

CODE OF PRACTICE FOR COMMISSIONING THIRD SECTOR SERVICES

CONSULTATION RESPONSES ANALYSIS September 2010

An analysis of all the consultation responses received on the Public Sector Code of Practice for Commissioning Third Sector Services was undertaken at a sub-group meeting of the Commissioning Project Steering group on 8th September 2010. The results can be found below. The re-written draft Code of Practice can also be found on the VAMT (www.vamt.net) and Interlink (www.interlinkrct.org.uk) websites. The Code of Practice will be presented to the joint meeting of the Local Service Boards in November and, assuming that it is approved, it will then be taken through partner organisations' decision making processes for adoption and implementation.

Responses Key

0= noted

1= already covered by the Code of Practice

2= will aim to reflect the comment in the revised Code of Practice

3= needs more discussion (which have all been discussed and converted into other actions) or further exploration

4= grammar/ typos/ consistency/ lay-out

Numbers responding from public sector = 32

Numbers responding from third sector = 45

The huge majority of feedback was received as a result of the Cracking the Code event.

PART B

1. Preface		
Numbers finding it useful= Numbers not finding it useful=		
Numbers finding the purpose clear= Numbers not finding the purpose clear		
Comment (origin)	Key	Response
Footer on page 2 should be set up properly as a footer (VAMT)	4	Footer removed
Aims of the Code of Practice not clear; who is it for? Crackign the Code (ctc)	1	They are on page 2 and I am not sure how to make them clearer
Add "To improve business relationships" to aims (SS)	2	Added
Add partner organisations to Preface (MM)	2	Added under "Who are partner organisations?" on page 2
Make the link to the website clearer	2	Changed

2. Commissioning Principles		
Numbers who think they are correct= Numbers who think they are not correct=		
Comment (origin)	Key	Response
General agreement with the commissioning principles ctc	0	
Need some re-working to incorporate Principles 13-15 (VAMT)	2	"Proactive approach", "Integration", "Accountability" and "Clear, consistent and transparent processes" added

3. Third Sector Principles

Numbers who think they are correct=		Numbers who think they are not correct=	
Comment (origin)	Key	Response	
1. Agree ctc	0		
2. Agree ctc	0		
3. Agree ctc	0		
4. In principle agree but delivery is a concern. Health Authority, Health Boards and WAG need to synchronise timings and allocations ctc	0	NB a principle reported in July issue of Network News that WAG will have difficulty in meeting	
5. Agree in principle but difficulties will arise because the Local Authority has no forward commitment for money from WAG. Local authority acknowledges better value for money in awarding longer term funding ctc	0		
6. Agree with principles but next few years are critical climate; need to emphasise equity with within this statement; change “allowed” to “given” ctc	0	NB a principle reported in July issue of Network News that WAG will have difficulty in meeting	
7. Agree but need explanation within the glossary to ensure common understanding; if not applied then services will not be sustainable ctc	2	Full Cost Recovery is now explained at C79 as including “ a fair share of overhead costs in their applications”. It will be expanded upon more in the web based code of practice..	
8. Wording unclear; “to be based on overall price not individual costs”. Consider combining this principle with 7 as if FCR agreed then the principle is then not unclear ctc	2	Fair procurement – the point being made is that third sector organisations should not be treated any differently to private sector organisations insofar as their bids are judged on price (and not on the costs involved). Some re-wording attempted.	
9. Agree principle but where “where clear need is demonstrated”; agree to start up costs including capital; need agreed time scales (quarterly etc..) for discharging payments ctc	2	The details are covered at C72 and C73, which now include reference to start up costs.	
10. Agree but “fair and reasonable” are open to interpretation; change “that would lead to” to “which may lead” ctc	2	Changed to “may”. Also have added “reasonable timescales” and “proportionate processes”	
11. Agree but regarding C96 for detail, consider whether need to make the principle explicit, e.g. “the simplest outcome-based procedures” ctc	2	Changed to “simplest outcomes based procedures”	
12. Narrative has two separate points, which need to be	0	There are 2 points but they are linked	

separated out as a new principle ctc		
Add: Implementation of fair, effective and timely dispute resolution as a principle (CtC)	2	The last paragraph becomes a principle
Add: adequate time scales and proportionate processes (MT draft Economic Development Funding Protocol)	2	This has been incorporated under Principle 10. Fair and reasonable treatment
They are the good practice principles that we should aspire to and as such are helpful (MTCBC officer)	0	
Principles 13-15 should be moved to the more general Commissioning Principles	2	This makes sense since these principles are fairly general and not specifically to do with the third sector

4. Checklist Format		
Numbers who like it = Numbers who do not like it =		
Comment (origin)	Key	Response
Needs further break down to ensure easy access ctc	2	The detail will be provided in the web based code of practice
Too long ctc	0	Although it is fairly lengthy, this conflicts with the numerous comments regarding a need for more detail
Useful checklists ctc	0	
Connects with all local guidance and national strategy ctc	0	
Could create inflexibility ctc	0	
Could add to complexity ctc	0	
Practical tool ctc	0	
Will it be implemented? ctc	2	Implementation section strengthened to include "... and will be referred to in all contracts and Service Level Agreements"
Consider making use of the 13 standards of FL-SC instead of 17 checklists (Value Wales ctc)	0	This is an interesting suggestion although structuring the Code of Practice in this way would identify it very strongly and perhaps too strongly with health and social care. The 13 FL-SC standards are already reflected in the Code of Practice.
Useful for promoting and reinforcing good practice; sits between national guidance and the organisations' practices (MTCBC officer)	0	

5. Checklists for the Analyse Stage		
Comment (origin)	Key	Response
Sometimes use Analysis and at others Analyse – needs to be consistent (VAMT)	4	Changes made
Simply say "VAMT and Interlink" and explain that they are CVCs in the	4	Change made

Preface (VAMT)		
Checklist 1		
Time frames needed in places (CtC)	0	We are not sure how realistic this is at this stage
Common systems needed (CtC)	1	The need for common systems is highlighted in several places
Decommissioning needs to be added (CtC)	1	It is mentioned at C32 and more detail will be provided in the web based code of practice
Should include mention of who can make decisions and seniority involved (CtC)	2	Not realistic since it will vary from department to department. However, we should aim to provide decision making flow charts in the web based code of practice (website)if possible
Checklist 2		
Swap this checklist with checklist 3	2	Changed
C11 Query about what this means and need to add “economic” (ctc)	2	“Economic” added; the point will be expanded on in the website
C14 Merthyr Tydfil spelled incorrectly (VAMT)	4	Changed
C14 Give a time frame for consulting – not done well at the moment. It should not be a rubber stamping ctc	2	This should be expanded on in the website
Link to provider business plans ctc	2	Added to C19
Holistic approach ctc	0	
Joined up analysis needed between health and social services ctc	2	“Work in partnership” added to C8
Goal mapping with client ctc	2	This seems to be implicit already at C12 but can be expanded on in the website
Checklist 3		
C15 Big not always beautiful – small providers can do a good job. However understanding potential providers in the market is a huge task ctc	0	
C16 & C17 Link back to review and monitoring ctc	0	
C19 Add business plans and involve organisations ctc	2	Already mentioned at C94 but also added to C19 alongside providers
C20 Yes please ctc	0	
Share mapping information – needs to be more explicit ctc	2	“Work in partnership” added to C15
Checklist 4		
TS 25 Social Return on Investment and not “impact” as documented elsewhere (VAMT)	4	Changed
Can we promote RBA more? ctc	2	RBA has been added to C10 and a new point has been added after C10 on strategic fit.

6. Checklists for the Plan Stage		
Comment (origin)	Key	Response
Checklist 5		
C25 Change to “Analyse”; change to “having followed” ctc	4	Changed
C26 Understand the difference between grants and SLAs/ contracts ctc	1	This will be expanded on in the website and linked to TS57
C28 remove question mark ctc	4	Changed
This section needs to be clearer/ emphasis changed regarding what, who, which grants ctc	1	The idea is to have more detail in the website if it is available
C32 Decommissioning – needs a section re roles and responsibilities ctc	2	More details will be included in the website and a link will be created to the PRP for social care web pages
Not just grants to consider for third sector organisations, other funding options need to be included in here.ctc	1	Other funding options will be included as per C24. There is an emphasis on grant since they are still an important part of the funding mix for third sector organisations
This needs to be a commissioning framework for all organisations not just third sector ctc	1	It is mentioned in the Preface that “Although its focus is the third sector, it is recognised that it relates to good practice in commissioning that can be applied more broadly.”
Grants - issue with ‘new’ projects; smaller organisations’ ability to go for/apply for grants; Full cost recovery; Exit strategy; Minimum term of contract; larger organisations grants may not be appropriate ctc	1	Much of this is reflected – at See C40, TS53, TS30 – and there will be more detail in the website
The processes need to be clearer, simplified and standardised ctc	0	This is a point that the Code of Practice aims to convey.
More focussed on process ctc	0	
Checklist 6		
C29 Change to Analyse Stage (VAMT)	4	Changed
C30 Effective dialogue – How will this work for third sector organisations? ctc	1	As per C30
TS35 (check comma in brackets) (VAMT)	4	Changed
Include writing an exit strategy ctc	2	Added to TS30 and to C112
Refer to national PQQ database ctc	0	It will be included in the website
Need to highlight examples of best practice in terms of projects, plans, commissioning plans ctc	1	It is planned to include examples under Local Resources
Is this the next step? ctc	0	
Standardised processes ctc	0	

Do we need to write another plan? Number of plans already in place – project planning framework etc	1	I think this reflects a concern about duplication – this can be avoided by partners feeding back on the level of alignment that exists between the Code of Practice and their own processes. It is also referred to in the first paragraph of the Preface.
Checklist 7		
C38 Needs to be more emphasis on reduced workload on smaller organisations; encouraging third sector organisations appears to be discriminatory etc	1	C38 aims to address making processes more third sector friendly The website will include more on the need to avoid discrimination and not to behave unfairly to other bidders.
C39 Preferred providers list needs clarification etc	1	See Reference 50 in the Full Document which covers “preferred providers lists” and “framework agreements” and makes clear the difference. Links can be provided in the Toolkit to the PRP for social care
TS33 More emphasis on this etc	1	This will be expanded on in the website
TS34 PQQs need to be streamlined etc	1	This is covered at C58
Sharing working examples with third sector organisations etc	2	The Project will aim to identify local good practice case studies or examples
Checklist 8		
C48 Does everyone understand the definition of “outcome” Also, outcomes need to be agreed etc	1	See glossary plus the website will expand on this
Third sector – highlight the fact third sector expertise can reform development of service specifications etc	2	This is one of the points being made throughout. Also see TS38, C42. However, the Project will aim to provide some good practice examples for the website.
Third sector – consider whether third sector organisations should come together to inform service specifications etc	1	Already suggested at TS38
Commissioners – service specifications need to facilitate joint working across a number of third sector organisations if one cannot provide all of the specifications etc	1	Already covered at C42, TS39 and C50
Commissioners – bring third sector organisations together to discuss service specifications etc	1	Already covered at C42 and TS39
Commissioners – checks and balances need to be made clear, expectations of each partner etc	2	A point will be added to the review stage re relationships between commissioners and providers that will cover this to some extent.

7. Checklists for the Secure Services Stage		
Comment (origin)	Key	Response
Checklist 9		

C39 change from they want to commission to service needed (VAMT)	2	Changed to “wish”
C51 Add “Sell to Wales” to this column too ctc	2	Changed
C52 Emphasise the role of third sector networks and forums ctc	1	Already covered at C51
Online tendering service – one stop shop, training and support on existing sites (e.g. auto) ctc	3	More information needed on this
Clarity and costing of added value in commissioning code of practice ctc	1	See TS53, C45, C77
Defining public service – what we do/ what we buy ctc	2	Can be linked to TS12 and needs to be expanded on in the website
Understanding of voluntary sector challenges – impact big lottery ctc	2	This can be reflected to some extent in the section in relationship building to be added to checklist 16
Defining boundaries and implications of voluntary sector ctc	1	This will be covered in more detail in the website
Joint Planning initiatives in Code of Practice ctc	1	Mentioned at Checklist 4 under C22 as “integrated service design”
Which contracts can this be applied to...? ctc	0	
Checklist 10		
Re the question – change “ensure that” to “help assist with capacity” ctc	2	Changed to “be assured”
Checklist 11		
Re the question – not “ensure” ctc	0	
C62 Query re “light touch” ctc	2	Change to “proportionate application process”
One representative needed for the voluntary sector – conduit advisor – VAMT and Interlink ctc	1	Already reflected at C67 , TS4 and Principle 16
One channel to connect to; disseminate information, work with commissioning group link into framework, holistic approach to NHS too ctc	1	Already reflected at C51, C67, C42, TS4 Principle 16
Gap in required standards for the third sector. Opportunities available such as Meet the Buyer ctc	1	Already reflected at TS77
Raising standards for voluntary organisations ctc	1	Already reflected at TS77
Reactive and proactive process in terms of quality ctc	1	See C102
More ability to share best practice – small and large organisations ctc	1	See TS18, TS15, TS33

Checklist 12		
C72 make it 3-5 years where possible (to be consistent with the principles VAMT)	4	Changed
Checklist 13		
C78 “Advisers” instead advisors VAMT	4	Changed
Need to reflect C82 in the third sector side re match funding (VAMT)	2	A new point has been added after TS67
Checklist 14		
Checklist 15		
C91 How many should take place? They need lots of planning and would need to be scheduled well in advance ctc	0	
TS73 Not everyone fits specific categories. Explain why they should register ctc	1	This will be expanded on in the website
Providers need to do more together to link and share best practice ctc	1	Already referred to at TS18, TS33
Workforce development is part of capacity building (VAMT)	2	A new point has been added after C95

8. Checklists for the Review Stage		
Comment (origin)	Key	Response
Checklist 16		
C97 Should also be in the third sector column ctc	0	
C99 Standard reporting procedure should be in place and “not working towards” ctc	2	Changed
C102 A proactive approach is the exception rather than the rule at the moment; commissioners need to understand third sector organisations better; there should be a means of specifying good performance and review of contracts should be strengthened with responsibility on the provider ctc	0	See C102
C103 Responsibility of third sector providers to deliver against the contract; responsibility of the contractor to put poor performance right ctc	2	Both these points are made at C102 and TS87. C102 will also be expanded to emphasise that commissioners should also offer support
TS79 Should also be in the commissioner’s column. It should be	1	The points are already reflected at C96

made clear that it is important to consider the value of the contract etc		
TS 86 Query about how innovative you can be etc	0	
Checklist 17		
TS88 Not all service users want to give feedback etc	0	
C110 Important that discussions are taking place long before the review stage on their preventive impacts etc	1	Already reflected at for example, TS16, TS17, TS24, TS39, C45
C110 and C111 How do they fit with financial regulations? etc	2	C111 needs to be split into two points to make it clearer
C111 Issues re employment, depends on terms of contract, needs to be part of a wider process over a longer period of time etc	0	
C112 Too weak – joint to C111 and strengthen. Consider wider impacts etc	2	To add “and work with them on an exit strategy to mitigate the impact”
Difficult to capture distance travelled in a box etc	0	

9. Printing the Code of Practice

Numbers wishing to print the full document = no responses

Numbers wishing to print the summary document= no responses

10. Implementing the Code of Practice - ideas

Comment (origin)		Response
Training for commissioners and providers etc		Training programme is a Project output
Make strategic use of existing third sector networks and forums and look to include those not attending so far to cascade good practice etc		Ongoing role of networks and forums as reflected in the Code of Practice
Interlink and VAMT are the recognised portals to connect with the third sector in relation to commissioning etc		Role of CVCs as reflected in the Code of Practice
Organisations need to formally sign up to the Code of Practice etc		This is being addressed by the Steering Group
Standardise commissioning processes across the board etc		To be identified by the Steering Group
A critical mentoring/ monitoring group to support the use of the Code, share learning, capture good practice and problem areas linked to a first year review etc		Role of the Steering Group
Develop clear channels of communication such as through a website etc		Website is a Project output
Ensure no conflict with current internal		Procurement Officers are involved in the

rules regarding procurement already in place ctc		Steering Group and have commented on the Code of Practice
Who's accountable? ctc		
Complete the project, then synchronise with WAG's work so that it becomes a Wales wide resource ctc		Links with Value Wales in place
Existing variety of documentation is a huge barrier to overcome ctc		
Review process ctc		Role of Steering Group
What happens if it is not implemented? ctc		Compact Mediation and Disputes Resolution
Showcase the benefits to engage people (including: use case studies and good practice to improve understanding) votes ctc		Will be included in the website
Build solutions into the Code such as Ffynon and Daffodil 5-9 votes ctc		Will be included in the website
Adopt, implement and enforce – a dispute resolution process should be part of the package for both areas ctc		Compact Mediation and Disputes Resolution process needs to be shared across the 2 areas
Gain an agreement on the third sector engagement process for implementation ctc		Already takes place through networks and forums
Who can deliver cheaply? Value for money barrier ctc		Noted
Current financial situation is a barrier ctc		Noted
Incorporate feedback from consultation and circulate the revised document ctc		Cracking the Code Report has been issued
Realistic measures that can be implemented – do not create false hope, proceed with caution ctc		Noted
Added value should be incorporated into the decision making (not included in the voting due to an error) ctc		Noted
IT barriers (not included in the voting due to an error) ctc		Noted

Additional comments:

“We desperately need the partnership working of the health board and the county borough council to work together, to build that bridge, to enable a joint Service Level Agreement to be discussed regarding epilepsy services.” (Epilepsy Wales)

The term commissioning may no longer be used in the NHS but the principles of service planning align with this so to “sell” any training to NHS colleagues it may be helpful to label it as “Planning and Commissioning”.(ctc TNA comment)