taf Health Board already provide significant levels of funding to third sector organisations including in some instances joint funding arrangements. This too will provide a positive basis for the development of this code of practice.

- **Commissioning and procurement context**

As commissioning encompasses both funding and purchasing activities, this code of practice is intended to sit alongside existing local commissioning guidance and procurement strategy and related procedures. They include:

- Local authorities’ and NHS financial regulations⁶
- Merthyr Tydfil County Borough Council’s Corporate Procurement Regulations
- Rhondda Cynon Taff County Borough Council’s Contract Procedure Rules
- Merthyr Tydfil County Borough Council’s Integrated Adult Services Commissioning and Contracting Framework 2010
- Rhondda Cynon Taff Fframwaith Commissioning Framework

The code of practice will also take into account the legal framework for public procurement, which is based on:

- EU procurement regulations⁷
- Best Value and Value for Money⁸

- **Third sector contribution to public services**

Public sector organisations in Merthyr Tydfil and Rhondda Cynon Taff recognise that the third sector has structural qualities that allow it to operate in particular ways that add value to their services:

- **Mission** - focus on a particular cause, which often includes campaigning and service delivery, which gives it multiple roles in planning and influencing services. This means it is often ideally placed to identify the needs of service users, families, carers and communities and communicate them to planners.
- **Governance** – it will often attract people as trustees, volunteers and employees with direct experience of the issues and as a result can reach

people with whom statutory services find it difficult to connect, release latent talent and energy and generate community ownership

- **Independence from government** - means it can focus on people and their multiple needs, take more risks, develop innovation and be more flexible and responsive.
- **Resourcing** – a not for dividend ethos that allows it to invest any profit into the organisation; and the freedom to blend a wide range of funds and resources (including through fundraising and volunteering) to meet needs.

Example of Added Value

There are examples of local community organisations that have been set up by a group of concerned citizens to address the needs of their local communities. They have gone on to recruit volunteers from the community and to raise funds from a variety of sources in order to run a number of activities to meet local needs. These include youth support and training, social enterprise and job creation.

They have also been commissioned through grants and contracts from public sector organisations to develop and deliver key services. As well as delivering commissioned services, these organisations are able to add value by for example, building the skills and confidence of volunteers, bringing a sense of community spirit to the area, giving service users access to a wider range of facilities and programmes, providing bridges to hard to reach people, making use of local knowledge, experience and connections and preventing the need for more costly interventions in the future.

By working with these local community organisations, public sector organisations meet their statutory strategic objectives at the same time as gaining an investment partner that has the knowledge, skills and ability to deliver quality services to meet local needs and achieve value for money.

The role of the third sector in commissioning/ service planning processes

It is recognised that the third sector has multiple roles (as advisor, service provider and advocate) and contributions to make at each commissioning level.

Strategic⁹	Operational	Individual Organisation
<p>Contribution</p> <p>Overview of third sector</p> <p>Links to third sector networks and forums</p> <p>Knowledge of local needs and services</p> <p>Knowledge of service users' experiences and being an advocate for their voices to be heard</p>	<p>Contribution</p> <p>Specialist expertise</p> <p>Promoting standards and quality</p> <p>Proposals for innovation</p> <p>Monitoring and reporting on performance</p> <p>Being an advocate for groups of service users</p>	<p>Contribution</p> <p>Responding flexibly to individual need</p> <p>Ensuring that service users contribute to service reviews and design</p> <p>Being an advocate for individual service users</p>
<p>Mechanism</p> <p>Participation in high level strategic partnerships as a representative</p>	<p>Mechanism</p> <p>Participation in operational partnerships/ working groups as a member</p>	<p>Mechanism</p> <p>Delivering effective and efficient services</p>

Given the significance of its contribution, local statutory organisations view the third sector as not just another delivery agent but rather, a valued strategic partner. Local commissioners therefore recognise a collective responsibility to build the sector's capacity through best practice in commissioning processes and specific capacity building initiatives where appropriate.

Third sector networks and forums

Commissioners also recognise the role of the local third sector umbrella or infrastructure organisations, Voluntary Action Merthyr Tydfil and Interlink (the local County Voluntary Councils (CVCs) as key to facilitating a strategic approach to third sector involvement. They achieve this through their strategic relationships with public sector organisations and by running specialist local third sector networks and forums¹⁰ in their areas. The networks and forums are:

- Committed to being as representative as possible of the third sector in the area including those organisations and groups that traditionally have not been involved.
- A practical way for commissioners to reach specialist organisations and those with a broad interest in their service area, service users, carers, potential service providers, current service providers, citizens and communities.

- An essential resource at each stage of the commissioning cycle (see Appendix 3)

Some facts and figures about the local third sector

Merthyr Tydfil

Estimated 450 third sector organisations
48 third sector organisations on the Engagement Gateway Approved Suppliers List

Rhondda Cynon Taff

Estimated 1,500 third sector organisations
51 third sector organisations on the Engagement Gateway Approved Suppliers List

Examples of local third sector organisations involved in public services

Here are just a few examples from just some of the service areas:

Carers – Crossroads Care Cwm Taf, Alzheimer’s Society, Barnardo’s for Young Carers, British Red Cross, Hafal

Community safety – Cynon Women’s Aid, Safer Merthyr Tydfil

Community safety – Safer Merthyr Tydfil, Cwm Cynon Women’s Aid, Secure Wales

Older people – for example, Nantgarw OAP Association, Rhondda 50+ Forum, Ystrad Old Age Pensioners Association, Age Concern Morgannwg, Care and Repair Merthyr Tydfil

Children and families – for example, Valleys Kids, Ton & Gelli Boys & Girls Club, The Prince's Trust Cymru, Gellideg Foundation Community Association, 3G’s Development Trust

Health and social care – for example, National Osteoporosis Society Merthyr Tydfil Branch, British Heart Foundation, Cancer Aid, Breast Friends, Glamorgan ME Support Group, Visually Impaired Merthyr (VIM)

Mental Health - Merthyr & The Valleys MIND, Eating Disorders Wales, MDF Bi-polar Organisation Cymru, New Horizons, Journeys

Environment - Groundwork Merthyr and Rhondda Cynon Taff, Lan Woods Environmental Protection Group, Maerdy Infants Taskforce Environment

Social enterprises – The Arts Factory, Dragon Factory Credit Union Ltd, Cwmpas, Gurnos Ceramics CIC, Llwydcoed Food Co-operative Limited

Social firms –Green Horizons Merthyr, Morphious Ltd

Employees and volunteers:

- Third sector organisations in Wales employ 30,000 people
- 1.83 million (77 per cent) of adults in Wales give their time to help friends or neighbours or help with activities within an organisation at least once in a year, with 46 per cent of adults volunteering with an organisation. Together, these people contribute time which is equivalent to 93,193 full time workers.

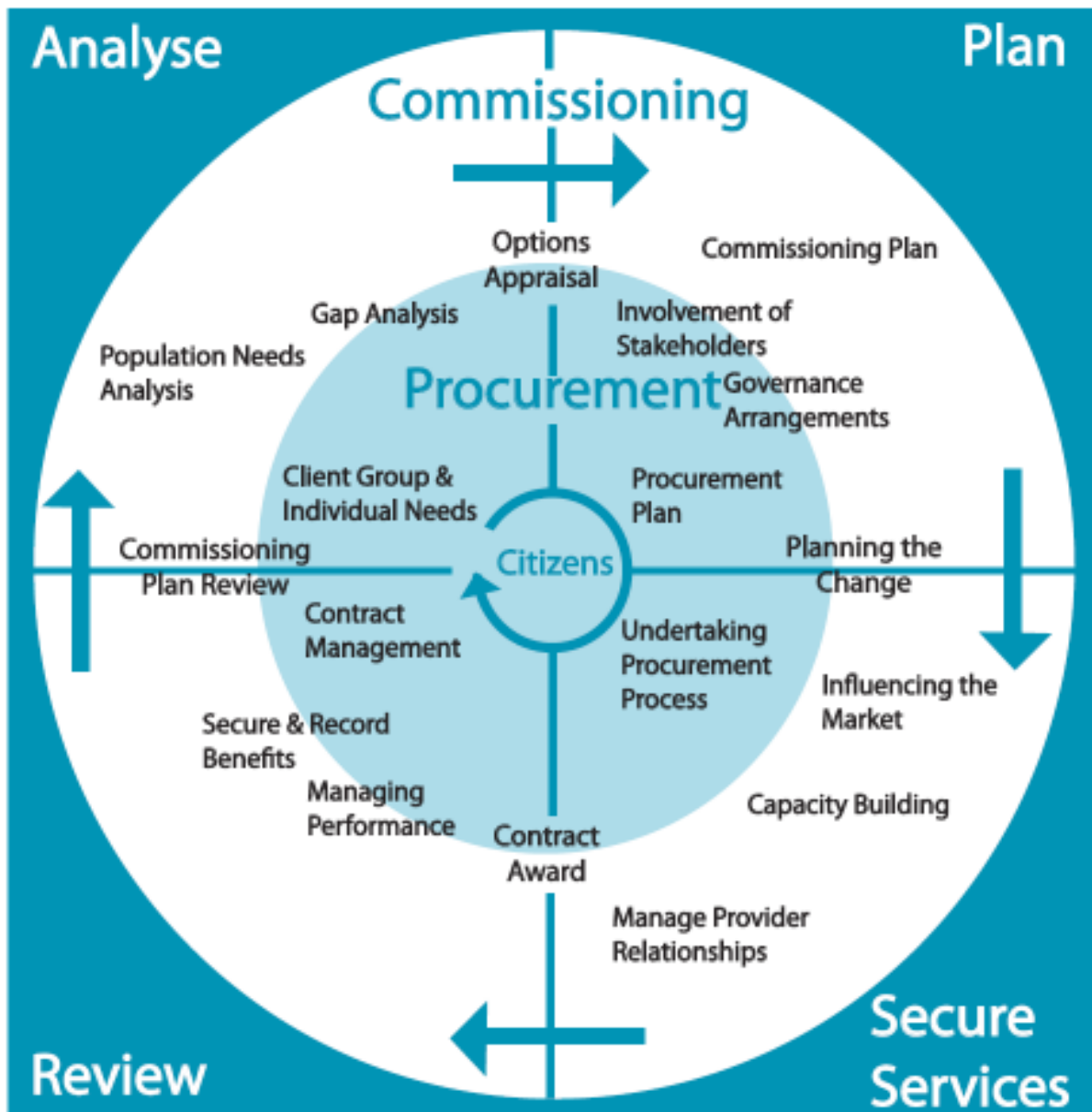
Further information can be obtained from VAMT and Interlink.¹¹

The Commissioning Cycle

- **Commissioning Stages**

The Commissioning Cycle has four main stages as shown in the diagram below, which is based on developed originally by the Institute for Public Care at Oxford Brookes University:¹²

- Analyse
- Plan
- Secure services
- Review



It illustrates the relationship between the activities involved in commissioning and procurement. Grants are included within procurement and contract management. Legislation and national policies shape all of the commissioning and procurement activities described.

Some activities are unique to commissioning, some unique to procurement and others shared. The latter are depicted as crossing the boundaries. There are four further activities, which are not only shared but bridge the quadrants of the commissioning cycle.

The Framework is underpinned by six key principles, namely:

- Focus on client group needs across agencies
- All four activities are equally important
- Activities follow sequentially
- Commissioning and procurement work hand in hand
- Procurement experience informs the ongoing development of the commissioning strategy
- On-going dialogue with service users/carers, case/care managers, providers and third sector organisations

- **Individual commissioning¹³**

The commissioning cycle described in this code largely addresses the commissioning of service and activities delivered to a number or range of individuals or service users. However, some services, particularly care services, are increasingly being commissioned on an individual basis through direct payments or self directed care.

Although not directly addressing this aspect of commissioning, the intended outcomes and the principles on which this code is based will be equally relevant to these individual commissioning activities. It is intended that this code encourages flexibility and plurality in service delivery and increases public sector knowledge and understanding of the potential third sector provider base. These are important factors in future market development and the achievement of genuine choice through individual commissioning.¹⁴

- **Helpful websites for an overview of commissioning and procurement**

- **Procurement Route Planner for social care**, Value Wales (to be completed 2010). Comprehensive guidance, good practice examples and templates for each procurement stage
<http://www.buy4wales.com/PRP/social-care/contents/index.html>
- **Consultation on Fulfilled Lives -Supportive Communities Commissioning Guidance** (2009) WAG. Guidance for social care commissioners at each stage of commissioning
<http://wales.gov.uk/docs/dhss/consultation/090904fulfilledlivesen.pdf>
- **Partnership Support Unit/ Social Services Improvement Agency** Commissioning support package for partnerships
<http://www.psucymru.org.uk/index.cfm?articleid=4604>
- **Commissioning e-learning** course from the national school of governance's e-learning website intended for use by all commissioners across the Government sector
<http://www2.nationalschool.gov.uk/moodle/>

Section 2 Commissioning Checklists

Stage 1: Analyse

Purpose:

To establish the best information and intelligence in order to decide what to commission. The more clarity, consensus and involvement achieved at this stage, the more straightforward later decisions will be and the more successful implementation of the programme is likely to be.

Main Outputs:

Project management arrangements

Needs Analysis

Data and evidence about what service users and the wider community want

Identification of priority outcomes

Service mapping/knowledge of the market

A comprehensive body of knowledge about local services mapped to strategic priorities, to be updated and managed regularly.

Resource Analysis

Gap Analysis

Service Design

Exploration of ideas to reconfigure or redesign services in line with strategic objectives

Appraisal and risk assessment of options to secure the service

Business case

Gives a clear view of why the project is being undertaken

In order to meet the requirement of this Code, the following checklists will have to be considered and implemented at the Analyse Stage

Checklist 1: Managing the commissioning process

What arrangements need to be in place in order to manage the commissioning process?

Commissioners	Third sector organisations
C1 Establish a commissioning mechanism/ structure that involves all partners (which in some instances will already exist through a strategic partnership) ¹⁵	TS1 Contribute to the development of key policies and strategies in Merthyr Tydfil and Rhondda Cynon Taff
C2 Establish the policy background/ intent for the service to be developed on the basis of processes to which all partners have contributed ¹⁶	TS2 Know about the partnership mechanisms in Merthyr Tydfil and Rhondda Cynon Taff and how to access them
C3 Produce a Commissioning Planning Framework to agree the focus, scope, quality and details of the work; plan as far in advance as possible; and assist	TS3 Join relevant third sector networks and forums in their area (through the County Voluntary Councils, VAMT and Interlink) and understand their representative role ²²

<p>with managing the process¹⁷</p> <p>C4 Ensure that everyone involved has a good understanding of commissioning, the responsibilities of the partnership or group in relation to commissioning and their own role within this¹⁸</p> <p>C5 Have a procedure in place for dealing with conflicts of interest of any of the organisations involved in commissioning¹⁹</p> <p>C6 Produce a communication plan²⁰ that includes frequency and means of communication and engagement with stakeholders²¹</p> <p>C7 Understand the multiple roles that third sector organisations play in commissioning</p>	<p>TS4 Make use of the information, training and consultation opportunities that third sector networks and forums offer at every stage of commissioning</p> <p>TS5 Consider contributing to partnerships as members or third sector representatives and understand the difference between the roles²³</p> <p>TS6 Deal with any conflict of interest appropriately as a member or representative on a partnership or group</p>
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Checklist 2: Analysing Needs

What are the needs in the population that have to be addressed and what outcomes should services be aiming to achieve for citizens?

Commissioners	Third sector organisations
<p>C8 Access/ collect relevant data to assist in understanding citizens' needs:</p> <ul style="list-style-type: none"> - Demographic data - Prevalence and incidence data to estimate the size of the target population - Risk factor data - Service user data – quantitative and qualitative <p>C9 Identify any gaps in data and how to access it</p> <p>C10 Focus on identifying outcomes from the outset and be clear about how the area of commissioning fits with broader strategic objectives</p> <p>C11 Include the whole range of relevant outcomes including social and environmental benefits in order to make a comprehensive assessment about value for money²⁴</p>	<p>TS7 Get involved in consultation processes and other opportunities to give full voice to the needs of your beneficiaries</p> <p>TS8 If no formal consultation has been organised, give voice to the needs of your service users either independently or with other organisations or through third sector networks and forums</p> <p>TS9 Contribute to the identification of outcomes for the benefit of individuals and communities</p> <p>TS10 Highlight the value of taking wider social and environmental benefits into account</p> <p>TS11 Contribute to feedback on the accuracy of the Needs Analysis</p>

<p>C12 Use a range of techniques²⁵ to involve stakeholders in identifying outcomes including</p> <ul style="list-style-type: none"> - Ask Merthyr Tydfil/ RCT equivalent - Liaison with coordinators of third sector networks and forums to ensure consultation and decision making processes are open to the active involvement of relevant third sector organisations and tailored to involving individuals and communities who are most marginalised - Consider the potential of a third sector organisation to undertake research or advocacy work especially to access socially excluded groups <p>C13 Provide early warning of requests for involvement so that third sector organisations can prepare²⁶</p> <p>C14 Produce a Needs Analysis and consult on its accuracy with key stakeholders (including via Ask Merthyr Tydfil/ RCT equivalent)</p>	
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Checklist 3: Service Mapping and Resource Mapping

What services already exist and how do they contribute to addressing citizens' needs? What resources are available for delivering future services?

Commissioners	Third sector organisations
<p>C15 Develop an understanding of the number size and capabilities of third sector providers and potential providers in the market</p> <p>C16 Liaise with the County Voluntary Councils, VAMT and Interlink, to access useful information about the whole of the third sector in Merthyr Tydfil and Rhondda Cynon Taff²⁷</p> <p>C17 Take account of all the services that citizens use including those which may not be formally provided or procured by the public sector</p>	<p>TS12 Find out what services are being commissioned by public bodies in your field of work and area</p> <p>TS13 Understand how your services will help deliver commissioners' outcomes</p> <p>TS14 Find out which other organisations (public, third sector or private) provide services in your field of work</p> <p>TS15 Consider how your services fit with services being provided by other organisations in the area</p>

<p>C18 Find out the proportion of your spend between in-house providers, private providers and third sector providers; and be able to allocate it to service areas</p> <p>C19 Analyse the strengths and weaknesses of the provider sector²⁸ which should include:</p> <ul style="list-style-type: none"> - Existing reviews (see Checklist 17) - Views of providers - Whether supply reflects current needs - Interviews and focus groups with service users and carers <p>C20 Assess what resources are available, projected over the next 3-5 years, from each agency²⁹</p>	<p>TS16 Be aware of what your unique selling point is that distinguishes your services from those being provided by other organisations</p> <p>TS17 Provide evidence to demonstrate the added value you bring to service delivery by, for example, completing a Value Added Facts Questionnaire or undertaking a Social Return on Impact Analysis³⁰</p> <p>TS18 Consider talking to other organisations that are providing similar or complementary services about whether services could be provided more effectively by you working together</p> <p>TS19 Keep commissioning partners informed of changes to service delivery, e.g., as a result of successful funding applications</p>
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Checklist 4: Gap Analysis and Options Appraisal

What services need to be developed and what is the best service delivery model to choose?

Commissioners	Third sector organisations
<p>C21 Identify the strategic commissioning objectives that are needed on the basis of the identified outcomes, the gaps in services identified, the resources available and factors that are “givens”³¹</p> <p>C22 Consider all of the options available for securing services and undertake an options appraisal and risk analysis³² Include:</p> <ul style="list-style-type: none"> - Giving serious consideration to in-house services being outsourced - Assessment of whether funding the range of allied or preventive services provided by third sector organisations operating in a particular area (geographical or user group) might be a cost-effective way to address multiple needs - Third sector approaches such as establishing a social enterprise (for example, where there is no market); co-production with partners, communities and third sector organisations³³ - Using a third sector organisation with specialist knowledge and expertise to act as a consultant in designing service solutions - Low cost/ no cost solutions - “Off the wall ideas” to stimulate discussion <p>C23 Produce a clear Business Case drawing on information from the Gap Analysis that explains which services have emerged as priorities and provides a framework for managing and planning business change³⁴</p>	<p>TS20 Get involved in consultation processes and other opportunities to input into the design of services</p> <p>TS21 Focus on outcomes and the needs of service users</p> <p>TS22 Consider contacting commissioners to offer your services as consultants and researchers to inform service design</p> <p>TS23 Consider promoting their innovative approaches to commissioners and discussing if they would grant-fund a pilot scheme³⁵</p> <p>TS24 Provide evidence to demonstrate the difference that preventive services make to delivering effective outcomes to citizens (see TS17)</p> <p>TS25 Promote tools for measuring value such as Social Return on Investment and LM3 (a way of measuring the local multiplier effect) in order to assess the costs and benefits of different service options³⁶</p>

Example of local good practice at the Analyse Stage

The Carers' Strategic Network in Merthyr Tydfil has consistently involved carers in identifying local need through its carers' groups. This resulted in the Carers' Commissioning Group, increasing respite care in 2009 in response to carers' needs.

Helpful websites for the Analyse Stage

- Putting outcomes first
http://www.financehub.org.uk/uploads/documents/Impact_Briefing_final_185.pdf
- Results based accountability is a resource for all partners to improve partnership working and achieve the best outcomes for children and young people www.psucymru.org.uk
- Social Return on Investment and Commissioning www.sroi-uk.org

Stage 2 Plan

Purpose:

To undertake the service continuation, re-design or reconfiguration that has been identified as the best way of achieving outcomes for citizens.

Main Outputs

Commissioning Plan

On the basis of all the evidence gathered at the Analyse Stage, an agreed statement detailing commissioning/ service planning priorities and decommissioning priorities (supported by robust evidence), and agreed method of funding depending on the identified outcomes

Procurement Plan/ Application Process

Details of how the required service will be secured

Service Specification

A clear and understandable statement of the outcomes that are required from a service and details of the conditions attached to delivering it

In order to meet the requirement of this Code, the following checklists will have to be considered and implemented at the Plan Stage

Checklist 5: Establishing a commissioning method

What is the best way of funding the service given the outcomes that have been identified?

Commissioners	Third sector organisations
C24 Be aware of the existing channels for funding third sector organisations ³⁷	TS26 Promote grants as an essential part of the local funding mix
C25 Confirm the commissioning method (funding or procurement) to be used (on the basis of the options appraisal at the Analysis Stage) having following procedures for determining when grants or procurement should apply ³⁸	TS27 Find out about what grant schemes are available in their area ⁴⁰
C26 Understand why grants are an essential part of the local funding mix ³⁹	TS28 Contribute to the development of a corporate approach to grant making
C27 Strive to develop a corporate approach to grant making aligned to corporate strategic objectives	
C28 Work towards having a single point of contact for organisations seeking funding or advice?	

Checklist 6: Producing a Commissioning Plan

How will the agreed commissioning priorities be communicated to a wider audience and their implications discussed with specific groups of stakeholders?

Commissioners	Third sector organisations
<p>C29 Bring together all of the information and evidence from the Analysis Stage into a Commissioning Plan that can be consulted on and made available at the earliest possible stage to allow for the widest range of providers to be involved⁴¹</p> <p>C30 Make the Commissioning Plan available for comment, for example, through the County Voluntary Councils and Ask Merthyr Tydfil/ RCT equivalent</p> <p>C31 Actively manage any change process by communicating with stakeholders, and developing a written transition plan/ programme, which should include the implications of a potential TUPE transfer of staff⁴²</p> <p>C32 Where it has been decided to decommission a service, provide a minimum of 3 months notice with an explanation of why the decision was taken (see Checklist 17)</p>	<p>TS29 Respond to consultation on the Commissioning Plan</p> <p>TS30 Plan ahead for what will happen if and when a financial relationship comes to an end</p>

Checklist 7: Developing a Procurement Plan/ Contract Action Plan

How can procurement processes be made more third sector friendly at the same time as being fair, transparent and non-discriminatory?

Commissioners	Third sector organisations
<p>C33 Ensure a continuity of engagement with service users and other stakeholders between the commissioning process and the procurement of the services⁴³</p> <p>C34 Ensure financial regulations are flexible enough to support the development of a sustainable economy of care across the public, private and third sectors</p>	<p>TS31 Familiarise yourselves with the policies and strategies of relevant public bodies in relation to third sector commissioning and procurement⁵²</p> <p>TS32 Assess whether your organisation has the right skills to compete in the procurement process; and if not, decide what you will do to build them (see Checklist 15)</p>

<p>C35 Work proactively with the procurement team to ensure that the procurement process is accessible to third sector providers⁴⁴</p> <p>C36 If a part B service is being commissioned, consider the impact on the third sector of going through a full European Union tendering process if this is not already mandatory⁴⁵</p> <p>C37 Give careful consideration to the optimum length of a contract⁴⁶</p> <p>C38 Consider the impact of the proposed procurement approach on smaller and local providers and the benefits of:</p> <ul style="list-style-type: none"> - Dividing contracts into smaller lots⁴⁷ - Encouraging contractors to subcontract to third sector organisations⁴⁸ - Encouraging third sector organisations to form consortia⁴⁹ <p>C39 Consider operating a “preferred providers list ” or framework agreement if only a small number of third sector organisations provide the service they want to commission⁵⁰</p> <p>C40 Consider whether there are innovative approaches or pilot schemes for which grant funding would be more appropriate⁵¹</p>	<p>TS33 Consider collaborative partnership working as a way of being able to deliver improved services and/or deliver larger contracts⁵³</p> <p>TS34 Be ready to respond in a timely way to Pre-Qualification Questionnaires (PQQs) and Invitations to Tender (ITTs)</p> <p>TS35 Find out what to look for in an ITT and what clarification questions to ask (e.g. , TUPE etc.)</p> <p>TS36 Provide feedback on aspects of tendering processes that can be improved such as timeframes, availability of information, proportionality of requirements, lengths and size of contracts</p> <p>TS37 Find out if their potential buyer operates a “preferred providers list ” or framework agreement and, if so, find out how to access them</p>
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Checklist 8: Writing Service Specifications

How can the detailed description of the service attract the widest number of third sector organisations to consider applying?

Commissioners	Third Sector Organisations
<p>C41 Develop service specifications that have been agreed by the appropriate partnership or commissioning group and that complement the wider range of commissioning/ service planning going on in the area⁵⁴</p> <p>C42 Produce service specifications that have been informed by meaningful consultation with stakeholders; and seek comments on draft specifications from providers⁵⁵</p> <p>C43 Introduce a system for consistently inviting comments on draft service specifications from the third sector (for example through third sector networks and forums and Ask Merthyr Tydfil/ RCT equivalent)</p> <p>C44 Write service specifications that are proportionate to the amount of money involved, clear, jargon-free and comprehensive ; and use standard formats wherever possible⁵⁶</p> <p>C45 Include wider social, economic and environmental objectives in the service specification (if they are relevant to the subject) based on earlier analysis of the whole life costs of the contract and how value for money can be achieved⁵⁷</p> <p>C46 Having identified the added or social value the third sector could offer when delivering a service, consider including this aspect of quality as a minimum requirement of the specification so that everyone has the chance to demonstrate how they can deliver it⁵⁸</p>	<p>TS38 Seek out and take up opportunities to comment on or input into service specifications</p> <p>TS39 Make commissioners aware of issues such as outcomes based specifications, wider social, economic and environmental outcomes that could be achieved through the contract, opportunities for encouraging bids from partnerships etc.</p> <p>TS40 If there has been no real involvement of service providers and service users in the design of public services in your field, consider giving voice to users' needs independently or with other organisations/ infrastructure organisations</p>

<p>C47 Where appropriate, ask providers to demonstrate how they would address local service users' needs⁵⁹</p> <p>C48 Focus on outcomes (not only on outputs or activities) for service users and avoid being over prescriptive in order to encourage innovation⁶⁰</p> <p>C49 Allocate risk to the body best able to deal with it⁶¹</p> <p>C50 If appropriate, encourage opportunities for subcontracting and consortia bids from third sector providers</p>	
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Examples of local good practice at the Plan Stage

Secure Wales, an Aberdare based third sector organisation, has established a trading company that successfully competes for contracts using independent sub-contractors. It demonstrates how small firms can be included in a supply chain in which a third sector organisation is the prime contractor.

Merthyr Tydfil County Borough Council's Future Jobs Fund bid gave third sector organisations the opportunity to be included thereby providing a wider range of job opportunities to unemployed people in the area.

Helpful websites for the Plan Stage

Financial Relationships with Third Sector Organisations - a decision support tool for public bodies in England 2006

http://www.hm-treasury.gov.uk/spend_ccr_guidance.htm

Funding and Commissioning Framework Cardiff Compact

www.vacardiff.org.uk/partnership/compact/compactthemes/funding

Free online learning course on producing service specifications to reflect community benefits in service specification writing

www.specification-writing.info

Stage 3 Secure Services

Purpose:

To implement the procurement plan or funding process and secure the most appropriate provider(s) to deliver the required outcomes

Main Outputs

Clear, fair application process

Purchase/funding of the service

Contract/ funding awards agreed and undertaken in an open and transparent manner and any conflict of interest identified and eliminated

The best and most suitable service providers appointed to deliver services

An agreed contract/agreement in place

Detailing how the service will be delivered

In order to meet the requirement of this Code, the following checklists will have to be considered and implemented at the Secure Services Stage.

Checklist 9: Publishing funding and contract opportunities

How can the opportunity be advertised so that it attracts the highest number of potential providers?

Commissioners	Third sector organisations
<p>C51 Publicise forthcoming tenders and potential commissioning widely and</p> <ul style="list-style-type: none"> - Make use of Ask Merthyr Tydfil / RCT equivalent - Include third sector organisations and provider forums on distribution lists - Make use of VAMT and Interlink websites and publications⁶² <p>C52 Provide as early notice as possible of forthcoming opportunities and publish the timetable for each opportunity before the application process begins</p> <p>C53 Build in sufficient time for responses at each stage of the application and tender process to encourage interest from smaller providers, partnerships or consortia</p> <p>C54 Encourage suppliers to publicise opportunities for sub contracts</p> <p>C55 Ensure potential applicants are kept informed and understand how the process will be managed including a</p>	<p>TS41 Find out where contract opportunities are advertised including registering on www.sell2wales.gov (see TS73)</p> <p>TS42 If information on upcoming opportunities is not easily accessible, proactively seek information directly from the public body, with the help of VAMT and Interlink</p>

<p>contact for enquiries</p> <p>C56 Take a proactive approach to encouraging organisations to bid or apply where appropriate and especially where there is under supply in a particular area or for a particular client group</p>	
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Checklist 10: Pre – Qualification

How can commissioners ensure that applicants meet minimum standards at the same time as having a process that is accessible to third sector providers?

Commissioners	Third sector organisations
<p>C57 Be clear about when they will use a one or two stage process and why⁶³</p> <p>C58 Make their Pre-Qualification Questionnaire (PQQ) criteria proportionate to the value of the contract and the level of risk</p> <p>C59 Choose pre-qualification criteria carefully so as to avoid unnecessarily ruling out potentially competent suppliers who may not have an extensive track record⁶⁴</p> <p>C60 Take into account the quality standards relevant to third sector organisations such as PQASSO⁶⁵</p> <p>C61 Consider developing a standard PQQ form to reduce administrative burdens on prospective bidders</p>	<p>TS43 Ensure that you are able to supply evidence for all the requirements in the PQQ</p> <p>TS44 Ensure that you have safeguarding policies and measures in place for working with either children or vulnerable adults as required⁶⁶</p> <p>TS45 Provide feedback to the public body, including through VAMT and Interlink, on PQQ requirements</p> <p>TS46 Compile a PQQ file that brings together all relevant policies in one place</p> <p>TS47 Consider adopting a quality assurance framework such as PQASSO or Healthcare Standards Toolkit for the third sector⁶⁷</p>

Checklist 11 Invitation to tender or submit an application

How can commissioners ensure their processes are thorough without being too complex for many third sector providers?

Commissioners	Third sector organisations
C62 Consider developing a light touch application process for small grants ⁶⁸	TS48 Consider carefully whether the contract or award is right in the long term for the organisation
<p>C63 Produce comprehensive, clear, concise, jargon free guidance notes for tenders and grant applications, which should include:</p> <ul style="list-style-type: none"> - Contract management arrangements - Assessment criteria and weightings - A transition plan/ programme requirement if appropriate - An identified contact person to give general advice (on process and eligibility) before an application or bid is made⁶⁹ 	<p>TS49 Ensure that applications or tenders are for activities that are within a charity's objects and powers (applicable to charities) and that the governance arrangements allow you to submit a bid or application⁷²</p>
C64 Consider providing guidance on TUPE to providers and consider supporting preferred providers to undertake assessments of TUPE obligations and any due diligence required for collaborative working ⁷⁰	TS50 Think through the implications of winning a contract or grant for the organisation and gain the support of staff and trustees
C65 Use standard formats for application and tender documents wherever possible	TS51 Take responsibility for ensuring you are eligible when applying for funding (e.g. income levels)
C66 Make application and bidding documents available in other formats on request	TS52 Be aware of what information to look for in the tender documentation – and consider whether it provides all the information you need to assess the opportunity and possibly bid/ apply for it
C67 Signpost applicants to VAMT or Interlink for advice and help before an application or bid is made where appropriate ⁷¹	TS53 Submit realistic and sustainable costings on the basis of understanding the full costs of your project or services (including direct costs and an appropriate level of indirect costs). Also bear in mind the need to be competitive and demonstrate the added value your service brings especially when bidding for contracts. ⁷³
C68 Consider holding briefing events for providers to explain tendering or submission timescales and their criteria for the tender or funding (see Checklist 15)	TS54 Where the funding on offer will not cover the full cost of a service, carefully assess that it is in the interests of the organisation to subsidise or enhance it ⁷⁴
	TS55 When developing joint bids, ensure management functions and accountability for delivery between partners are clear

Checklist 12: Establishing contract and payment terms

How can contract and payment terms be supportive of third sector involvement and assist with the delivery of outcomes?

Commissioners	Third sector organisations
C69 Have outcomes focussed contract terms that are fair and proportionate to the scale and complexity of the contract ⁷⁵	TS56 Read the contract terms carefully and seek legal advice if you do not understand every clause
C70 Discuss the broad requirements of a transition plan/ programme if needed	TS57 Be clear whether the agreement is a contract or a grant; and what the different legal and contractual relations are between a contract and a grant
C71 Discuss any risks in relation to delivery up front and allocate to the body best able to deal with it ⁷⁶	TS58 Ensure you will be able to manage the terms and conditions of the contract
<p>C72 Have clear and straightforward payment terms, which should be agreed and adhered to including:</p> <ul style="list-style-type: none"> - A presumption that in the case of third sector organisations, payment in advance is preferable so long as the need for it has been established - A schedule of payment dates or timescales within which payments will be made - Funding agreements for three years where possible - Clear arrangements for any under-spend at the end of the year⁷⁷ 	TS59 Make sure adequate systems are in place to manage finances and to allow funded activities to be accountable
C73 Consider having a system for making frequent milestone payments	TS60 If you win a contract, check whether you will have to pay VAT ⁷⁹
C74 Have a clearly identified liaison person for any payment problems	TS61 Ensure that you understand payment terms including being clear that payments are dependent upon their meeting performance criteria; and how non-compliance with payment terms will be addressed
C75 Include in the contract documentation an opportunity to resolve disputes in a way that is accessible to small third sector providers ⁷⁸	TS62 Ensure you are able to bear the risk allocated to you in the contract or negotiate a change to the contract
	TS63 Ensure the proposed payment system allows you to deliver the services to the agreed standard
	TS64 Make it clear if you need advance payment and have a contingency plan in the eventuality of late or delayed payments
	TS65 Try to negotiate a contract that is not overly prescriptive and allows for more flexible terms to make innovation

	<p>possible⁸⁰</p> <p>TS 66 Challenge conditions you do not agree with and if they are still not right, decline to sign the contract⁸¹</p>
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Checklist 13: Evaluation and clarification of tenders and applications

How can the tender evaluation criteria and weighting be sensitive to areas in which the third sector can add value and measure the bidder best able to deliver the value for money required?

Commissioners	Third sector organisations
<p>C76 Have explained the evaluation process to applicants and tenderers at the outset, including the criteria to be used and their relative importance or weighting⁸²</p> <p>C77 Reflect social considerations detailed in the service specification in the evaluation criteria and give appropriate weighting so they can be appropriately assessed⁸³</p> <p>C78 Have decision making/ evaluation panels with the right skills to assess compliance with social impact criteria, for example, by having independent third sector advisors; and exclude potential providers from the decision making process</p> <p>C79 Expect grant applicants to include an element of overhead costs in their applications</p> <p>C80 Treat third sector organisations who bid for contracts the same as other bidders in terms of assessing their bids on the basis of price rather than cost</p> <p>C81 Be aware of the potential negative and unintended consequences of reducing unit costs as a means of achieving savings and awarding contracts that seem to be priced too low⁸⁴</p> <p>C82 Make it clear whether match</p>	<p>TS67 Make sure you understand the evaluation criteria and weightings and how they have been used to assess your bid. If not, seek clarification and feedback</p> <p>TS68 Where you think you have not been treated fairly, consider providing feedback and possibly challenging the decision⁸⁶</p>

funding is a condition of the funding being made available to a third sector organisation ⁸⁵	
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Checklist 14: Award of contract or agreement

How can the award of contract/ agreement step be supportive of all bidders?

Commissioners	Third sector organisations
<p>C83 Have informed all bidders and applicants that feedback will be available</p> <p>C84 Provide timely feedback to successful and unsuccessful organisations once a contract has been awarded in order to promote future improvement</p> <p>C85 Refer organisations to VAMT or Interlink for assistance with skills development where appropriate (see Checklist 15)</p> <p>C86 Contact successful bidders to enter into final contract negotiation and set out the terms of agreement, which should reflect those in the service specification and tender documentation</p> <p>C87 If relevant, agree detailed transition plan/ programme in advance with providers covering transfer of staff, live data etc.⁸⁷</p> <p>C88 Factor any transition period into project timescales</p> <p>C89 Issue successful bidders with a contract award letter; and successful grant applicants with an offer letter⁸⁸</p>	<p>TS69 If unsuccessful, ask for constructive feedback so that you can submit stronger bids in the future</p> <p>TS70 If successful, ensure that the project timescales are appropriate and allow for the transition period</p> <p>TS71 Where you are required to transfer the service to a new provider, take a business-like approach to transition arrangements and provide necessary information on request such as for TUPE⁸⁹</p>

Checklist 15: Market Development and Capacity Building

How can third sector organisations be encouraged and supported to deliver public services in the future?

Commissioners	Third sector organisations
<p>C90 Provide early notice of forthcoming procurement opportunities for all potential providers including the third sector</p> <p>C91 Consider holding “Meet the Buyer” events – a good opportunity for third sector organisations to form alliances with prime contractors</p> <p>C92 Consider producing a “How to do business with ” guide and make it widely accessible</p> <p>C93 Offer training to potential suppliers on how to tender for public sector contracts including in partnership with VAMT and Interlink</p> <p>C94 Create opportunities to meet with providers and influence each others’ planning processes</p> <p>C95 Publish a named contact for enquiries from potential suppliers</p>	<p>TS72 Attend “Meet the Buyers Events”, provider forums and other opportunities to engage with commissioners</p> <p>TS73 Consider registering on the www.sell2wales.gov website as suppliers to promote your organisation to the Welsh public sector and receive automatic e-mail alerts of suitable opportunities; and find out where else to look for contract advertisements ⁹⁰</p> <p>TS74 Consider contacting public bodies for information on upcoming service needs and contracting opportunities to forecast future provision</p> <p>TS75 Make relevant public bodies aware of your organisation and services, “unique selling point”, local knowledge, track record of delivery and impact</p> <p>TS76 Make use of third sector network and forum events and publications to promote your organisation to local public sector organisations</p> <p>TS77 Assess the areas where your organisation needs to have greater skills and knowledge and devise a plan for addressing them – such as governance, accounting, full cost recovery, tendering, negotiation, contracting, monitoring etc (see Checklist 10)</p> <p>TS78 Access VAMT and Interlink services for capacity building advice and support ⁹¹</p>

Examples of local good practice at the Secure Services Stage

Carers have been involved in agreeing the allocation of funds as part of the Strategic Carers' Network in Merthyr Tydfil

The Children and Young People's Network was involved throughout the process of commissioning services from the Merthyr Tydfil Children and Young People's Partnership

Helpful websites for the Secure Services Stage

Full cost recovery toolkit from acevo and New Philanthropy Capital

www.fullcostrecovery.org.uk

CC34 Charities and contracts Charity Commission

www.charity-commission.gov.uk.

Sets out the considerations for charities when entering into a contract

Stage 4: Review

Purpose:

To ensure that required outputs and intended outcomes are being met and value for money provided; and to provide information that can inform and improve future service delivery

Main Outputs

Contract Monitoring Plan

Details of what information to gather, how often and in what manner in order to assess whether a service is performing against outcomes and delivering value for money

Evaluation Report

Assessment, based on qualitative and quantitative evidence, of the impact of the service on targets and outcomes, which will help to shape and inform future service delivery

Review Results

Strategic assessment of how the service fits with future needs and priorities

In order to meet the requirement of this Code, the following checklists will have to be considered and implemented at the Review Stage.

Checklist 16: Contract and performance monitoring

How can the contract be managed in a way that delivers the necessary information about the service and the provider, fosters a culture of high performance and is also reasonable and proportionate?

Commissioners	Third sector organisations
C96 Produce a contract monitoring plan (based on contract management arrangements already made clear in the tender documentation and early supplier involvement) that is proportionate to the size and complexity of the contract and that includes required outputs, intended outcomes, and performance indicators ⁹²	TS79 Make sure you can work with the contract management arrangements and that they are proportionate to the size and complexity of the project
C97 Share your assessment of risk with the provider ⁹³	TS80 Check that the reporting procedure is clear and standardised and that it allows you to focus on outcomes
C98 Make use of standard monitoring forms and evaluation arrangements wherever possible	TS81 Ensure that you are clear about the form that monitoring will take ⁹⁷
C99 Where providers are jointly commissioned, work towards a standard reporting procedure and consider having a designated lead for monitoring purposes ⁹⁴	TS82 Set up appropriate internal monitoring systems from the start of the project to assist with timely reporting
	TS83 If delivering as part of a partnership, ensure that all partners have appropriate and standard monitoring and reporting procedures

<p>C100 Have reporting requirements that focus on measuring the key outcomes⁹⁵</p> <p>C101 Have a simple and pre-agreed change control process</p> <p>C102 Take a proactive approach to performance management:</p> <ul style="list-style-type: none"> - Encourage third sector providers to come forward with ideas for better ways of working - Discuss poor performance with providers, identify how intended outcomes might be met in other ways and agree actions and timescales for improvement. - Signpost organisations to other sources of support, such as VAMT and Interlink, if there is perceived to be an ongoing risk. <p>C103 Have arrangements in place for escalating concerns about contract performance⁹⁶</p> <p>C104 Terminate an agreement or contract early as the option of last resort</p>	<p>TS84 Have a jointly pre-agreed process for making changes to the contract</p> <p>TS85 Take advantage of, and actively seek, opportunities to discuss service improvement with commissioners and identify ways of raising standards</p> <p>TS86 Be able to introduce innovative elements into service provision and be rewarded for introducing innovation</p> <p>TS87 Be honest, timely and transparent in reporting problems and under-performance</p>
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Checklist 17: Evaluation and Review

How can the service be judged to be successful and how can lessons be learned from it?

Commissioners	Third sector organisations
<p>C105 Undertake evaluation as part of the regular monitoring cycle (e.g. once a year for a three year project)⁹⁸</p> <p>C106 Have mechanisms that fully involve service providers in evaluation</p> <p>C107 Take into account service user feedback⁹⁹</p> <p>C108 Plan periodic reviews of services and programmes and provide good notice for doing so¹⁰⁰</p> <p>C109 Include third sector involvement</p>	<p>TS88 Have a process for taking into account service user feedback</p> <p>TS89 Have a planned approach to responding to feedback that points to the need for different services (including renegotiation of some of the contract terms where necessary)</p> <p>TS90 Consider becoming involved in service review panels</p> <p>TS91 Access scrutiny panel plans through third sector networks and</p>

<p>in service review panels</p> <p>C110 Encourage third sector providers to measure their preventative impacts to identify where early action and intervention may save commissioners money further down the line, for example, by decreasing loneliness and isolation.</p> <p>C111 Give a minimum of 3 months notice of termination where a review highlights that a change in commissioning priorities is required or at the end of a contract or grant. If the service is deemed to be effective and an on-going priority, consider rolling over, renewing or renegotiating an agreement or contract</p> <p>C112 Discuss with a provider the impact of a funding agreement coming to an end¹⁰¹</p> <p>C113 Make engagement with key stakeholders – service users, carers, families and third sector organisations a measure of quality control in service planning and include in reports to scrutiny committees</p>	<p>forums</p> <p>TS92 Consider becoming a co-opted member of a scrutiny panel through third sector network and forum mechanisms.</p>
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Examples of local good practice at the Review Stage

The Fframwaith Partnership in Rhondda Cynon Taff has allocated a lead commissioner to some organisations to undertake joint monitoring where there is more than one funder. The Partnership also has a clear monitoring framework that requires service providers to undertake a survey of service users' and take their feedback into account for evaluation and review purposes.

Cwm Taf Local Health Board undertook interviews with service users in 2009 via the Merthyr Tydfil and Rhondda Cynon Taff Mental Health Forum as part of a review of mental health day care services.

Helpful websites for the Review Stage

Intelligent monitoring tool from the National Audit Office- a clear, robust framework for intelligent monitoring
http://www.nao.org.uk/guidance_good_practice/toolkits/intelligent_monitoring.aspx

Section 3 Implementation

- **Implementation and Monitoring of the Code of Practice**

This Code of Practice will be circulated to all partnerships in Merthyr Tydfil and Rhondda Cynon Taff and referenced by them as appropriate. For example, it should be referred to in any terms of reference

The Compact Boards and the Local Service Boards will promote the Code and make reference to it as appropriate. Implementation will be monitored throughout the life of the Commissioning Policy Development Project by the Project Steering Group. Implementation thereafter will be monitored and reviewed through local Compacts and Local Service Boards.

Any issues arising from the Code that are considered through the Merthyr Tydfil Mediation and Disputes process will also be monitored by the Compact¹⁰².

Appendix 1 Commissioning Action Plan Template

The checklists are intended to be used in ways that are helpful to your organisation.

Public sector organisations may wish to use them to:

- Develop a policy for working with the third sector
- Measure to what extent your current practices reflect the good practice guidance outlined in the checklists
- Develop an action plan for greater third sector involvement
- Evidence the steps you are taking towards greater engagement with the third sector
- Provide practical guidance throughout a commissioning and procurement process

Third sector organisations may wish to use them to:

- Understand the different stages of public sector commissioning better
- Develop an action plan for greater involvement in commissioning processes
- Plan to tender for public service contracts
- Understand what open and transparent commissioning looks like

The template below is one way of using the checklists. Complete versions (one for the third sector and one for the public sector) can be downloaded from the commissioning toolkit website on www. (not yet on-line)

Checklist item	Actions taken already	New actions that need to be taken	Lead person	Key milestone dates
C15 Liaise with VAMT and Interlink to access useful information about the whole of the third sector in the area	Good links have already been established with the CVCs	We need to attend network meetings to establish how to involve third sector organisations in our next service review		
C62 Produce comprehensive, clear, concise, jargon free guidance notes for tenders and grant applications	Current documentation is too long and confusing	Use PRP for social care to review current documentation and involve third sector representatives		

Appendix 2 Key definitions

For the purposes of this code of practice the following key definitions apply:

Commissioning: process of specifying, securing and monitoring services to meet people's needs at a strategic level. This applies to all services, whether they are provided by the local authority, NHS, other public agencies or by private or voluntary services

Contracting: putting the purchasing of services into a legally binding agreement.

County Voluntary Council (CVC): The umbrella or infrastructure organisation for the local third sector. There is one in each local authority in Wales. Voluntary Action Merthyr Tydfil and Interlink are the County Voluntary Councils for Merthyr Tydfil and Rhondda Cynon Taff respectively.

Grants: used to fund an activity of a recipient because that activity is in broad alignment with the government's objectives. Grants given for specific purposes are known as "restricted funding" whereas grants given for core funding (grant-in-aid) are known as "unrestricted funding".

Outcomes based approach: taking the impact, result or effect of services on the community, or of a service intervention on an individual, as the starting point for service development

Purchasing: process of securing or buying services.

Procurement: process of acquiring goods, works and services, covering both acquisition from third parties, and from in-house providers. The procurement process spans the whole cycle from identification of needs through to the end of a services contract or the end of the useful life of an asset.

Public sector: the portion of the economy run by various levels of government

Public services sector: the portion of the economy run by government and non profit making organisations

Social Enterprise: social mission driven organisation that aim to accomplish targets that are social and or environmental as well as financial, often referred to as the triple bottom line

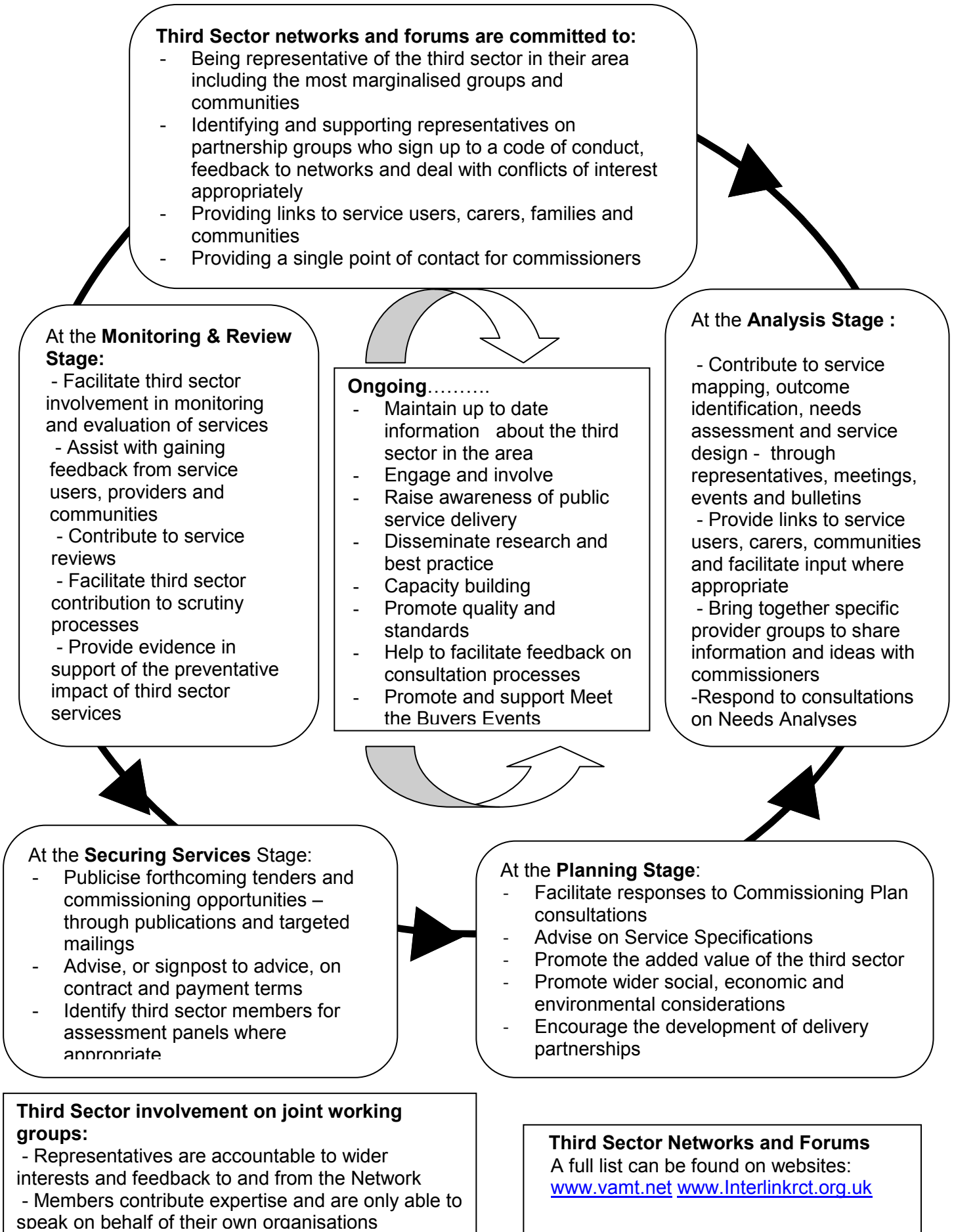
Social Firm: a form of social enterprise committed to creating employment and training opportunities for people who are furthest from the labour market such as disabled people, and that subscribe to the three values of Enterprise, Employment and Empowerment.

Third sector organisation: any independent not-for-profit group or organisation that fulfils a distinct role from the state or market.¹⁰³

Third sector: the term encompasses voluntary organisations, community groups, volunteers, self-help groups, community co-operatives and enterprises, religious organisations and other not for profit organisations of benefit to communities and people in Wales.¹⁰⁴

See the website www.commission (not yet on-line) for a fuller list of definitions

Appendix 3: Role of Third Sector Networks and Forums in Service Planning in Merthyr Tydfil and Rhondda Cynon Taff



Appendix 4 References and Good Practice

¹ Principles

Source: Most of these principles reflect those contained in the *Third Sector Funding Code of Practice* (2009) Welsh Assembly Government.

² CVCs (County Voluntary Councils)

www.vamt.net Tel: 01685 900 and www.interlinkrct.org.uk Tel: 01443 846200

³ Local Service Board background

Source: *The Beecham Review of Local Service Delivery: Beyond Boundaries* (2006) Welsh Assembly Government and *Making the Connections – Delivering Beyond Boundaries* (2006) Welsh Assembly Government

⁴ A summary of the national policy context:

Public sector policy

Making the Connections (2004), Welsh Assembly Government,
Beyond Boundaries (2006), Welsh Assembly Government

Commissioning and Procurement Policy

Fulfilled Lives – Supportive Communities Commissioning Guidance (2009), Welsh Assembly Government

The *Value Wales Procurement Route Planner for Social Care*, which will be completed by April 2010, will make templates and good practice examples available for every aspect of social care and procurement

Opening Doors The Charter for SME Friendly Procurement Welsh Assembly Government (2008)

Procurement and the Third Sector: Guidance for the Public Sector in Wales (2006) Welsh Assembly Government

National Programme for Third Sector Commissioning Improvement and Development Agency

Third Sector Policy

The Third Dimension – A Strategic Action Plan for the Voluntary Sector Scheme (2007) Welsh Assembly Government ,

Third Sector Funding Code of Practice (2009) Welsh Assembly Government

The Social Enterprise Strategy for Wales (2005) Welsh Assembly Government

⁵ Local strategies

To find out more see local authority and Cwm Taf Health Board websites:

<http://www.merthyr.gov.uk/> ; <http://www.rhondda-cynon-taff.gov.uk/>;

<http://www.cwmtaf.wales.nhs.uk>

⁶ Financial regulations

Source: PRP for social care, Financial Regulations

<http://www.buy4wales.com/PRP/social-care/strategicframework/localarrangements/financialregulations.html>

Source for local information still to be determined

EU Procurement Guidance

The main service areas in which the third sector is a potential provider (e.g. health and social services; education and vocational education services; recreational, cultural and sporting services etc.) fall into the category of " Part B" services under EU procurement rules, implemented in England, Wales and Northern Ireland by the Public Contract Regulations 2006. They are therefore not subject to the full application of the EU Procurement Directives, but to a lighter regime. However, procurement in all areas does need to comply with

the general EU principles of non-discrimination, fairness, transparency and proportionality. If there is any doubt, advice should be sought on a case-by-case basis from the corporate procurement teams to ensure that practices that are adopted are not in conflict with EU procurement rules and/or the local procedures.

Source: Office of Government Commerce and Pathways through the Maze A guide to Procurement Law (2009) NCVO and NAVCA.

⁸ **Best Value**

Commissioning and procurement also has to take the principle of Best Value into account, which provides the statutory basis on which local authorities plan, review and manage their performance in order to meet the needs and expectations of the citizens who use their services. It is a legal requirement of local authorities to achieve Best Value as enshrined in the Local Government Act 1999. Local authorities must secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

Source: Procurement Route Planner for social care, Best Value and Best Value Matrix <http://www.buy4wales.com/PRP/social-care/legislativeframework/socialcarelegislativeframework/bestvalue.html>

Value for Money (VfM) is defined as the optimum combination of whole-of-life costs and quality (or fitness for purpose) of the good or service to meet the user's requirements. VfM is not the choice of goods and services based on the lowest cost bid.

Source: Value for Money Assessment Guidance HM Treasury 2006

Value for money is not always achieved through purchasing services in the competitive market place. There are circumstances in which full competition may not be possible (precluded by timescales or deficiencies on the supply side) or appropriate (where an effective local agency is already providing substantially similar services or has a uniquely positive relationship with the client group concerned). In these cases, funding third sector led activities may be the best option.

Source: Croydon VCS Commissioning Framework

⁹ **Third sector roles in commissioning**

This is based on a model in Voluntary Norfolk's Third Sector Guide for Public Sector Commissioning 2008

¹⁰ **Local Third Sector Networks and Forums**

Merthyr Tydfil	Rhondda Cynon Taff
<ul style="list-style-type: none"> - Health and Social Care Forum - Chronic Conditions Management Forum - CYP Voluntary Organisations' Forum - Carers Strategy Network - Financial Inclusion Forum - Community Transport Forum - Arts, Culture and Media Forum 	<ul style="list-style-type: none"> - Children and Young People's Development Network - Health and Social Care Forum - Cancer Focus Group - Maintaining Independence Focus Group - Active Communities Network - Trustee Network - Fframwaith Voluntary Sector Planning Group
Mental Health Forum	

¹¹ VAMT and Interlink

See Reference 2

¹² Commissioning Cycle

Source: Fulfilled Lives-Supportive Communities Commissioning Guidance WAG 2009.

¹³ Personalisation

Resource: Personalisation: Rhetoric to Reality NCVO (2009)

¹⁴ Direct Payments

Resource: PRP for Social Care, Direct Payments (not yet on line)

¹⁵ Establishing a commissioning mechanism

Appropriate representatives from the third sector can be found via their networks and forums. Where the commissioning takes place through partnership mechanisms, an existing third sector representative should already be in place. Strategic partnerships should make their terms of reference and their membership selection procedure publicly available. There are three distinct groups within partnerships with specific commissioning roles – Project Steering Group, Reference Group and Team. Source PSU Support Package Resources

<http://www.psucymru.org.uk/index.cfm?articleid=4605>

¹⁶ Legislation, Strategy, Policy, Guidance

All commissioning activity has to be implemented in line with local financial regulations, all relevant legislation and in line with the strategic framework for services to be secured. Source: PRP for social care, A-Z social care and supporting people legislation, strategy, policy and guidance

<http://www.buy4wales.com/PRP/social-care/legislativeframework/a-zlegislationpolicy/index.html>

Local commissioning plans will relate to priorities and outcomes set out in the Community Strategies (and related strategies) of Merthyr Tydfil and Rhondda Cynon Taff, which all public service organisations have contributed to shaping. They can be found on public sector organisations' websites as at reference 5.

¹⁷ Project Management

Resource: PRP for social care, Project Management Approach

<http://www.buy4wales.com/PRP/social-care/plan/projectmanagement/index.html> ;

PSU/SSIA Commissioning Planning Framework and Introducing Hypotheses

<http://www.psucymru.org.uk/index.cfm?articleid=4605>

¹⁸ Partnership roles

This should include an induction with an introduction to the partnership or group's terms of reference and expectations of members' roles. For third sector representatives their role includes a requirement to feed back to wider third sector interests, liaise with the network coordinator and deal with any conflict of interest appropriately, in line with the Merthyr Tydfil Code of Conduct for Third Sector Representatives available on www.vamt.net (not yet on line)

¹⁹ Dealing with conflict of interests

There is nothing to prevent stakeholders who might be in a position to deliver the service from being a representative so long as their involvement does not

give them a future advantage in delivering the activity. Conflicts of interest can apply to any sector and can be avoided or dealt with by:

- Creating opportunities for all potential providers to contribute to planning
- Considering drawing a clear line between general discussion regarding service design, which would involve provider expertise, and the setting of the service specification, which would not. However, this should also be applied to potential providers from statutory organisations.
- Where there is likely to be a conflict, requesting that individuals do not contribute to a discussion or leave the meeting or retire from the group, depending on which is appropriate. In the case of a third sector representative, liaise with the third sector network or forum to identify a deputy.

²⁰ **Communication Plan**

Resource: PRP for social care <http://www.buy4wales.com/PRP/social-care/plan/projectmanagement/communicationplan.html> ; PSU/SSIA

Communication and Engagement Plan

<http://www.psucymru.org.uk/index.cfm?articleid=4605>

²¹ **Stakeholders**

Stakeholders are the individuals and groups who have a direct or indirect interest in a service or organisation and in the context of public services include service users, carers, families, communities, politicians, partners and providers

²² **Third sector networks and forums** see reference 10

²³ **Code of Conduct for third sector representatives** see reference 18

²⁴ **Social and environmental outcomes**

Social Return on Investment is another useful tool for measuring the wider social and environmental costs and benefits for which there is no market price and including them in any value for money assessment.

Source: Social Return on Investment and Commissioning Office of the third sector www.sroi-uk.org

²⁵ **Stakeholder involvement**

A range of techniques can be used to involve stakeholders including:

- Insights from members of strategic partnerships
- Insights from providers or provider groups
- A briefing paper describing the project, its timetable and opportunities for stakeholders to contribute
- Events held for all stakeholders where a shared vision is established, findings from each project stage are presented/discussed, and where stakeholders have opportunity to challenge and develop ideas.
- Inviting comments on the public service delivery pages of Ask Merthyr Tydfil
- Research activities such as interviews, focus groups, information & data collection from stakeholders as part of the project methodology.
- Commissioning local third sector organisations to conduct local mapping exercises for research amongst the communities/ user groups they have contact with
- Making strategic use of the range of services run by third sector networks and forums to engage with, service users, carers, communities and third sector providers

-
- Providing feedback to stakeholders as an integral part of engagement and consultation

Resource: See Participation Cymru Guide to Stakeholder Involvement (in production)

²⁶ **Planning ahead**

Having the capacity to engage may be an issue for CVCs and network members and especially difficult for smaller organisations, those working with marginalised groups or those perceived as hard to reach. Planning as far in advance as possible will help.

²⁷ **Third sector information**

Having quality information about the third sector in the area, is crucial to effective commissioning/ service planning and tends to be of three types.

- An overview of third sector organisations, networks and forums in the area
- An overview of which third sector organisations are interested now or in the future in delivering public services
- A comprehensive picture of which third sector organisations are currently funded by which local public sector organisations to do what

County Voluntary Councils can help with the first two and public sector organisations should be working with CVCs to establish the third.

²⁸ **Strengths and weaknesses of provider sector**

Source: PRP for social care, Content of the Analysis of Services and

Providers <http://www.buy4wales.com/PRP/social-care/analyse/analysisofservicesandproviders/index.html>

²⁹ **Resource Analysis**

Of these budgets, determine what is tied up in contract commitments and for how long, who makes the decisions about the allocation of budgets from each agency, what other sources of income might be available during the period and what is the resource allocation available to individual service users.

Source PSU/SSIA Support Package Resources PRP for social care

<http://www.buy4wales.com/PRP/social-care/analyse/resourceanalysis/index.html>

³⁰ **Added Value**

See Value Added Facts Questionnaire as a starting point for thinking about added value on www.vamt.net or Social Return On Impact on www.sroi-uk.org

³¹ **Factors that are “givens”**

These include local strategic drivers, national strategic drivers from guidance and legislation, national and international research on effective services for this population group, examples of good or emerging practice in the provision of services for this population group, the outcomes that service users, involved relatives and carers actually want, key local needs

Source PSU/SSIA Support Package Resources

<http://www.psucymru.org.uk/index.cfm?articleid=4605>

³² **Options Appraisal and Risk Analysis**

See PRP for social care, Options Appraisal and Risk Analysis.

³³ **Co-production** Source: Public service – towards a new model (draft) (2010) Wales Council for Voluntary Action

³⁴ **Business Case**

Source PRP for social care <http://www.buy4wales.com/PRP/social-care/analyse/resourceanalysis/index.html>

³⁵ Pilots

Pilot projects are recognised as a way of stimulating the market to create new ways of providing services. They can be grant funded or contracted for where the size and nature of the contract means it does not need to be competitively tendered under the EU procurement rules or advertised under the EU Treaty Source: bestprocurement Social Enterprise and the Public Sector: A Practical Guide to Law and Policy (2007)

³⁶ Measuring Value

Resource: LM3: developed by the New Economics Foundation: A way of measuring the local multiplier effect – of particular interest where the aim is to stimulate local economic activity www.neweconomics.org; Social Return on Investment and Commissioning www.sroi-uk.org

³⁷ Local channels for funding third sector organisations

Strategic core funding (grant-in-aid); Specific local project funding (grant); External project funding (grant) ; Support in kind (such as rate relief); Loan funding (if available); Procurement (contracts for service delivery)

³⁸ Choosing a commissioning method

Guidance indicates there are three main funding channels available to public sector organisations wishing to fund third sector organisations (procurement, grant, grant in aid) and that there are two main determinants of which route to choose (state of the market and programme objectives). The more competitive the market, the more likely it is that a procurement approach will be taken. However, the objectives of the programme will also help to determine the commissioning method to be used:

- Service project financing – in which case procure
- Development funding – in which case a grant or grant-in-aid would be appropriate
- Strategic funding – in which case a grant or grant-in-aid would be appropriate

In practice there is some overlap between the funding channels and discussion with the relevant professionals (procurement/legal service officers) and partnership bodies (Voluntary Sector Compact, Health Alliance etc.) may help to clarify the funding method to adopt.

Source: Financial Relationships with third sector organisations (2006) National Audit Office and Office of Government Finance; Pathways Through the Maze A Guide to Procurement Law (2009) NCVO and NAVCA; Cardiff Compact Commissioning and Funding Framework (2008)

³⁹ Grants

In response to the perceived trend to move away from grants, the argument is being strongly made that “for some organisations only grants will enable them to achieve outcomes that matter for local people”. Source: Sustaining Grants (2007) NAVCA

⁴⁰ Grant Schemes in Merthyr Tydfil and Rhondda Cynon Taff – still to be determined where details can be found.

⁴¹ Commissioning Plan/ Strategy

Source PRP for social care <http://www.buy4wales.com/PRP/social-care/strategicframework/localarrangements/commissioningstrategy.html> ; PSU/SSIA Support Package Resources <http://www.psucymru.org.uk/index.cfm?articleid=4605>

⁴² **Transition Plan/ Programme**

Resource: PRP for social care Managing the Change Process and TUPE
<http://www.buy4wales.com/PRP/social-care/plan/managingchangeprocess/index.html>

⁴³ **Procurement Plan**

Resource: PRP for social care <http://www.buy4wales.com/PRP/social-care/strategicframework/localarrangements/procurementplan.html>

⁴⁴ **Protocol for commissioning and procurement officers**

It could be included in a Protocol for commissioning and procurement officers
Resource: PRP for social care (not yet on line)

⁴⁵ **EU Rules**

“Public bodies should be aware of the circumstances in which the full EU rules do not apply and understand the flexibility that is available to them while at the same time having due regard for the EU principles of non-discrimination, fairness, proportionality and transparency.

Source: Pathways Through The Maze: A Guide to Procurement Law (2009) NCVO and NAVCA (page 15).

⁴⁶ **Length of funding**

Where possible, a minimum of 3 - 5 years funding should be committed to support sustainability and reflect Compact principles. This cannot apply where external factors prevent it such as an external source of funding allocated on an annual basis and may not apply for a pilot. Where a contract or agreement is for less than 3 years, there should be a clearly stated rationale for this.

⁴⁷ **Small lots**

This will help to ensure the resulting supply meets the needs of the whole community, including niche provision for specific groups where necessary. This may also make the contract more attractive and accessible to more third sector organisations Source: Pathways Through the Maze (2009) A Guide to Procurement Law NCVO and NAVCA

⁴⁸ **Supply chains**

This should apply especially to those that fall into the category of Small and Medium Enterprises (SMEs). For example, if a core purpose of a contract is to stimulate the creation of local SMEs, contractors can be asked to demonstrate their track record in working with such organisations and this could be part of the contract award criteria. This is supported by EU Procurement Rules. If sub contracting is an option then it is best to send signals to the market that this is the case as early as possible. Source: Pathways Through the Maze (2009) A Guide to Procurement Law NCVO and NAVCA

⁴⁹ **Consortia**

This has to be done in ways that are not unfair to other bidders. For example, interested bidders could be invited to meet for a briefing before responses are submitted. This would give interested third sector organisations an opportunity to meet each other (and other bidders) and discuss the possibility of working together to bid for a contract. Source: Pathways Through the Maze (2009) A Guide to Procurement Law NCVO and NAVCA

⁵⁰ **Framework Agreements**

Framework agreements are closed agreements to which new providers may not be added whereas approved provider lists are typically open lists, which

new providers may join at any time providing they meet the selection or pre-qualification criteria. Source: Pathways Through the Maze (2009) A Guide to Procurement Law NCVO and NAVCA

Resource: PRP for social care, Contract Options

<http://www.buy4wales.com/PRP/social-care/plan/contractoptions/index.html>

⁵¹ **Pilots** see reference 35

⁵² **Local commissioning and procurement policies**

Source still to be identified

⁵³ **Collaborative Partnership Working**

Resource: Collaborative working in public service delivery by the Public Service Delivery Network run by NCVO www.ncvo-vol.org.uk/psdnetwork ;

A Consortium Toolkit can be purchased from Voluntary Action Sheffield on <http://www.vas.org.uk/services/procurement/index>

⁵⁴ **Aligning Service Specifications**

Leicester includes a Reviewing the Specification stage in its commissioning cycle in order to quality assure all specifications. Source: Strategic Commissioning Framework for Leicester's LAA

⁵⁵ **Consulting on Service Specifications**

Consultation should include service users. It should also include suppliers so long as these do not favour a particular supplier and should cover:

- The risks involved with service delivery and look to place responsibility with the organisation that is best placed to manage them
- How the service delivery will be monitored and managed in order to attract the widest range of potential providers. Source: Procurement and the Third Sector: Guidance for the Public Sector in Wales (2006) Welsh Assembly Government

⁵⁶ **Producing Service Specifications**

Service specifications should define the purpose of the service and outcomes to be achieved ; list possible key performance indicators to be included in the contract including standards to be met and compliance with any regulatory framework; take account of any relevant legislation, strategy, policy and guidance; specify the service details including levels of care and support and/or the outcomes to be achieved for service users; monitoring and management arrangements that will be required, any potential issues or obligations associated with the contract including TUPE, payment arrangements (which should be in advance wherever possible for third sector organisations where a clear financial need has been established).

Source: PRP for social care, Service Specification Checklist

<http://www.buy4wales.com/PRP/social-care/securing-services/tenderdocuments/servicespecification.html>

⁵⁷ **Service specifications that consider sustainability**

Resource: www.specification-writing.info free online learning course on producing service specifications that identify the relevant sustainability issues associated with the contract; Value Wales Sustainability Risk Assessment template (not yet on-line)

⁵⁸ **Added Value**

This would give potential providers the opportunity to place the wider interests of citizens/ service users at the heart of their service and deliver wider and more sustainable benefits, for example, the engagement and empowerment

of service users; specialist knowledge and experience; increased community and service user participation in management and delivery; synergy with other services; added impact through use of volunteers; provision of information and advice on needs not directly covered by the contract. See reference 36
Measuring Value

⁵⁹ **Addressing local needs**

The Commissioning Policy being developed by the Children and Young People's Partnership in Lincoln proposes that national organisations wishing to provide local services should have a local management committee.

Source: Third Sector Guide for Public Sector Commissioning in Norfolk (2008).

⁶⁰ **Outcomes based specifications**

Resource: Putting impact at the heart of the commissioning process (2008)

Finance Hub, which provides a model for producing needs led specifications

[http://www.financehub.org.uk/uploads/documents/Impact_Briefing_final_185.p](http://www.financehub.org.uk/uploads/documents/Impact_Briefing_final_185.pdf)

[df](http://www.financehub.org.uk/uploads/documents/Impact_Briefing_final_185.pdf)

⁶¹ **Allocating risk**

Regular and open discussion of risk factors between funding bodies and third sector organisations is critical to the delivery of value for money.

As a general rule, where the relationship is a contractual one, the risk of failure to deliver lies with the provider. In a grant funding relationship, the risk remains, in part at least with the commissioner. The level of risk retained by the commissioner in general will be higher where the provider organisation is small and/or inexperienced. It is generally acknowledged that in the case of outcomes-based commissioning, the risk should be shared more equally.

Source: Improving Financial relationships with the third sector: Guidance to funders and purchasers (2006) HM Treasury

Resource: PRP for social care (not yet on-line)

⁶² **Advertising**

Resource: PRP for social care <http://www.buy4wales.com/PRP/social-care/securingservices/selectionstage/advertising.html>

⁶³ **One or two stage process**

A one stage process is most appropriate when timescales are short or when there are only a very few potential providers. A two stage process is most appropriate where timescales allow, there are many potential providers, and there are pre-defined requirements for provider organisations

⁶⁴ **Pre-qualification**

Resource: PRP for social care

<http://www.buy4wales.com/PRP/prp/phase2/supplierselection/prequalificationquestionnaire.html>

⁶⁵ **Quality standards**

Externally validated quality systems may not be suitable for some third sector organisations because of the time and expense involved. However, alternative types of quality standard do exist. One of the most popular of these is PQASSO, the Practical Quality Assurance System for Small Organisations, designed specifically for small and medium sized third sector organisations to assess its own progress towards a set of organisational standards. Details of other quality standards can be seen on <http://www.performancehub.org.uk>

Health Care Standards Toolkit for the Third Sector is being developed (2010) nationally by HIW, SCIW and Health and Social Care Facilitators

⁶⁶ Safeguarding services for third sector organisations

WCVA CRU is an Umbrella Body for the CRB funded by the Welsh Assembly Government to help voluntary organisations and regulated care provisions for children under 8 years old registered with CSSIW gain access to the CRB service for free; and to provide advice and guidance on the Independent Safeguarding Authority Source: www.wcva-cru.org.uk

⁶⁷ Quality standards- see reference 65

⁶⁸ Corporate grants process

A number of local authorities such as Birmingham and Cardiff have a light touch process for small grants

⁶⁹ Guidance notes for tenders and applications

They should be clear and include:

- Purpose of the funding
- Specification for the service or activity to be funded
- Any specific requirements of the delivery organisation
- Any opportunity or preference for partnership or consortia bids
- The commissioning/ tendering process involved including how many stages it has
- The assessment criteria and weighting or relative value that will be used including any social impact criteria
- Encouragement to organisations to promote their unique selling points
- Timescales for applications, bidding and decision making
- The duration of the service or activity
- The type of agreement that the successful bidder/ applicant will enter into and the nature of their responsibilities under this agreement
- The proposed start date for delivery
- Supporting information required such as a copy of a governing document
- How to submit applications
- Advice available for applicants prior to submission
- A contact point for enquiries on the overall process but not on individual applications

Source: VCS Commissioning Framework for Croydon;

Resource: PRP for social care, Selecting the appropriate tender process

<http://www.buy4wales.com/PRP/social-care/plan/developingprocurementplan/selectionofappropriatetenderprocess.html>

⁷⁰ TUPE Resource: PRP for social care, TUPE

<http://www.buy4wales.com/PRP/social-care/plan/managingchangeprocess/tupe.html>

⁷¹ CVC contact details

VAMT 01685 353900; Interlink 01443 846 200

⁷² Charitable objects and powers

Source: CC37 Charities and Public Service Delivery (2007) Charities Commission www.charity-commission.gov.uk

⁷³ Allocating costs

Resource: Full cost recovery toolkit from ACEVO and New Philanthropy Capital www.philanthropycapital.org/html/full_cost_recovery.php

⁷⁴ **Loss leader**

Your aim should be to recover at least your full costs and perhaps to generate a surplus but in certain circumstances, there may be a case for treating a particular contract as a loss-leader in order to get into a particular market.

Resource: CC37 Charities and Public Service Delivery (2007) Charities Commission on acting in the interests of a charity.

⁷⁵ **Contract writing**

Resource: PRP for social care, Outcomes focused contracts; Drafting the Contract; Characteristics of good and bad contract writing

<http://www.buy4wales.com/PRP/social-care/securing-services/tenderdocuments/characteristicsofgoodandbadcontractwriting.html>

⁷⁶ **Allocating risk** see reference 61

⁷⁷ **Underspend**

Consideration should include:

- Not making use of clawback where a contracted service is meeting performance targets
- Understanding that any underspend in core funding (grant in aid) can be usefully reinvested in an organisation thereby strengthening it
- Encouraging organisations to discuss with commissioners any anticipated underspend well in advance of the year end

⁷⁸ **Dealing with disputes**

It is best to deal with any disputes relating to funding relationships as close to the source as possible. In the first instance, any complaint should be directed to the commissioner concerned; if unresolved it should be escalated to the relevant management structure or partnership as appropriate. If it is still unresolved and it is felt that there has been a breach of a Compact Principle the dispute can be referred to the Compact (in Merthyr Tydfil) under its Mediation and Disputes Resolution Process.

⁷⁹ **VAT**

Source: www.financehub.org.uk/uploads/documents/VAT_Briefing_138.pdf

⁸⁰ **Effective negotiation to secure better outcomes**

The effectiveness of third sector organisations in winning contracts for services, developing partnerships, or engaging agencies can be enhanced by strengthening the negotiation skills of people who work for them.

Source: Negotiation Briefing: effective negotiation to secure better outcomes Development Trusts Association and ACEVO 2008

http://www.financehub.org.uk/uploads/documents/FH12_3_Negotiation_Briefing_appendix_3d_186.pdf

⁸¹ **Negotiating contract terms**

Always know your own entry and exit points on each specific variable which you are negotiating and establish the point at which you will walk away from the negotiation Source: see reference 80

⁸² **When assessing bids:**

- Score against the pre-set criteria written in the Evaluation Plan

-
- Recognise it is legitimate for third sector providers to reflect Full Cost Recovery principles and include the relevant element of overhead costs in their estimates for providing statutory services
 - Avoid seeking information re management fees and overheads
 - Award contracts on the basis of value for money, which includes a consideration of quality and outcomes
 - Work with bidders to clarify any misunderstanding or omissions in tenders
 - Be aware of any special factors which may affect pricing or contract terms (such as the logistics associated with working in a rural area) and ask bidders to demonstrate how their prices have taken these into account

When assessing grant applications:

- Score them against pre-set criteria
- Use due diligence in assessing whether the project has been well costed by the potential provider. Poorly costed services are at risk of failing (see reference 84)
- Expect organisations to require a level of funding to pay for overheads and management costs when running a project that are based on and reflect Full Cost Recovery principles

Resource: PRP Developing the Evaluation Plan, Tender Evaluation

<http://www.buy4wales.com/PRP/social-care/securingservices/tenderprocess/developingtheevaluationplan.html>

⁸³ **Incorporating added value into assessment criteria**

Bear in mind specific examples of added value that can be incorporated, as appropriate, into responses to assessment criteria such as:

- “ a. The fact that a non-profit distributing organisation applies surpluses towards public benefit purposes complementary to the commissioned service
- b. A commitment to the application of resources beyond those required under the commissioned service specification, to purposes complementary to the commissioned service.
- c. The integration of broader public benefit, social and environmental benefits in the institutional manner
- d. Capacity, flexibility and incentive to deliver additional elements to the service which neither the public sector (with budgetary constraints), nor the private sector (with its primary focus on shareholder return) are in the same position to deliver.
- e. The particular commitment, dedication, skill, expertise and organisation required to operate a business focused primarily on public benefit delivery, in distinction to the character of such factors required to operate a business focused primarily on shareholder return.”

Source: The Compact and Procurement Law (2009) (page 10) Office of the Third Sector

⁸⁴ **Unintended consequences of reducing unit costs**

Against a background of real budgetary pressures, making cash savings on recurrent contracts can seem like a reasonable response. However, commissioners should be aware of the negative and unintended consequences to quality that can ensue.

- **Source:** Social Return on Investment and commissioning Office of the third sector www.sroi-uk.org

Both commissioners and provider should be aware of the risks involved in not funding on a full cost recovery basis

Source: Improving Financial Relationships with the third sector: Guidance to funders and purchasers MH Treasury (2006)

⁸⁵ **Match funding conditional on an award**

This could be the case where funding is being provided for a proportion of a project's costs with the expectation of match funding from elsewhere, in which case finalisation of the agreement may be conditional on this match funding being secured. Where a public body has an absolute legal duty to provide a service and no discretion over the level of service, there would have to be very clear justification in the interests of the third sector organisation for subsidising the service. Source: CC37 Charities and Public Service Delivery (2007) Charities Commission

⁸⁶ **Challenging commissioners**

Resource: www.navca.org.uk/evs

⁸⁷ **Transition Plan/ Programme**

Resource: PRP for social care Managing Change Process

<http://www.buy4wales.com/PRP/social-care/plan/managingchangeprocess/index.html>

⁸⁸ **Informing successful organisations**

A contract award letter will set out the contract start date, who the contract manager is and contractual documentation

A grant offer letter will set out terms of agreement that reflect those in the funding application:

- The amount and the period of the grant
- The purpose for which the grant is made listing any specific exclusions and restrictions or conditions
- Standard terms and conditions
- Performance indicators and targets
- Standard monitoring and evaluation arrangements
- Arrangements for payment
- Letter of acceptance to be returned by the grantee

⁸⁹ **TUPE** see reference 70

⁹⁰ **Finding Contracts**

This should include registering on <https://www.sell2wales.co.uk/> which allows organisations to receive notification of smaller contracts (usually below £100,000) and promote their organisation to the public sector in Wales. Also look out for advertisements in national, regional and local newspaper or trade journals. Tender trackers, which can be subscribed to at a cost, can be found on the web.

⁹¹ **CVC capacity building**

CVCs can offer a range of services including training, information, advice on relevant topics such as quality assurance and policy development; support through specific projects and signpost to other organisations that can help such as Business Support Wales business start up, growth, events

www.fs4b.wales.gov.uk, Wales Cooperative Society

<http://www.walescoop.com/> for support with social enterprises; and WCVA

funding portal <http://www.sustainablefundingcymru.org.uk/>

⁹² **Contract Monitoring Plan**

A Contract monitoring plan should include how the balance between proactive and reactive monitoring will be managed, mechanisms for measuring and collating information, specific monitoring methods to be used.

Source: PRP for social care, Contract Monitoring Plan (not yet on-line)

⁹³ **Risk Assessment**

Monitoring should be in line with the assessed risk such as the value of the funding, size, sensitivity and importance of the service and the maturity of the relationship with the provider; and should only include information that is required or will be used to assess performance against outputs, outcomes or value for money.

Source: Intelligent Monitoring An element of Financial Relationships with Third Sector Organisations National Audit Office 2009, 12 Principles of proportionate monitoring and reporting (page 26)

http://www.nao.org.uk/guidance_good_practice/toolkits/intelligent_monitoring.aspx

⁹⁴ **Monitoring jointly commissioned services**

See reference 90 Contract Monitoring Plan

⁹⁵ **Monitoring outcomes**

Resource: PRP for social care, Measuring Outcomes (not yet on line); Intelligent Monitoring: An element of Financial Relationships with Third Sector Organisations (2009) National Audit Office

⁹⁶ **Escalating concerns about performance**

Resource PRP for social care Escalating Concerns (not yet on line)

⁹⁷ **Monitoring methodology**

It can include returns, service user questionnaires, surveys and feedback, case manager feedback, interviews (by telephone or in person), provider's internal reports e.g. quality assurance, analysis of complaints and compliments, POVA reports and their outcomes, inspection reports, site visits - announced and unannounced, themed reviews e.g. staff recruitment and retention, quality assurance mechanisms e.g. benchmarking with other similar services.

Source: PRP for social care, Monitoring Methodology (not yet on line)

⁹⁸ **Developing a Review Framework**

Resource: PRP for social care (not yet on line)

⁹⁹ **Feedback from Service Users**

Resource: PRP for Social care (not on line); Framwaith Monitoring Arrangements for RCT, which require evidence of service user feedback

¹⁰⁰ **Service Review**

Reviews may be triggered by policy change, evidence of changing need, existing contracts or agreements coming to an end

¹⁰¹ **Termination of a contract**

This is especially important where the funding represents a substantial proportion of the provider's income or where the funding has been in place for a considerable length of time (3+ years). Support at this stage may include signposting to external sources of support or advice on how the service might be reconfigured to better fit with the service or funding priorities of the commissioning body. Where the service is going to be competitively recommissioned, the current provider will have the chance to apply.

¹⁰² **Dealing with disputes**

See reference 78

¹⁰³ **Features of third sector organisations**

The third sector is very broad, spanning virtually every facet of human interest. Each organisation has its own aims, distinctive culture, set of values and way of doing things, but they all share some important characteristics in common:

- Independence
- Self-governing
- Non-profit distribution
- Voluntarism
- Public benefit

Source: Code of Practice for funding the Third Sector (2009) and The Third Dimension - a strategic action plan for the voluntary sector scheme (2008) Welsh Assembly Government.

¹⁰⁴ **Third sector**

Source: Voluntary Sector Scheme National Assembly for Wales (page 3).