

Social Enterprise Coalition Response to the Department for Communities and Local Government's consultation on **Best Value: New draft statutory guidance**

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The Social Enterprise Coalition's Response to the Cabinet Office's consultation on *Best Value: New draft statutory guidance*

The Social Enterprise Coalition was established in 2002 as the national body for social enterprise in the UK. We are a membership organisation. We conduct research; develop policy; campaign; build networks; support individual social enterprises; share knowledge and understanding, support private business to become more socially enterprising, and raise awareness of social enterprise and what it can achieve.

Social enterprises are businesses driven by social or environmental objectives whose surpluses are reinvested for that purpose in the business or in the community. They operate across a wide range of industries and sectors from health and social care, to renewable energy, recycling and fair trade and at all scales, from small businesses to large international companies. They take a range of organisational forms from co-operatives and mutuals, to employee owned structures and charitable models.

Our members come from across the social enterprise movement, from local grassroots organisations to multi-million pound businesses that operate across the UK. With them we are: creating a better environment for social enterprises to do business helping the social enterprise movement to grow and become stronger building networks to share, learn and create business opportunities

The UK social enterprise movement is recognised as a world leader and our members are united in their commitment to changing the world through business. The current climate presents the social enterprise movement with a unique opportunity. We know it can solve some of the UK's most pressing problems, promote social justice and help to bring about the more diverse, bottom-up economic growth that we urgently need. In particular, social enterprises are well placed to deliver on the Government's three priorities for civil society: empowering communities, opening up public services and promoting social action.

This consultation

The Social Enterprise Coalition (SEC) welcomes the opportunity to respond to the Department for Communities and Local Government's consultation on *Best Value: New draft statutory guidance*.

We firmly support the government's commitment to 'encourage authorities and civil society to collaborate more, including greater involvement for voluntary groups as well as small businesses in the running of public services' and its 'aims to be more explicit about the scope for authorities to consider social value in their functions'. We are also pleased to see the call for proportionality and caution to be applied to authorities when making cuts to services or the viability of social enterprises, voluntary and community organisations.

Social enterprises are based on the principles of mutualism, co-production and participation. They offer a model where people, be it staff, service users or community members, are given a

direct voice in running their organisation; where public assets can be locked into community ownership; and where people are empowered to transform their lives and the lives of those around them. As such, they are well placed to play a key role in the future of public services.

We therefore strongly believe that social enterprises have a great deal to offer in terms of creating best value in public service delivery and their voices should play an important part in the debate on how local authorities can act in concrete ways to deliver the Government's commitment to localism, growth and the Big Society.

1) Is the guidance clear, specific and proportionate?

1. SEC welcomes the guidance on Best Value and believes that overall the guidance is clear. However, the terminology used in relation to civil society organisations does not represent the full breadth of organisations in the sector. In particular, 'voluntary and community organisations and businesses' are referenced in the guidance (paragraph 2 line 3, paragraph 3 line 3 and paragraph 3, bullet point 1), but social enterprises are omitted.
2. The Government has recognised the valuable contribution that social enterprises are making in the delivery of public services, and has further encouraged the growth of the sector in this area. In order to help foster this growth, it is vital that this omission is addressed in order to ensure that the Best Value applies to local authorities working with social enterprises as well as voluntary and community organisations.
3. Where a local authority is intending to reduce or end funding, SEC supports the intention to introduce a minimum three month notice period for both the organisation involved and the public/service users. However, we support Locality's recommendation that for service contracts that are due to take place in the 2012/13 financial year, an extended notice period of six months would be better suited to allow organisations more time to put forward options on how to reshape the service.
4. For the voluntary, community and social enterprise organisations (VCSEs) affected, it takes considerable time to create alternative income streams to service delivery which are both viable and sustainable. Local authorities and VCSE organisations should also be given adequate time to ensure the alternative method of service delivery is designed in the best interests of service users as well as being cost-effective.

2) Is there anything else that we should cover in order to provide more clarity to councils, contractors and the voluntary and community sector?

Best Value public services

5. The Social Enterprise Coalition warmly welcomes the proposal that Best Value statutory guidance will "be more explicit about the scope for authorities to consider social value in

their functions”. Further, the accompanying document “Best value: new draft statutory guidance and other measures - Equalities impact assessment” states that the Best Value package “supports a range of other related initiatives, such as the Government-supported Private Members (Social Enterprise and Social Value) Bill from Chris White MP”¹.

6. The Public Services (Social Enterprise and Social Value) Bill aims to ensure that the public sector gets the greatest value from its economic transactions. This could be requiring contractors to create local employment opportunities for disadvantage groups, put something back into the local community, or create a positive environmental impact by reducing waste or carbon emissions.
7. By embedding social value in public sector procurement, the Bill could help to:
 - *Minimise the impact of the spending cuts on civil society organisations*
Social enterprises, voluntary and community groups are already feeling the impact of the public sector cuts being implemented to reduce the budget deficit. Ensuring that future public spending decisions create additional social value in the community served could to help mitigate against the impact of cuts and ensure that the decisions that are made create greater value.
 - *Support local job creation*
In some areas of the UK where the public sector is by far the largest employer, spending cuts are inevitably going to impact on unemployment. This is going to be an enormous challenge. Ensuring that all spending decisions require contractors to support local employment opportunities can play a part in reducing the impact of this.
 - *Widen the market and increase choice*
This government has pledged its support for creating plurality of public service providers, but all too often public sector markets are created in such a way that only a small number of large providers are able to compete. In many areas of public services, such as waste and welfare, there is a very small supply side which inevitably limits competition, choice, innovation and value for money. This Bill would allow the added value social enterprises offer to be taken into account, thereby encouraging them to enter the market and increasing choice. It could also stimulate a role for social enterprises as part of a wider supply chain, fostering greater partnerships between private companies and social enterprises as contracts require.
8. The Social Enterprise Coalition therefore supports the inclusion of social and environmental criteria in all public sector procurement decisions. Requiring all procurement decisions to demonstrate their wider positive social and environmental impact will ensure that the full weight of the public sector’s purchasing power is directed at achieving social and environmental change, alongside delivering financial efficiency.

¹ *Best value: new draft statutory guidance and other measures: Equalities impact assessment initial screening*, Department for Communities and Local Government April 2011, page 4

9. Enabling procurement officers to access clear guidance on embedding social value in public sector procurement will facilitate the realisation of Best Value services. The Social Enterprise Coalition has access to case studies and legal guidance that we would be happy to share with the department in order to support this.

Local government spending cuts

10. Government ministers have regularly called on local authorities not to pass on disproportionate cuts to civil society organisations and the Social Enterprise Coalition welcomes the fact that this informal guidance has now been put on a statutory basis.
11. The government is looking to civil society with great expectation, but we cannot deliver the Big Society vision against a relentless wave of cuts. Already, many civil society organisations are not surviving - since May 2010 the total number of registered charities has fallen by more than 1,600 in the UK. Further, Children England's recent survey of their members, *Counting the Cuts*², found that 35% of those that received funding from local authorities had experienced cuts of over 25% in the past year, despite the average local authority budget reducing by less than half this.
12. This is not merely a question of reduced grant funding: the new economic landscape is driving lots of CSOs to take action by becoming more entrepreneurial and such efforts to be self-sustaining are to be wholeheartedly applauded. However, many self-sustaining social enterprises derive income streams through public sector contracts, and in order to achieve the government's ambitions for fostering plural public service markets it is essential that cuts are implemented in a considered and proportionate manner.

3) Are there any other issues you wish to raise?

13. We welcome the Department for Communities and Local Government's encouragement for "authorities and civil society to collaborate more, including greater involvement for voluntary groups as well as small businesses in the running of public services".
14. Research by Urban Forum³ suggests that the Duty to Involve has not been particularly effective in ensuring community engagement in local decision making. Nevertheless, the repeal of the *Duty to involve* and the *Duty to prepare a sustainable community strategy* will effectively remove a legally binding requirement for councils to engage, inform and consult local people on the exercise of their functions. As such, if these duties are repealed, the government must take further steps to ensure that all local authorities are engaging with the public and VCSE organisations effectively.

² <http://www.childrenengland.org.uk/upload/CountingTheCutsFinalforPDF.pdf>

³ http://www.urbanforum.org.uk/files/involving_communities- a_legal_duty.pdf

15. Further, in order to create more opportunities for civil society organisations to deliver public services, a cultural shift is required in the way that public services are designed and commissioned. This includes:
- ensuring a level playing field for the different players in public service markets;
 - creating the mechanisms to support staff to create viable new social enterprise organisations and bring about the required culture change drawing on the extensive expertise in the sector; and
 - providing a bolder ambition for service user involvement that goes beyond choice to co-designing and co-delivering services.
16. In particular, we believe that government must tackle the prevalence of risk-averse commissioning in order to encourage civil society organisations to enter the public service arena. It is essential to support mature commissioning that is cognizant of commissioners' role as market shapers and stimulators. This is essential to ensure there are not unnecessary barriers to entry and that commissioning markets support market entry rather than limit it.
17. Immature commissioning capabilities often result in very risk-averse commissioning behaviour and an over-reliance on the procurement process to protect against risk, rather than intelligent commissioning. Government must mitigate against unconfident commissioners resorting to what is perceived as 'safe commissioning' rather than commissioning for outcomes that can truly transform people's lives, to ensure that new entrants with innovative solutions are able to enter the market.