

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

Summary 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, www.interlinkrct.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 Full Document on the websites mentioned above
 - Receive hard copies of the Summary Document and Full Document on request



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** (see Full Document)
- **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 of the Full Document)
- A **glossary** of key terms (see Full Document)
- References to a range of resources, including **good practice examples** and government guidance (see Full Document)

The Full Document can be viewed on www.vamt.net and www.interlinkrct.org.uk

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)
- 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 principles:

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 ¹

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).

The Commissioning Cycle

The Commissioning Cycle has four main stages:

- Analyse
- Plan
- Secure Services
- Review

¹ Most of these principles reflect those in the Third Sector Funding Code of Practice (2009) Welsh Assembly Government

Section 2: Commissioning Checklists

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

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.

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)	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	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 with managing the process	TS3 Join relevant third sector networks and forums in the area (through the County Voluntary Councils, VAMT and Interlink) and understand their representative role
C4 Ensure that everyone involved has a good understanding of commissioning, the responsibilities of the partnership or working group in relation to commissioning and their own role within this	TS4 Make use of the information, training and consultation opportunities that third sector networks and forums offer at every stage of commissioning
C5 Have a procedure in place for dealing with conflicts of interest of any of the organisations involved in commissioning	TS5 Consider contributing to partnerships as members or third sector representatives and understand the difference between the roles
C6 Produce a communication plan that includes frequency and means of communication and engagement with stakeholders	TS6 Deal with any conflict of interest appropriately as a member or representative on a partnership or working group
C7 Understand the multiple roles that third sector organisations play in commissioning	

Checklist 2: Analysing Needs

What are the needs in the population that have to be addressed and what outcomes should services aim 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 money</p> <p>C12 Use a range of techniques 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 prepare</p> <p>C14 Produce a Needs Analysis and consult on its accuracy with key stakeholders (including via Ask Merthyr Tydfil/ RCT equivalent)</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>

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 Taff</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>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 sector 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 agency</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>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 Analysis</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>

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”</p> <p>C22 Consider all of the options available for securing services and undertake an options appraisal and risk analysis. Include:</p> <ul style="list-style-type: none"> - Giving serious consideration to in-house services being outsourced - Assessment of whether grant 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 organisations - 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 change</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 your innovative approaches to commissioners and discussing if they would grant-fund a pilot scheme</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 options</p>

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.

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

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 involved.</p> <p>C30 Make the Commissioning Plan available for comment, for example, through the County Voluntary Councils and Ask Merthyr Tydfil/ RCT</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>

<p>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 staff</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>	
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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 services</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>C35 Work proactively with the procurement team to ensure that the procurement process is accessible to third sector providers</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 mandatory</p> <p>C37 Give careful consideration to the optimum length of a contract</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 lots - Encouraging contractors to 	<p>TS31 Familiarise themselves with the policies and strategies of relevant public bodies in relation to third sector commissioning and procurement</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>TS33 Consider collaborative partnership working as a way of being able to deliver improved services and/or deliver larger contracts</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 your potential buyer</p>

<p>subcontract to third sector organisations - Encouraging third sector organisations to form consortia</p> <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 commission</p> <p>C40 Consider whether there are innovative approaches or pilot schemes for which grant funding would be more appropriate</p>	<p>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	Service Providers
<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 area</p> <p>C42 Produce service specifications that have been informed by meaningful consultation with stakeholders; and seek comments on draft specifications from providers</p> <p>C42 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>C43 Write service specifications that are proportionate to the amount of money involved, clear, jargon-free and comprehensive ; and use standard formats wherever possible</p> <p>C44 Include wider social, economic and environmental objectives in the specification (if they are relevant to the subject) based on earlier analysis of the whole life costs of the contract</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>and how value for money can be achieved</p> <p>C45 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 it</p> <p>C46 Where appropriate, ask providers to demonstrate how they would address local service users' needs</p> <p>C48 Focus on outcomes (not only on outputs or activities) for service users and avoid being over prescriptive in order to encourage innovation</p> <p>C49 Allocate risk to the body best able to deal with it</p> <p>C50 If appropriate, encourage opportunities for subcontracting and consortia bids from third sector providers</p>	
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Stage 3 Secure Services

Purpose: To implement the procurement plan or funding process in order to secure the most appropriate provider(s) to deliver the required outcomes.

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 publications <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 key 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 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>	<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>

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

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	TS48 Consider carefully whether the contract or award is right in the long term for the organisation
C63 Produce comprehensive, clear, concise, jargon free guidance notes for tenders and grant applications, which should include: <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 made 	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 application
C64 Consider providing guidance on TUPE to providers and consider supporting preferred providers to	TS50 Think through the implications of winning a contract or grant for the organisation and gain the support of staff and trustees
	TS51 Take responsibility for ensuring you are eligible when applying for funding (e.g. income levels)

<p>undertake assessments of TUPE obligations and any due diligence required for collaborative working</p> <p>C65 Use standard formats for application and tender documents wherever possible</p> <p>C66 Make application and bidding documents available in other formats on request</p> <p>C67 Signpost applicants to VAMT and Interlink for advice and help before an application or bid is made where appropriate</p> <p>C68 Consider holding briefing events for providers to explain tendering or submission timescales and their criteria for the tender or funding (see Checklist 15)</p>	<p>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</p> <p>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.</p> <p>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</p> <p>TS55 When developing joint bids, ensure management functions and accountability for delivery between partners are clear</p>
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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
<p>C69 Have outcomes focussed contract terms that are fair and proportionate to the scale and complexity of the contract</p> <p>C70 Discuss the broad requirements of a transition plan/ programme if needed</p> <p>C71 Discuss any risks in relation to delivery up front and allocate to the body best able to deal with it</p> <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 	<p>TS56 Read the contract terms carefully and seek legal advice if you do not understand every clause</p> <p>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</p> <p>TS58 Ensure you will be able to manage the terms and conditions of the contract</p> <p>TS59 Make sure adequate systems are in place to manage finances and to allow funded activities to be accountable</p> <p>TS60 If you win a contract, check</p>

<p>will be made</p> <ul style="list-style-type: none"> - Funding agreements for 3-5 years wherever possible - Clear arrangements for any under-spend at the end of the year <p>C73 Consider having a system for making frequent milestone payments</p> <p>C74 Have a clearly identified liaison person for any payment problems</p> <p>C75 Include in the contract documentation an opportunity to resolve disputes in a way that is accessible to small third sector providers</p>	<p>whether you will have to pay VAT</p> <p>TS61 Ensure that you understand payment terms including being clear that payments are dependent upon your meeting performance criteria; and how non-compliance with payment terms will be addressed</p> <p>TS62 Ensure you are able to bear the risk allocated to them in the contract or negotiate a change to the contract</p> <p>TS63 Ensure the proposed payment system allows you to deliver the services to the agreed standard</p> <p>TS64 Make it clear if you need advance payment and have a contingency plan in the eventuality of late or delayed payments</p> <p>TS65 Try to negotiate a contract that is not overly prescriptive and allows for more flexible terms to make innovation possible</p> <p>TS 66 Challenge conditions you do not agree with and if they are still not right, decline to sign the contract</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 weighting</p> <p>C77 Reflect social considerations detailed in the service specification in the evaluation criteria and give appropriate weighting so they can be appropriately assessed</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</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 decision</p>

<p>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 low</p> <p>C82 Make it clear whether match funding is a condition of the funding being made available to a third sector organisation</p>	
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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.</p> <p>C88 Factor any transition period into</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 TUPE</p>

project timescales	
C89 Issue successful bidders with a contract award letter; and successful grant applicants with an offer letter	

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
C90 Provide early notice of forthcoming procurement opportunities for all potential providers including the third sector	TS72 Attend “Meet the Buyers Events”, provider forums and other opportunities to engage with commissioners
C91 Consider holding “Meet the Buyer” events – a good opportunity for third sector organisations to form alliances with prime contractors	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
C92 Consider producing a “How to do business with ” guide and make it widely accessible	TS74 Consider contacting public bodies for information on upcoming service needs and contracting opportunities to forecast future provision
C93 Offer training to potential suppliers on how to tender for public sector contracts including in partnership with VAMT and Interlink	TS75 Make relevant public bodies aware of your organisation and services, “unique selling point”, local knowledge, track record of delivery and impact
C94 Create opportunities to meet with providers and influence each others’ planning processes	TS76 Make use of third sector network and forum events and publications to promote your organisation to local public sector organisations
C95 Publish a named contact for enquiries from potential suppliers	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)
	TS78 Access VAMT and Interlink services for capacity building advice and support

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.

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 will	Third sector organisations will
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	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	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
C99 Where providers are jointly commissioned, work towards a standard reporting procedure and consider having a designated lead for monitoring purposes	TS82 Set up appropriate internal monitoring systems from the start of the project to assist with timely reporting
C100 Have reporting requirements that focus on measuring the key outcomes	TS83 If delivering as part of a partnership, ensure that all partners have appropriate and standard monitoring and reporting procedures
C101 Have a simple and pre-agreed change control process	TS84 Have a jointly pre-agreed process for making changes to the contract
C102 Take a proactive approach to performance management: - 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.	TS85 Take advantage of, and actively seek, opportunities to discuss service improvement with commissioners and identify ways of raising standards
	TS86 Be able to introduce innovative elements into service provision and be rewarded for introducing innovation
	TS87 Be honest, timely and transparent in reporting problems and under-performance

<p>- Signpost organisations to other sources of support such as VAMT and Interlink, if there is perceived to be an ongoing risk.</p> <p>C103 Have arrangements in place for escalating concerns about contract performance</p> <p>C104 Terminate an agreement or contract early as the option of last resort</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)</p> <p>C106 Have mechanisms that fully involve service providers in evaluation</p> <p>C107 Take into account service user feedback</p> <p>C108 Plan periodic reviews of services and programmes and provide good notice for doing so</p> <p>C109 Include third sector involvement 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>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 forums</p> <p>TS92 Consider becoming a co-opted member of a scrutiny panel through third sector network and forum mechanisms.</p>

<p>C112 Discuss with a provider the impact of a funding agreement coming to an end</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>	
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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 Compact.

Appendix 1: 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 that is run by various levels of government.

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

Social Enterprise: social mission driven organisation that aims 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.

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.

TUPE: The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) 2006 (the "Regulations"), preserve employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer.