



# Influencing Commissioners

Based on presentations by

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'**Influencing Commissioners**' has been developed as a resource for projects funded through the National Lottery Community Fund's Women and Girls Initiative (WGI). It is the fourth public output produced as part of the Learning and Impact Services provided to projects funded through the WGI. The WGI was created by the Fund in 2016, in order to invest in services for women and girls across England.

This guide has been written, based on the keynote presentations given by Michelle Pooley and Fiona Dwyer during WGI *Msterclasses* delivered during 2018. It is designed to support project staff when thinking about how best to influence those commissioning services and the commissioning process itself. It covers the following areas:

- **What is commissioning?**
- **What is public procurement?**
- **Top tips for influencing commissioners**



## What is Commissioning?

**The whole process of deciding what public services are needed, what priorities they are accorded, and choosing what, why, how and where to allocate resources to provide services.**

Commissioning is usually described as a **cycle** of how best to meet strategic objectives and service level objectives by **identifying need, scoping the market** of providers, **drawing in expertise, designing a service**, deciding how to **resource** the service, **choosing a supplier** and **monitoring** the ultimate service's delivery.

While there are many models of commissioning and purchasing available, they all fundamentally break down into four key areas (illustrated in the diagram below):

**Analyse:** understand the values and purpose of the agencies involved, the needs they must address and the environment in which they operate.

**Plan:** identify the gaps between what is needed and what is available, and decide how these gaps will be addressed.

**Do:** secure services and ensure they are delivered as planned.

**Review:** monitor the impact of services and ensure any future commissioning activities take the findings of this review into account.

Not all commissioning processes involve procurement. As well as making decisions about what services are needed and their design, it is also necessary to consider possible methods of delivering and funding public services. An 'intelligent' commissioning process will consider a range of options, and may choose to provide the service in-house, provide direct payments to individual service users to buy the services they require, use grant funding, or procure using a contract with external providers. Local Authorities may choose to meet some of their commissioning priorities by, for example:

- Providing a grant to another organisation to deliver the service
- Providing 'in-kind' support to an organisation which is providing the service (e.g. a local authority could provide staff, buildings, equipment)
- Working in a formal partnership with one or more organisations

However, since the growth of competitive tendering since the 1980's, increasing numbers of public services are delivered via procurement processes.



# What is public procurement?

The process of buying of goods and services from an external agency. It is only part of a commissioning process and it is a specific method of buying goods and services which involves a contract.

Put simply, procurement is the act of obtaining or buying goods and services.

All public procurement must be based on value for money, defined as “the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought”. This should be achieved through competition, unless there are compelling reasons to the contrary.

Commissioning and procurement are closely linked. The commissioning activities highlighted in the outer circle above must inform the ongoing development of procurement activities (as illustrated in the inner circle). Each set of activities are grouped against the four elements of the commissioning cycle and are equally important, and these must be equitable and transparent – offering opportunities for all stakeholders to influence the types of service provided.

## Stages of procurement



**Stage 1** – Identify and understand the requirements/specifications of the commission and analyse the market to establish whether it can meet the requirements. If necessary, carry out market making activities. Consider the market and requirements in order to develop the most appropriate sourcing strategy.

**Stage 2** – Select the supplier(s). That may or may not involve a competitive process, such as a formal tendering exercise, and / or negotiation. It also involves development of a formal contract in most cases.

**Stage 3** – Manage the contract and the supplier to ensure they deliver against the contract, and that risks and opportunities are managed, including changes in requirements through the contract period.



## Competitive Tendering

- Became more common in late 1980s
- Public services run by local authorities had to be put into competitive tendering meaning that companies/organisations could bid to run the services for a fixed number of years
- Aim was to drive costs down and improve the efficiency of state funded organisations (local and national)
- Theory was that competition would drive economic and service efficiencies
- However, it increasingly meant that women's sector organisations were forced to compete for services that used to be grant funded.

## Top tips for influencing commissioners

### Get your timing right

Get to know the commissioning cycle in your area and influence at the correct time. If the 'analysis' phase is over, then there will be little scope to influence what is written into a tender or service specification.

Find out when contracts are due to be let or re-let in your area. There should be a local, publicly available register of contracts that are coming up for renewal.

Remember that once an Invitation To Tender (ITT) is out in the public domain, there are very strict rules about what commissioners can and cannot do. This is governed by law. Even if a commissioner wants to, they cannot talk to providers during a live procurement process, other than through a formal 'question and answer' process, whereby questions are published to all prospective providers, as are the commissioners' answers.

### Be visible and engaged

Be visible to commissioners and planners in your area. When your agency is seen at different forums and meetings, this can be beneficial. Aim to be helpful. For example, being involved in strategy not only provides you with opportunities to contribute to change in strategy, it can also make you known so that you will be consulted in the future. Participate widely – be involved in as much as possible!

Commissioning is not just procurement. By the procurement stage a lot of decisions have already been made so it is important to engage with commissioners before procurement, especially at needs assessment and service planning stages.



It is worth responding to strategies and being involved in any 'co-production' opportunities there may be e.g. seminars, workshops. If you are not invited, ask! And when you are there, be honest and open – if it is not going to work, say that, and why (what will work?). Tell the decision-makers what they have missed BEFORE they move to next stage

All agencies have a responsibility to consult (although some have a duty to consult only on certain things and some might only consult at the very end of the process). Use consultation processes to best effect by responding both separately and in collaboration with others. Don't be afraid to query anything that is unclear, to ask for numbers, to ask what your role is in the consultations.

When planning a new service, a commissioning authority might hold 'market testing' or 'market shaping' events. These are ideal opportunities to find out how a commissioning process will work. There may also be events which are designed to help commissioners work out the kind of service they wish to commission. Being involved in these early discussions will help you influence how the service is commissioned, give insights that will help you bid, put you in touch with colleagues from organisations that you might wish to explore working in partnership with.

Some organisations even work with commissioners at the very earliest stages of planning a new service, which could be two to three years before a service goes live. Think about how you could get yourself included in these conversations. It is sometimes assumed that engaging in these discussions could preclude an organisation from bidding to deliver later – this is not true.

## **Use strategic forums and networks**

There are various mechanisms in local areas for influencing decision-making. These strategic groups are not the place to fight the case for funding of a particular organisation, but they are the place to advocate for better local services on behalf of the women and girls you work with.

Your local health and wellbeing board should have a member who is responsible for the voluntary sector who can raise issues on behalf of local organisations. This is usually someone senior from the local voluntary sector support organisation, or council for voluntary service, or it could be a member of your local Healthwatch.

Many areas have a compact implementation group, or a similar group which supports good partnership working and relationships between statutory agencies and the voluntary sector.

Some local authorities will have a children's trust board which brings together cross-sector representatives to coordinate local children's services.

Also, there are likely to be informal networks, such as an older people's organisations forum, or a sexual health forum. Your local voluntary sector support organisation (or council for voluntary service) should be able to inform you about these.

## Provide evidence including giving voice to local residents

Evidence is important to inform, shape, deliver and review plans for commissioning. You can provide evidence at all these stages:

**Inform:** Feed information and intelligence about unmet need to JSNA and other needs assessments. Make sure any information you have is included e.g. service use statistics, local research. Keep records of needs that are not being met. For example, perhaps you provide education for women but many are dropping out due to lack of childcare provision; or perhaps you have a waiting list for a specific service. By recording this information, you will have evidence to back up your case when you talk to commissioners about local needs and future plans.

**Shape:** Discuss prevention, early intervention, the outcomes of your service to commissioners, decision makers, council officers/others that have something to benefit from the commission.

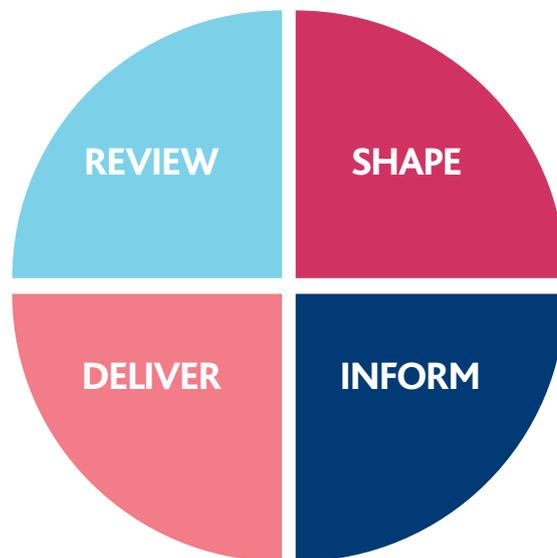
**Deliver:** Advise on accessibility of services, enable beneficiaries and specific communities to influence the design.

**Review:** Support Commissioners to review service outcomes to feed into future commissions. Commissioners usually want to ensure that any services they commission reach residents who experience disadvantage or barriers to taking up services. Charities working at a grass-roots level are often in touch with exactly the people commissioners want to reach and have useful insight into how to engage with those residents and meet their needs.

There may be scope for an organisation to negotiate a contract to enable local resident engagement. For example, you could:

- bring local residents to a meeting to evaluate a service;
- arrange for local residents to do mystery shopping of a service;
- bring service users to consultation to offer their insights and experiences to the planning of a new service.

In a market environment where community organisations lack core funding, commissioners may pay for such activity. However, this is not always the case, so you need to clarify this upfront. Payment is sometimes made in the form of thank you gift vouchers etc.





## Be prepared for tenders

Planning ahead is key. For example, many procurement processes have similar requirements for policies, monitoring arrangements etc. Make sure you know what they are and have the **basic requirements** in place. If your tender relies on a collaboration, make sure you have the relationships developed well in advance.

Demonstrate your ability to help the local authority to meet government **targets** – researching and meeting national targets shows forward thinking.

Be **versatile** in your service delivery offer – with an ever-changing climate and shrinking resources, being flexible is beneficial.

Produce **evidence** of the value/effectiveness of your work including relevant research or data from other sources which can be cited to support your bid.

Make sure you don't 'undersell' the **added value** you bring as a voluntary organisation. The voluntary sector frequently offer wrap around services, the ability and skills to innovate, access to volunteers and cost-efficiency. Make sure you highlight these factors and don't assume the commissioners already know about them.

Show that you are **outcome focused** in your approach. In commissioning and public service delivery, a cultural shift is taking place, with an increasing focus on outcomes and impact. Cuts in public-sector funding caused by austerity measures mean that commissioners now need to see real results from the services they fund. Many voluntary organisations have been ahead of the game in this respect, but don't assume commissioners will know – show your understanding of outcomes and how you will demonstrate they are being achieved.

## Collaborate

Collaboration between voluntary organisations can be critical in achieving influence. For example, if you want to highlight an issue or achieve a policy change in your area, a united voluntary sector voice can be very powerful.

When it comes to service delivery, in some cases, working in partnership with other organisations is the best way to win larger scale contracts.

Working as a consortium has several advantages: it allows access to larger contracts, enables local and smaller organisations to compete with larger/external ones, it brings together a range of skills and knowledge, it enables the sharing of risk and of the work involved in tendering.

Challenges include potential conflicts in values and ethos which need to be resolved. Consortium development requires ongoing time and commitment.

## Make use of the Social Value Act

Public authorities now have a duty to consider social value in contracts. This is a move away from awarding contracts based on lowest cost and is particularly significant given the increasing pressure on public spending. The Social Value Act has changed how contracting authorities must assess and account for social value in service contracts, and for the first time has placed a requirement on commissioners to prioritise social considerations and wellbeing over cost.

Social value is the term used to describe the additional value created in the delivery of a service contract which has a wider community or public benefit. This extends beyond the social value delivered as part of the primary contract activity. For example, a homelessness organisation funded to provide hostel space for the homeless may create additional value by providing routes into employment and training for its service users.

The Social Value Act requires the identifying of additional social value outcomes, regardless of the service provider. However, the voluntary sector is often particularly well-placed to demonstrate social value outcomes. Engagement between the public and the voluntary sector to jointly agree local definitions of social value can be important in realising the potential of voluntary organisations as service delivery partners.

## What is the Social Value Act and what does it say?

Under the Act, public bodies include:

- local authorities;
- housing associations;
- NHS agencies (including clinical commissioning groups);
- central government departments;
- fire and police services.



Agencies must consider social value in advance of procurement to allow for social value to be incorporated into the process. They are required to consider the social value of public services (rather than goods or works) on contracts above EU procurement thresholds.

The threshold for social and other specific services, has been £589,148 since 1 January 2016.

[Find out more on EU thresholds for public contracts.](#)

[Guidance from the Cabinet Office](#), however, makes clear that a social value approach can be taken below these thresholds, and is encouraged.

The Act only applies to public service contracts and framework agreements to which the Public Contracts Regulations 2006 apply. The Act does not apply to:

- Service contracts awarded by 'calling off' from a framework. A framework agreement is a general term for agreements with providers that set out terms and conditions under which specific purchases ('call-offs') can be made throughout the term of the agreement.
- Contracts which fall below EU procurement thresholds.
- Mixed services, goods or works contracts, where services are of less value or less incidental to the main purpose of the contract.

While contracting authorities are required to consider social value in contracts over financial thresholds, considering social value in lower value contracts is promoted as good practice in accompanying guidance. New EU procurement rules call on procurement officials to use MEAT (Most Economically Advantageous Tender) as the criteria for contract award. This means contracting authorities will be obliged to consider wider social and environmental objectives alongside price and cost when evaluating tenders which are valued over the European Procurement thresholds.

Local Compacts can play an important role in helping to gain commitment to apply the Act in all procurement processes, by including a principle about this in revised Compacts. At a time when voluntary organisations are increasingly relied upon to deliver public services, the Compact can help to ensure a level playing field, encourage open and honest dialogue across sectors and establish a foundation for these relationships that ensures both sectors are treated fairly.

The Social Value Act should help to produce a more favourable environment for voluntary organisations and social enterprises. It has opened the door for voluntary organisations to demonstrate their capabilities and achievements in delivering additional social value through service delivery. With social outcomes more easily identified by the voluntary sector, highlighting this maximum social value should be a priority for any voluntary organisation bidding for a service contract.



This guide was brought together by Di McNeish, DMSS Research, from the words and slides used by Michelle Pooley and Fiona Dwyer at WGI *Msterclasses* in July and October 2018. The *Msterclasses* were titled 'Catching the Wave: Influencing for Change'.

The *Msterclasses* and this guide were delivered as part of the WGI Learning and Impact Services, on behalf of The National Lottery Community Fund's WGI. The fund has invested £44.7million from the National Lottery in 62 projects across England to support and empower women and girls facing a wide range of issues. The WGI Learning and Impact Services contract was awarded to the Tavistock Institute of Human Relations, DMSS Research and the Child and Woman Abuse Studies Unit – the partners – in early 2018. The partners are delivering a range of services, from one-to-one support through to events and publications. These are helping projects better record and share their learning and through this create a stronger community of services that has greater influence on decision making structures across the country.

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