

# Procurement Reform Bill Consultation

## Executive Summary

The general experience of CAB has not been uniformly beneficial or positive. The additional work and bureaucracy involved has resulted in additional burdens on a voluntary service which is already stretched to its limit. The additional legal and organisational costs both pre and post tender, which of course are not covered by any contractual payments, take a heavy toll on CAB budgets which can often be under pressure due to cuts or standstill budgets.

Currently, 23% of bureaux now have contracts for core service entered into as a result of local authority tendering processes. Yet, despite CAB being successful in winning contracts, staff and volunteers feel that the tendering process has not been well managed by the councils; that the resultant additional, work, stress and changes to workloads means there is an adverse impact on staff and volunteers who have a feeling of uncertainty throughout the process.

**Importantly CAB staff and volunteers who deliver frontline advice across to the people in their communities do not think the award of new contracts for Bureaux always results in a better service for clients.**

## Recommendations

CAS recommendations on the specific reform items being proposed in the bill include:

- The community benefit clauses proposed should reflect the priorities of local community development, and regard should be had to the priorities of the third sector in setting out community benefits.
- The standardisation of the PQQ process should be considered carefully and we do not agree that one size fits all. Account has to be taken of the smaller sized organisation, which in many cases provide the most community benefit.
- CAS agrees with the stated aim of splitting of larger bidding Lots into smaller sizes and they should be split into lots which are of local community benefit.
- The community benefit clauses should not simply reflect job creation and economic benefit but also the consideration of the impacts of the work contracted for and the value of community involvement in delivery.
- The proposed exclusion of health and social services should include advice services specifically as part of the definition. The exclusion limit of E500,000 should either be increased to take into account Local Authority wide advice procurement, or the division of the procurement into lots should be into smaller lots, and specifically locality based on communities.

## **1. CAB experience of procurement processes**

It is evident that councils are increasingly considering undertaking tendering process for advice provision. Of the 61 citizen advice member bureaux in Scotland, fourteen now have contracts for core service entered into as a result of local authority tendering processes. **In all cases, following a tendering process, the bureaux were contracted or sub-contracted to continue and develop advice provision.**

An additional nine bureaux are in local authority areas who have considered tendering as a methodology of awarding funding for core advice services, but have either adopted a best value approach or opted to continue funding as they do not view advice provision as a suitable market for competitive tendering. In several other areas, councils are undertaking, or considering undertaking, advice service reviews, and in our experience the reviews are often a precursor to a tendering process.

The CAB service agrees that value for money is a vital goal when considering which services to purchase; however we do not believe that imposing a formal commercial tendering process on small and medium sized charities in the advice sector has resulted in value for money. There is a very limited competitive environment for advice services, and in our experience, the tendering process and contracting environment does not result in improved service, but does cause an additional burden on the CAB having to compete.

## **2. Impact on bureaux**

In July 2012 CAS conducted a survey of those bureaux who had undertaken a tendering exercise. The views were clear in highlighting that the experience of bureaux throughout the procurement process was not positive.

CAB believe that tendering for advice services does not result in an improvement or provide a benefit for communities. Indeed, the imposition of a commercial contracting environment on small third sector charities has resulted in increased bureaucracy, costs, and management, with few of the benefits, either for the community or the provider, being seen. The impact on staff and volunteers was also negatively affected and there was an impact on partnership working and relationships within the community.

The value of tendering to the local authority as a whole is also limited, and we believe CAB services for clients have not been improved as a result of the tendering process.

Bureaux also made the point that the specification in the tender for procurement for advice services is not always clear, and can be skewed by the financial inclusion agenda at the expense of crisis support and advice. Bureaux also felt a lack of knowledge of council procurement teams of the precise services to be contracted for. The following comments from CAB staff reflect this:

*“The tender covered welfare, benefits, housing, employment and legal. No funding was provided for all other areas that bureau deal with i.e. consumer, relationships*

*etc. I'm not sure if the spec was written by those who really understood what was needed by those who really need it."*

*"The tender only covered three areas - Housing, Debt and Welfare. It excluded other areas we deal with such as Legal, Employment, Relationship etc. It also breached the principles of the CAB in several areas for example how we treat confidentiality; moving to appointment based service; providing generalist only service."*

*"The Council seemed to have a very poor and limited understanding of the nature of the work we did and the way it which it was delivered."*

*"The tender concentrated on debt services in particular and did not give any credence to the large amount of employment advice and representation we provide."*

*"Gaps in the tender were the various other advice subjects, such as employment, utilities, benefits and housing that we do a considerable amount of in terms of enquiries and casework."*

## **2.1 Impact on Resources**

We do not know the costs to the local authority of the commercial tendering process but we do know that the additional costs to bureaux include a great deal of staff and volunteer time, legal expense, and loss of relationships which result throughout the process and beyond.

In short, the process results in added bureaucracy, legal and organisational costs both pre and post tender, which are not covered by any contractual payments, and which cause additional burdens on an already stretched advice sector.

## **2.2 Impact on clients**

From the point of view of the people who deliver the advice service, the award of the new contract for bureaux, on the ground, has not necessarily resulted in a better service for clients. CAB staff comments include:

*"Reduced hours for staff, working pressure much higher for volunteers, a situation that is not conducive to the service we are supporting. Nonetheless, the process does see the office open for three years and possibly five and that is a good thing for those who need the service more than ever. CAB is a good service and is valued by those who cannot access other services."*

*"Less funding, fewer hours, higher demand."*

*"All paid staff have had their paid hours reduced without a reduction in service. We are working differently moving more towards an appointment based system. On a positive note everyone concerned realises the importance of sourcing different streams of funding."*

*"Reduced hours for paid staff is not a good outcome, especially when their actual hours and contribution indicate that the opposite would have been the right outcome."*

*“Requirements of the tender are starting to have a not necessarily good impact on the day to day operation of the office. ie. requirement to move to an appointments system rather than turn up and go which is very bureaucratic; future requirements to staff outreaches when we are already stretched in terms of volunteers; excessive reporting etc.”*

*“A large amount of our time is now spent monitoring the contract as opposed to the actual delivery. We are collecting another batch of statistics that mean very little and we do not see the results of these.”*

### **2.3 Impact on staff**

The following comments from CAB staff reflect the impacts of participating in a formal procurement process, which can often take several months, on a local CAB:

*“Reduced the amount of time spent in the bureau and doing bureau related work at the time we were introducing a new case recording system. On a personal basis it also caused numerous problems.”*

*“Other staff in the bureau had to step up and provide relevant cover. Other areas of my life went on hold at best.”*

*“It had a huge impact on my working life - I took my everyday work home to do in the evenings and weekends. After the tendering process I felt a huge sense of relief - so I must have felt under a huge amount of pressure although I did not realise it at the time.”*

*“I felt a strong sense of needing to keep the car on the road when it came to day to day operations as the manager had to be frequently absent over a four month period. This meant many of my normal duties had to be cascaded on to volunteers or done by myself as volunteer hours in addition to my paid hours.”*

*“Very stressful not knowing the future of CAB.”*

*“All staff were apprehensive about the possible outcome until the end result was known.”*

*“There was uncertainty among staff and volunteers during the process. Many advisers thought we would go out of existence, so there was an air of depression and worry. Paid staff were worried they would lose their jobs.”*

### **2.4 Impact on volunteers**

The CAB service is a voluntary service with many more volunteers than paid staff at CAB. The tendering process resulted in uncertainty amongst volunteers at the effected CAB. It also led to a feeling among volunteers, and between Bureaux, to rally together in support of the CAB. Comments on the process and its impact on volunteers are:

*“The volunteers became extremely incensed by the actions of the Council and this in turn strengthened the resolve of the volunteers to challenge the tender.”*

*“It put a strain on everyone. People had to cover at short notice and cover for prolonged periods of time. I felt I had left my bureau for so long that when I returned I was almost a stranger.”*

*“I think everyone pulled together to help in the common cause.”*

*“It was a bit demoralising to feel that our efforts were not properly understood or appreciated by our main funding organisation, but also the challenge made us more of a team.”*

*“Volunteers may have considered that the paid staff were focused on the tender to the exclusion of all other matters - true to a certain extent. But in some ways it made the volunteers pull together more to deliver the day to day aspects of the service. Indeed the constant threat of losing the tender made many angry and more determined than usual to show what CAB could do for the local community.”*

## **2.5 Impact on partnership working**

Tendering has impacted on the relationships with other organisations both positively and negatively. CAB staff make the following observations:

*“Encouraged a closer relationship”.*

*“The Council seemed intent on pushing through its tender requirements irrespective of the bureau's own needs and to a certain extent has left volunteers and staff with a very jaded view of the council which previously probably did not exist to the same extent.”*

*“If you have a competitive tender then it's no surprise that things become competitive. Agencies where there had been a previous partnership working became competitors. It took away all the positives from previous collaborative working and left feelings of isolation and distrust.”*

*“Other tendering parties became known to us and it probably made us a bit guarded in our relationship to them”*

*“We have very strained relations to say the least with previous partners.”*

## **3. Working with local authorities**

Additional to the above bureaux views, we would like to make the following points in regards to the tendering process.

### **3.1 Council management**

Generally, the CAB experience is that tenders to date in advice services have not been well managed by the councils. Issues raised include:

- Normal tenders, will include either price or amount of service specified, which tenderers have then to bid for and specify the service that they can deliver for that price, or the price to deliver that service. In Advice Service tenders,

BOTH the price and the amount of service have been specified, which limits the means to operate on a commercial basis.

- The thrust of the tenders has been to delegate the monitoring and contracting from council officials to contractors and subcontractors ie, to move bureaucracy from council costs to advice providers costs. In one case this has led to the creation of a company to manage the subcontracts, with accompanying additional costs, and in general with the increased workload of many managers having to deliver the contracts on the ground, rather than just manage the advice giving process in their bureau.
- The tender specifications do not always accurately reflect the reality of advice provision.
- Following the award of contract, there has been a tendency for services to be treated not as a commercial contract, but for council departments to ask for additional services outwith the tender specification for no additional money.
- Imposing commercial contracting arrangements can militate against joined up services as it pits organisations against one another, and can destroy local relationships built up over some time.
- Following the award of the contracts, the CAB experience is that what should be treated as a commercial relationship/arrangement is not always the case, and the relationship can be influenced by local authority considerations, such as: specifying subcontractors; asking for additional services without additional payment; asking for support for local authority responses to welfare reform. Some of the advantages of tendering, such as clarity of arrangements, clear outcomes and self-management, are therefore lost.
- It was noted that TUPE related issues applied for the implementation of some new contracts after the tender process. When one of the reasons for the failure of any former contract, has been the failure of the former organisation delivering the service, then TUPE may exacerbate a difficult situation.
- The community benefit of the third sector as a whole is major. It increases community cohesion, supports volunteering, and the outcomes undertaken by the third sector are of community benefit. When tenders are developed for advice service provision, there is insufficient attention paid to the value of the third sector as a whole when services are being contracted for.

#### **4. The Procurement Reform consultation**

As a result of our experiences of procurement processes, CAS wants to ensure that the intended Procurement Reform Bill is able to take into account the following points and we recognise the value of some of the proposals in the procurement reform consultation in doing so:

- Community Benefit including local third sector community involvement and the added value of service provided.
- Local Authorities being encouraged to split tendering opportunities into smaller lots to reflect the needs of local communities.
- Third sector organisations being given support to enable them to bid effectively.
- health and social services (a definition which exempts smaller bids under E500,000 from procurement), should specifically include advice services

##### **4.1 Specific comments on the consultation**

*Part IV – para 18 There is a requirement for the promotion of economic, social and environmental sustainability.*

The community benefit clauses proposed should reflect the priorities of local community development and regard should be had to the priorities of the third sector in setting out community benefits.

*Paras 65-70 There should be help and support available for SME to bid*

We agree that the division of procurement into smaller community sized lots will have a benefit in enabling SME and third sector bodies to bid effectively. The division into smaller lots should be communities focussed, with the emphasis on the provision of benefit for those communities.

*PQQ Process*

The Standardisation of the PQQ process should be considered carefully and we do not agree that one size fits all. If a standardized PQQ process is put in place some of the requirements which are necessary for larger commercial organisations, such as resource, turnover etc, might disqualify smaller organisations and lead to a loss of community based organisations. Account has to be taken of the smaller sized organisation, which in many cases provide the most community benefit.

CAS agrees with the stated aim in part II of making it easier for SMEs to access public contracts

CAS agrees with the splitting of lots (para 96) and this should be into lots which are of local community benefit. The effect of larger lots on the CAB service has been that in order to enable bureaux to bid for the tenders, to impose a tier of joint working, management and subcontracting which is of no benefit to the citizens of Scotland but puts in place a layer of bureaucracy which costs community organizations money to maintain. The associated on costs are financially troublesome and equally as importantly, militate AGAINST co-operative joint

working, as they have led to the imposition of formal contracting structures on previously good informal relationships.

CAS agrees that consideration should be given to how third sector organizations can compete, and that there is a legal duty to facilitate third sector access to those opportunities.

*Paras 128-130 Community benefit Clauses*

The community benefit clause should not simply reflect job creation and economic benefit but also the consideration of the impacts of the work contracted for and the value of community involvement in delivery.

*Paras 155-60 Health and Social Services Exclusions*

The procurement of health and social services definition should include advice services specifically as part of the definition. The limit of E500,000 should either be increased to take into account local authority wide advice procurement, or the division of the procurement into lots should be into smaller lots, and specifically locality based on community, rather than local authority.