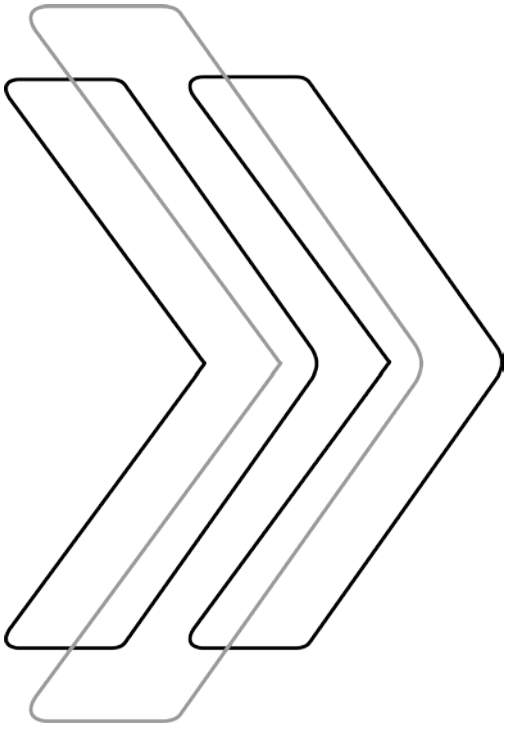
The King's Fund

Ideas that change health care

Commissioner perspectives on working with the voluntary, community and social enterprise sector



Authors

Beccy Baird

Julia Cream

Lisa Weaks

February 2018

This independent report was commissioned by the Department of Health. The views in the report are those of the authors and all conclusions are the authors' own.

The King's Fund is an independent charity working to improve health and care in England. We help to shape policy and practice through research and analysis; develop individuals, teams and organisations; promote understanding of the health and social care system; and bring people together to learn, share knowledge and debate. Our vision is that the best possible health and care is available to all.

www.kingsfund.org.uk **@thekingsfund**

Contents

Key messages 4
About this report 5
Background 6
Method 7
Context and limitations 8

1 Themes from the interviews 10

Commissioner views on the role of the VCSE sector: are they a partner or provider? 10
What factors help or hinder co-commissioning with the VCSE sector? 14
Commissioner views on funding mechanisms 22

2 Summary of findings 31

References 32

Key messages

- There is wide variation in the way commissioners engage with the voluntary, community and social enterprise (VCSE) sector. Some commissioners saw their role solely as stimulating a market of providers, with no particular interest in creating a strong VCSE sector. Others had made a clear choice about the value of the VCSE sector as a critical player in developing asset-based approaches to care, engaging VCSE organisations as key partners in co-production of health and care outcomes.
- The primary drivers for choosing a commissioning approach are local, not national. Strong local leadership, often political, and relationships with the sector are important to creating a partnership-based approach in the face of sometimes seemingly conflicting national priorities.
- Most, if not all, of the commissioners we spoke to had heard of the Social Value Act and the Care Act, but their knowledge and use of these national legislative powers varied widely, from those that actively used them to support their commissioning intentions to those who were only minimally aware of them.
- Co-production – sitting down with VCSE organisations as partners and equals – requires strong and mature relationships both within the sector and between the sector and commissioners. These relationships require time and attention to develop and maintain, and leaders of commissioning organisations need to be clearer about the need to invest in relationship-building.
- While the *NHS five year forward view* outlines a commitment to developing stronger partnerships with VCSE organisations as part of a 'new relationship with patients and communities', in many areas commissioners are not prioritising these relationships.
- Changes to commissioning may raise more challenges for successful co-production. As integrated care organisations develop, it is unclear who bears responsibility for supporting and developing community assets. There is a risk that more transactional approaches could develop in the absence of clear incentives to involve VCSE organisations in co-producing commissioning intentions.

- Commissioners reported that they face intense pressure to deliver improved value for money and better outcomes. They were not convinced that grants were inherently better than contracts, rather they emphasised the importance of appropriate and proportionate use of whichever mechanism was chosen.
- Information governance emerged as one of the most challenging issues around commissioning health and care services from VCSE organisations. For some, this was a serious barrier that prevented VCSE organisations from entering the marketplace.
- The VCSE sector has a role in coming together to provide a strong and unified voice as it engages with commissioners. This requires leadership from within the sector to manage competition between different organisations. Strong leadership is essential to build collaboration and partnerships within the sector and with commissioners.

About this report

The King's Fund was commissioned by the Department of Health to conduct research that would explore how and why clinical commissioning groups (CCGs) and local authorities chose to engage with the voluntary, community and social enterprise (VCSE) sector. This report first sets out the methodology we used and then presents our findings on the factors that underpin the adoption of different approaches. We discuss how commissioners' perceptions of their own strategic role, as well as their views on what role the VCSE sector plays in the local area, appear to exert a strong influence on commissioning decisions.

This is a small-scale piece of research that we hope will make a helpful contribution to the debate initiated by the *Joint VCSE Review* (Department of Health *et al* 2016) and other initiatives such as the work of the Health and Wellbeing Alliance, the Office for Civil Society's Public Service Programme and the report of the House of Lords Select Committee on Charities.

Background

As the *NHS five year forward view* has recognised, the VCSE sector plays a vital role in meeting our health and social care challenges. It works with some of the most marginalised and disadvantaged people, often providing highly effective early intervention and prevention services, engaging with people that mainstream services struggle to reach, reducing health inequalities and increasing choice for patients. It supports people and communities with some of the most entrenched, complex and costly health issues.

The VCSE is diverse, ranging from large national charities to small local providers with few or no paid staff. The Charity Commission estimates there are 167,000 VCS organisations in England and Wales (Charity Commission 2017), the vast majority of whom are small and community based, with almost nine out of ten operating on an annual income of less than £500,000. Of the 167,000 organisations, it is estimated that more than 36,000 provide health and social care services (NCVO 2017). Although the VCSE sector is increasingly valued for its contribution to the health and care of individuals and communities, it has not yet realised its potential as an equal partner with the public sector (People and Communities Board 2017; Department of Health *et al* 2016).

In November 2014, the Department of Health, Public Health England and NHS England initiated a review of the role of the VCSE sector in improving health, wellbeing and care outcomes. Its purpose was to describe the role of the sector in contributing to improving health, wellbeing and care outcomes; identify and describe challenges and opportunities to realising the potential of the sector and to consult on policy and practice changes to address these. The *Joint VCSE Review* examined the implementation of various national programmes and reviewed wider funding and partnerships between health and care agencies and VCSE organisations across England. The final report made several recommendations, which together emphasised that:

- commissioners should co-produce their health and care systems with local people, using VCSE organisations as partners to do this, particularly in engaging overlooked groups and communities
- commissioners should use the simplest possible funding mechanism, advocating that local areas take a more purposeful and strategic view

of how they use a range of funding approaches for different purposes and kinds of organisation (Department of Health *et al* 2016).

In spite of these clear recommendations, the VCSE sector continues to report unhelpful commissioning practices and has highlighted the challenges they face in terms of accessing and securing funding from clinical commissioning groups (CCGs) and local authorities (Lloyds Bank Foundation for England & Wales 2016; House of Lords Select Committee on Charities 2017). It is clear that the VCSE sector is under pressure from cuts in funding and a rising demand for services. While government funding for health has to an extent been protected, the NHS is under significant pressure as funding has not risen as rapidly as demand. Funding for local government has seen significant reductions, with almost one in three councils having faced cuts to their spending of 30 per cent or more between 2009/10 and 2016/17 (Amin-Smith *et al* 2016). In England, VCSE income from government fell from 2009/10 but increased between 2012/13 and 2014/15. This growth was isolated to larger organisations. Income for small- to medium-sized charities fell further between 2012/13 and 2013/14 but saw a small increase in 2014/15 (NCVO 2017).

However, we know little about the detail of what commissioners are funding, what type of funding they offer (in terms of contracts or grants and the duration of funding) and why they might fail to adopt, or indeed reject, recommended practice on commissioning.

Method

We had initially been asked to see whether it was possible to obtain quantitative data that would provide us with more detail about what commissioners are funding. We wanted to understand the feasibility of wider collection of financial data on funding VCSE organisations and to test the accessibility and comparability of recording within CCGs and local authorities. Despite several attempts to capture data on CCG and local authority spend on this sector, we found widespread variation in the way data is reported and the definitions used that makes summary analysis impossible.

In addition to quantitative information, we were interested in obtaining qualitative information from commissioners to shed light on how and why they engage with the sector. We carried out semi-structured interviews with nine CCG and seven local authority commissioners – two of whom had joint

commissioning roles – to investigate their views. We framed the questions around a topic guide that had been informed by the recommendations of the *Joint VCSE Review* as well as a workshop with a number of leaders of award-winning VCSE organisations that are members of the GSK IMPACT Awards network, hosted by The King's Fund (see www.kingsfund.org.uk/projects/gsk-impact-awards/training-and-development-award-winners). We incorporated additional questions following this discussion and reformulated our existing ones to reflect the reality of being commissioned by a local authority or a CCG. The interview questions were designed to explore how commissioners made decisions about:

- which approach to use to engage and support VCSE organisations
- how easy it is to engage with the VCSE sector, and
- the types of funding models used to support the VCSE sector.

Interviews were conducted over the telephone between August and October 2017 and lasted approximately 45 minutes. Those interviewed had various levels of responsibility and included directors, CCG chairs and commissioning managers. Three researchers from The King's Fund conducted the interviews using predefined topic guides to ensure that key topics were covered during the interview. All interviews were digitally recorded and transcribed verbatim for a thematic analysis.

We road-tested our findings with groups of commissioners and representatives of the VCSE sector at the *Joint VCSE Review* oversight group, The King's Fund annual conference and with the Health and Wellbeing Alliance (which is jointly managed by the Department of Health, Public Health England and NHS England and is made up of 21 VCSE members representing communities who share protected characteristics or experience health inequalities and was established as part of implementing the VCSE Review's recommendation for a streamlined Voluntary Sector Investment Programme). We also drew on The King's Fund's previous work in this area, including discussions with commissioners and VCSE leaders in 2014 and 2015 (Weaks and McKenna 2015).

Context and limitations

The sample of commissioners is not representative. It is important to note that we deliberately sought to identify commissioners seen as 'good' by local

VCSE organisations and those who were seen to be ‘more difficult’ to engage with. The GSK IMPACT Awards network helped identify, and in some cases made introductions to, commissioners across England who they felt would have relevant experience to share. The interviews are not therefore a representative sample, rather they provide a useful way of drawing out key themes and lessons.

It is also worth noting that some of the questions we asked were potentially challenging. We appreciate that it can be hard for interviewees to be candid about issues where they know they might be operating against best practice, or have to acknowledge they don’t know much about relevant legislation. However, it is this insight that proves most useful and helps begin to uncover why recommended best practice is not being implemented.

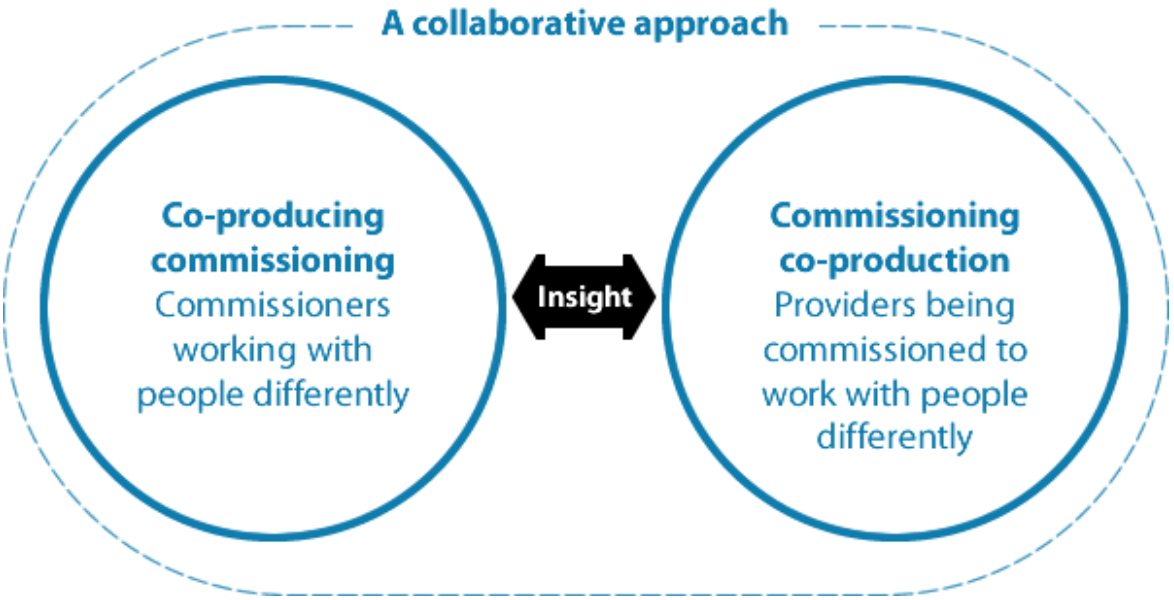
1 Themes from the interviews

Commissioner views on the role of the VCSE sector: are they a partner or provider?

> *There should be greater co-production with people who use services and their families at every level of the health and care system.*
>
> Department of Health *et al* 2016, p10

Co-production relies on a partnership between patients, users of services and professionals. Where it is most successful, the barriers between those who use services and those that provide them are broken down and the skills and assets of all involved are recognised equally. The VCSE sector, with its close community connections and positioning outside the statutory sector, is an important potential contributor to the co-production of health and care services (see Figure 1).

Figure 1 Commissioning co-production



From Think Local Act Personal 2015.

Commissioners can choose to adopt co-production in different ways. They can co-produce commissioning and they can also commission co-production. Where commissioners co-produce commissioning, commissioners themselves enter into an equal relationship between people who use services to design and deliver services and support. Together they share strategic decision-making. Where commissioners commission co-production, providers are expected to find new ways of working together with service users to design and deliver services.

We were interested in how effectively commissioners were engaging the VCSE sector at the initial stages of the commissioning process and working with them as partners to co-produce services for the local community. We asked commissioners to describe their working relationships with local organisations. What emerged is a wide variation about how commissioners approach their work with the sector and the degree to which it is perceived to be a partner in the co-commissioning of local services.

We heard a clear divergence of views on the perceived role of the VCSE sector. Critically, the way in which commissioners position the sector as ‘a partner’ or ‘a provider’ in the local area appears to influence strongly

commissioning decisions. While we exaggerate this dichotomy – in reality, most commissioners will sit somewhere between the two perspectives – we found it helped to explain why one of the key recommendations from the *Joint VCSE Review* about co-production is not being implemented across all areas.

At one end of the spectrum were commissioners in areas that had made a clear strategic choice about the value of the VCSE sector. They described the sector as a critical player in forging an asset-based approach in the community. Commissioners in these areas placed great importance on the relationships they have with the VCSE sector.

> *We don't see the third sector as separate, we see it as integral to all our commissioning.*
>
> *Indeed, this group positioned VCSE organisations as partners, involving them in the commissioning design rather than one of many potential providers ready to respond to a predetermined tender specification.*
>
> *We work with Healthwatch and Age UK [who]… you know, help us identify… people's lived experience, who we worked with for over 18 months to develop a local set of I-statements… which will be part of the specification and part of the contracts.*
>
> *So all the way through, individuals, families, carers and the wider community have been a core part… they've taken as some of their top priorities loneliness and community transport. Our main bit is the support… a bit of admin support for bringing things together.*

These commissioners invested significant personal effort in understanding the sector and expected their teams to take a similar approach to building strong relationships. Their relationships with the sector frequently stretched over several years and went beyond contractual arrangements.

> *…I chaired that for about six years… but I do think that even if I was to leave, that those structures are in place. But they do need continuing nurturing… One of the things which I think is problematic is that the statutory sector sometimes, sort of, dives in, needs the voluntary sector to be involved in this or*

> *consult in that and then disengages again… those relationships, they need to be nurtured all the time.*

Some commissioners recognised that by providing some relatively low-level support they helped some VCSE organisations to secure additional non-statutory funds. This ability to generate considerable income from other sources such as The Big Lottery was justification enough for the continued small investment. Others also spoke of how they worked alongside the sector to support organisations to apply for additional funding or generate partnerships with the private sector. This was not seen as outside of their commissioning role, but part of it.

> *It's difficult and I guess if I'm honest I probably have put in a lot of my own personal time in to making various relationships work. 'Cause I see it as a real added value to my work here.*

> *A big message for me to the staff team is commissioning's a relationship business and I have less interest in a big set piece once every five years going out to contract than I have in the daily relationship we have with the sector and getting people to think about working in different ways within the appropriate confines of the contract.*

At the other end of the spectrum, there were commissioners who viewed their role as being one of a market stimulator, with engagement with the VCSE sector largely transactional, an activity that needs to be done when services are (re)commissioned. This group of commissioners tends to position VCSE organisations in the role of a provider rather than a strategic partner, even while recognising their particular strengths and differentiating factors from the commercial sector.

> *I'm not sure my role is just support for the third sector, I think my role is to treat the third sector as equal partners and give them the same opportunities that you would any other organisation that's bidding or contracting for work.*

> *I think we've got a role in ensuring that the market is able to respond to our commissioning intentions and work with our lead providers to do that… Commissioners have got a role in ensuring that the market's ready, willing and able to do what it needs to do.*

These two ends of a spectrum highlight well the range of views that appeared to underpin a commissioner's relationship with the VCSE sector. We found that commissioning decisions were underpinned by one of two broad approaches: a place-based approach where the sector is understood to be a crucial asset for population health and where commissioning decisions are co-produced, or a market-based approach where a strong VCSE sector is crucial to having a diverse market of providers able to respond to commissioning intentions but their involvement as strategic partners in co-producing those intentions was either unnecessary or too difficult. Clearly, these two positions are not mutually exclusive, but taking a market-based approach without co-production of the commissioning intentions risked not realising the full potential of the VCSE sector and the community's wider assets in achieving healthy communities (Charles *et al* 2018).

What factors help or hinder co-commissioning with the VCSE sector?

During our interviews, we explored factors that appeared to help or hinder the degree to which commissioners worked with the sector, whichever approach they used.

Value of the VCSE sector

Much of our discussion has focused on trying to understand the differences in commissioning approach. However, one of the strongest – and most consistent – messages we heard was the value that commissioners place on the VCSE sector, including the ability to understand different perspectives and bring insight into the needs of the local population that the statutory sector might find hard to reach.

> *The reason I commission through the sector is that we get that grassroots approach. They really understand people; it's not the medical model; it's person-centred; it's starting where that person is from.*

Commissioners we spoke to perceived VCSE organisations to be responsive, quick and creative. The sector's unique perspective enables services to go beyond what is usually commissioned from the statutory sector.

> *If I go to an NHS trust and ask them to develop something, it can take a significant amount of time. Voluntary sector can be more responsive and more flexible.*

The VCSE sector's ability to deliver value for money was mentioned by several respondents. Similarly, several commissioners highlighted the ability of the sector to generate often substantial additional income from non-statutory sources or matched funding.

Without exception, all the commissioners we spoke to could talk at length about the value they felt the VCSE sector could bring to communities. What differed was their approach to managing, stimulating and supporting that value.

Influence of local leadership

Local leadership support for the VCSE sector was one of the most important drivers in setting the tone of engagement and shaping how commissioning teams perceived the sector. CCG chairs, chief executives and local authority elected leaders clearly influenced commissioning. Indeed, some commissioners spoke about how they had chosen where to work because of clear leadership support for the sector.

> *If you've got a chief executive – or the equivalent to – who doesn't see the value of the sector and they're not particularly bothered, then obviously you're less likely to succeed than if you've got somebody who really champions it.*

> *One of the things that has really helped this is really strong political support. So there is a commitment to a strong and vibrant third sector, and that would go so far as there's regular meetings in the third sector and an expectation that we engage with [the] third sector in any piece of commissioning, that we design a commissioning process to work well for the third sector, that, within the law, we see where they can be the provider, if they are going out to commission.*

Mutual understanding between commissioners and the VCSE sector

Some interviewees identified that a mutual, shared understanding between the commissioner and the VCSE sector was important to effective relationships and therefore to co-producing commissioning. We asked commissioners how they came into a commissioning role and found that many had a background in VCSE organisations. They felt that this gave them both insight and an understanding of the pressures that the sector faces and the support it needs, sometimes finding themselves advocating for the sector and challenging perceptions about the sector and how it operates.

> *I've had fairly senior colleagues say to me in response to the austerity programme facing the local authority, 'Well, the voluntary sector's got lots of money and they can take on these roles'.*

> *I do feel sometimes I act as an informal advocate for the voluntary sector with some colleagues, particularly operationally, that maybe struggle with what the voluntary sector actually does. And that it's not a statutory provision… I mean, there's… things that the council might have done that might have cost £2 billion, we've cut it and we expect the voluntary sector [to do] it for £100,000. That sort of thing.*

Several interviewees felt that VCSE groups didn't really understand what it was like to be a commissioner in the current financially challenged commissioning climate.

> *I think they can be unrealistic in their expectations of what you can do as a commissioner to respond to something sometimes… So you might get a pressure group asking what are you doing about it. And you're going, 'Well, I know that we probably need to do more but in terms of priorities… we just don't have the capacity to do anything'. And kind of insisting to come and meet with us and tell us that, you know, we're not doing this, it's kind of not… it's not helping, it's just annoying.*

Other commissioners reflected on how they might be at fault in failing to communicate both the political reality of commissioning in the face of dramatic cuts in spending as well as being explicit about new priorities.

> *We've probably not been as open as we could in terms of some of the challenges we're facing…*
>
> *Sometimes we get so tied up with our priorities the voluntary sector are left saying, 'Well, you know, we're here, we're here, guys', you know. We're ready to help, but, you know, it's like the two bits don't come together.*

Perceived conflict of interest

While many commissioners we spoke to valued the position that a VCSE organisation can play as an outsider, agitator and advocate and were keen for the sector to retain this role, the fact that many VCSE organisations hold a dual role as both provider and advocate created a tension that some commissioners found hard to resolve.

> *I think sometimes they're not really clear about what they are. So are they a provider or are they, in essence, engaging with us to give a view on behalf of a group of people, or have they got interest in provision?*
>
> *People mistake the third sector for the voice of service users. It's not. It's a provider. And they can be as traditional as any old institution.*

Perceived conflict between VCSE organisations

Commissioners reported challenges within the VCSE sector that made for difficult working relationships. They all made reference to the conflict and infighting they experienced when working with the sector.

> *Just the conflict within the sector is my biggest challenge, you know, and back-stabbing. You know, it's just lack of trust between organisations.*
>
> *The main challenge is the politics and the infighting… definitely, in the voluntary sector.*

Commissioners were mindful of having to tread a careful path in order to minimise further conflict within the sector or any accusation of favouritism. This can create both personal and professional tensions.

> *Because I just find that if you give one grant, the rest are all fed up and stomping around, whereas they should be pleased that the money is coming into the sector and supporting their colleagues to deliver. And that's really frustrating for me. Really frustrating and disheartening, at times, to be honest with you.*

Commissioners were clear that conflict within the sector presented a significant barrier to commissioning. There was a definite sense of frustration that organisations were not able to 'get out of their own box' and think who they could partner with to take advantage of new funding opportunities.

> *You don't all have to get on and be best friends, but have a unified voice and support each other.*

Support for infrastructure

The scale and diversity of the VCSE sector mean that commissioners often rely heavily on infrastructure organisations in order to communicate and engage with the sector. 'Infrastructure organisations' is a broad term and used here to describe organisations that provide a range of support to local organisations including advice on volunteering, fundraising, governance and keeping the sector up to date with policy and legislative changes (see www.navca.org.uk/faqs).

In some areas, funding for infrastructure support had been reduced and commissioners felt this loss acutely. For others, the shift from Primary Care Trusts to CCGs had resulted in the loss of dedicated posts for public and patient engagement. Some – but by no means all – commissioners also felt that repeated restructuring in both CCGs and local authorities had had a negative impact on their ability to engage with the sector.

> *People in the local authorities have left and suddenly voluntary sector partners just don't know who to speak to and people who come in don't know who the voluntary sector partners are and that sort of stuff… most of the people working around me have gone that were here two years ago.*

Some also noted that there are difficulties in relying on this type of formal infrastructure support. Two commissioners reflected that they had only recently discovered that there were large sections of the VCSE community that were inadvertently excluded from most of their engagement activities.

> *There's a little bit of a disconnect between the people that we are in touch with and this whole big group of other organisations that are providing and doing an awful lot of things that we're not as directly in contact with.*

In other areas, we heard how new models of care and service delivery were driving renewed investment for local infrastructure. One CCG was investing £200,000 in a voluntary sector alliance/partnership in a move to 'kick-start' a federation of voluntary sector organisations that could operate within a new accountable care system.

> *The CCG have committed a pot of money to help [the Alliance] with legal fees, or staffing, whatever is needed. We're also, sort of, knocking on their door already with opportunities for work and contracts. The only negative thing I would say… well, the only, sort of, challenges really, for them, are that all this is happening very, very quickly.*

Commissioners acknowledged that some VCSE organisations struggle to keep up with commissioning intentions. Some smaller organisations do not have anyone who can attend engagement events; nor do they have any spare capacity to invest in building partnerships or forging relationships.

National guidance and legislation

There is no shortage of national guidance encouraging commissioners to both support and engage with the VCSE sector and legislation, specifically the Social Value Act and the Care Act, that places a high value on the role of the sector. We asked commissioners whether they referred to either of these legislative powers and how legislation influenced commissioning approaches.

The Public Services (Social Value) Act came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits for their area. The Care Act 2014 came into effect from April 2015. It gives local authorities new functions, including a general duty to promote individual wellbeing. Local

authorities are also expected to carry out their care and support functions with the aim of integrating services and promoting a whole- system approach based on strong local partnerships. The Care Act also introduced a market-shaping duty for local authorities to promote a diverse, high-quality and sustainable market for care and support in their local area (Local Government Association 2015).

While most, if not all, of the commissioners we spoke to had heard of the Social Value Act, their knowledge of and approach to this legislation varied widely. Again, we found that commissioners fell into two broad groups: those that actively used the Social Value Act to support their commissioning intentions and those who were only minimally aware of it.

> *It's something that we did look at in terms of trying to understand what the social value was for befriending, but there were mixed views within the CCG as to whether that was a useful approach.*

Several commissioners reflected on how current funding constraints restricted their ability to promote social value.

> *At the moment, where we are at, social return is not seen as high or a priority in terms of convincing people that we should invest in the voluntary sector. Now I don't necessarily agree with that, but that is the position of where we're at.*

In contrast, we spoke to other commissioners who had embraced the concept of social value and were using it to shape their approach to commissioning and embedding it in contracts. Often, these commissioners were in local authorities that had made a commitment to an asset-based approach as well as broader political commitments such as the National Living Wage.

> *What I'm trying to encourage people to do is recognise the sector itself as a key factor in adding social value by the fact that it's local and they work – and the way they work is often with partnerships – with volunteers or with disadvantaged communities… we have social value as a separate section and we do score it.*

> *We've included [the Social Value Act] as a requirement in the contract… We've made it quite significant so that people have to think really seriously. You know, it's not just a tick box.*

Few commissioners were able to say much about the Care Act or able to describe the impact it had had. Some CCG commissioners suggested that the local authority would know about it instead of them. Only a few were able to describe the tangible differences that resulted from the introduction of the Care Act, though some felt more optimistic about how it was used and its potential.

> *The Care Act has made us mindful of the responsibilities and statutory responsibilities that brought in some of our voluntary providers as well.*

We did not ask explicitly about the influence of other national guidance, but it is noteworthy that there was barely a mention of the compact with the VCSE sector. At a broader scale, the involvement of the VCSE sector in sustainability and transformation plans and any impact this might have on commissioning was not evident in our interviews. However, the Better Care Fund was cited by several commissioners and is clearly being used by some to direct commissioning intentions.

Commissioner views on funding mechanisms

> *Health and care commissioners should, by default, use the simplest possible funding mechanism (that which best balances impact and transaction costs).*
>
> Department of Health *et al* 2016, p 12

One of the biggest reported trends in funding for the VCSE sector has been the shift from grants to contracts. Small and medium-sized organisations are said to have been hardest hit by this move and there have been calls for statutory bodies to address this (Lloyds Bank Foundation for England & Wales 2016). We were keen to explore how local commissioners viewed the pros and cons of contracts over grants, particularly when many bodies, along with the *Joint VCSE Review*, have recommended that grants should be used for funding smaller VCSE organisations (Lloyds Bank Foundation for England & Wales 2016; House of Lords Select Committee on Charities 2017).

Some commissioners were clear that contracts offered greater rigour and transparency in a context in which budgets are under increasing scrutiny.

> *In terms of what we get for the money that we're investing, I think it should be on a contract basis, because otherwise there's a lack of transparency as to how public money is benefiting the local population.*
>
> *The days of 'here's the money, get on with stuff', those have long since passed. I think there needs to be greater accountability for the public purse, I think that contracts enable that then to be managed to see what output and outcomes are actually being delivered. Whereas the grant scheme maybe didn't have the clout behind it that a contract then gives you.*

Others argued that contracts also provided new opportunities for VCSE organisations in terms of accessing the market and demonstrating their unique value.

> *It gives them the security of a period of time when they're going to get that money. They can go forward, they can recruit staff with a bit more certainty.*

Funding approach, not funding mechanism

Commissioners acknowledged that VCSE organisations often perceive contracts to be more onerous than grants, but they did not believe that had to be the case. Rather, many commissioners felt there is little inherent in either funding mechanism that necessarily determines the effective management of funds or the delivery of better outcomes. Indeed, the issue of grants versus contracts emerged as a 'red herring' with commissioners believing that one was not necessarily better than the other.

> *So you can have quite a simple tender route and you can have a slightly more complex, you know, grant arrangement.*

> *I think there's also a bit of a naive view that, 'Oh grants, no one properly monitors them, you don't know what's going on', and a contract can be better. Actually, you can monitor a grant just as well.*

There was a recognition that both contracts and grants had been poorly managed in the past.

> *In fairness, when we've given grants, we've not commissioned them to do anything, so we're just giving them money.*

> *I find that contracts can be quite restrictive, but if they're managed in the right way, if they're overseen in the right way they can be fine. But sometimes contracts that are just given to people with performance indicators that aren't thought out – or aren't, you know, that were set three years ago and the world has changed – I feel don't give us the best out of voluntary sector organisations.*

However, most of the commissioners we spoke to were keen to think creatively about how procurement could be used to shape the outcomes and improve opportunities for the VCSE sector. We heard from commissioners from both local authorities and CCGs who felt confident about challenging their procurement colleagues when they thought it was in the interests of the local community. This ranged from tweaking contracts to an outright rejection of procurement processes wherever it was legally defensible.

> *I try and do as little procurement as possible… I do sign a number of documents that occasionally say [the*

> *commissioner] was advised that this decision may be subject to challenge but has chosen to ignore this advice. I sign that on a regular basis. So you take a bit of a risk. But it's a calculated risk.*

Commissioners described procurement strategies that were designed to make sure that smaller organisations were not excluded or disadvantaged.

> *So we're about to recommission for the neighbour networks… Small third sector organisations… doing really fantastic local work. I have no desire at all for some organisation to come in and sweep all those up into one… So what we will write in that service specification is that to win this contract you have to be based in the area, have experience of delivering a neighbourhood network service and can demonstrate that you are led by all the people who live in that area. That makes it quite difficult for anyone else. But each of those three elements are defensible, and therefore it's legal.*

In some areas, new grant programmes were being introduced because commissioners perceived that grants provided greater flexibility, less bureaucracy and better support for co-production and innovation. One commissioner suggested that grants provided a particularly useful funding mechanism for work that falls outside the core priority areas or for piloting or innovation work.

Specific issues relating to grants and contracting

Proportional scrutiny, balancing risk and monitoring

Commissioners reported that they face intense pressure to deliver improved value for money and better outcomes. Some commissioners suggested that VCSE contracts were higher risk than those agreed with statutory bodies or private providers in terms of both financial sustainability and delivery of outcomes. As a result, VCSE contracts often came under greater scrutiny than those with other providers:

> *[Procurement] people come back having done a review [of non-NHS contracts] and they say they haven't been able to evidence any, you know, what it is that they have achieved… And then people use that as something to inform from some pretty unpleasant disinvestment decisions. [But] if we put NHS*

> *contracts on the same degree of scrutiny, huge amounts of what the NHS does as it turns out has very little evidence of the outcomes that it produces… the evidence for half the prescriptions we write will be weak, but we don't worry about that, we just put non-NHS contracts under a spotlight in a different way.*

Although we heard concerns about the quality and consistency of data, these issues did not appear to be insurmountable or even high on a commissioner's agenda. Indeed, some commissioners described how they had changed procurement processes and data requirements in response to VCSE criticism about the burden it placed on them. In one area, for example, VCSE organisations were invited to submit a two-minute film via a mobile phone in order to apply for grant funding, and monitoring involved sending a picture and a story every couple of months.

The ability to deliver data in a way that commissioners can use is critical in shaping how the VCSE sector is supported. Commissioners referred to their ability to retain an 'element of faith' or to 'hold the line' in terms of providing financial support for the sector. But somewhat surprisingly, it was qualitative and not quantitative data that commissioners placed great value on.

Case studies, user feedback and narrative stories appear to be genuinely valued and used to demonstrate impact and provide powerful insights.

> *The case studies don't just come with me and stop with me, because we've done that before… we really try to use those stories out and about to inform future commissioning decisions, and also to get more engagement and buy-in on the services, as well.*

> *I think we would probably side towards a few case studies for a small organisation rather than… outcomes data and follow ups and the usual things that you might do in other areas.*

Although for many, outcomes-based commissioning remained an aspiration rather than a reality, this was one area where we heard commissioners talk in depth about co-design and collaboration. Several commissioners spoke of the shift from 'doing to' VCSE organisations towards a much more empowering partnership approach.

> *So the sort of data and information is much more outcome focused rather than lots and lots of data on, you know, 'we have 69 people who came in with a left leg' type data. It's much more, 'so what has it done, what has it achieved?'*

Several highlighted how hard it can be for the VCSE sector to identify a discrete outcome from a larger programme of care. This can be particularly critical when the focus is largely on a narrow set of performance targets that do not reflect the contribution of VCSE organisations.

> *Money tends to get dragged into statutory type services 'must dos'…So it puts more onus, I think, on the voluntary sector in terms of demonstrating outcomes of what they're achieving. If I give you an example, if they're saying they're doing admission avoidance, well actually just saying when we visited Mrs Bloggs and that resulted in her not going into hospital, it's no longer adequate. They've got to actually, well, what was it that they did that made that difference? Because funding is so tight.*

Information governance

It has received relatively little attention to date, but information governance emerged as one of the most challenging issues around commissioning health and care services from VCSE organisations. For some, this was proving to be a serious barrier that prevented organisations from entering the marketplace. Commissioners were clear that the VCSE sector needed to improve standards around information governance. Indeed, one revealed that only two organisations in her city had the appropriate governance requirements to enter into the relevant contracts:

> *The one thing I would say that's really challenging – and has proved to be a bit of a nightmare, actually – is getting the voluntary sector onto the GP system, so they can input and record and monitor data …the voluntary sector don't always have the information governance standards in place… and in fact, that was a really big scare, and it's a really, really big issue.*

Indeed, for some, the debate about grants versus contracts was seen as a distraction from the real issues of concern around protecting data. Some commissioners were keen to reiterate that there would always be a need for

VCSE providers to meet information governance requirements, irrespective of which funding mechanism was used.

> *Even if we went back to grant funding, we would still make the same IG [information governance requirements] …it doesn't matter whether it's grant or contract, we're still going to ask exactly the same.*

Procurement practice

We did hear that where procurement had been separated from commissioning, for example through a commissioning support unit or to a corporate local authority team, it was harder for commissioners to be flexible in their approach to working with the VCSE sector. Commissioners also recognised that delays in the timing of budget decisions caused difficulties for VCSE organisations. Priority given to concluding multimillion-pound contracts with foundation trusts often caused great difficulties for the VCSE sector. They expressed some sympathy for organisations where the late notification of contract awards made it almost impossible for them to operate. In one area, the late notice of contract renewals was also a result of protracted internal negotiations over funding.

> *It's an absolute nightmare… so we've just done this review of non-NHS contracts, which is a euphemism for how many third sector contracts can we pull the plug on because we're broke… so we lost one or two contracts back then. But in doing that, it meant that all the voluntary and community sector providers were probably not being informed whether we were carrying on with their funding until January or February financial year. And in the background it's because I'm fighting a battle to preserve lots and lots of these contracts that are at risk, but I can't go out and say, 'listen, I'm really, really sorry that we can't tell you anything just yet, but let me tell you it's because they want to cut 30 per cent of the contract completely' or whatever it would be.*

Prime provider and alliance contracts

The adoption of prime provider/alliance contracting – where commissioners seek to award contracts for an entire care pathway to a provider or providers who then subcontract elements of the pathway, or to a group of providers who come together – emerged as an issue in many of our discussions

(Addicott 2014). These types of arrangement have become prominent in health care particularly, but it is likely that new commissioning arrangements will emerge as integrated care becomes increasingly embedded (Ham 2018). Commissioners valued the simplicity of dealing with just one provider rather than many to cover a pathway of care, with providers having responsibility to ensure the whole pathway was seamless.

> *What we want is to commission a collaboration to deliver everything and for them to work out the interfaces between it… actually if we're commissioning in totality, how they divvy the work under all… the pathways or episodes, or whatever it is, then actually that's the provider discussions. And actually we don't want necessarily to be involved in that, they need to sort out all the dependencies themselves.*

They also use this type of contract to deliberately encourage partnerships with local VCSE organisations, particularly smaller community groups.

> *We may very well state in our commissioning at tender documentation that the tenderer… may need to partner with or commission so they become a lead provider to represent the wider interests of the community.*

> *It means that some monies which may have exclusively gone to the very large providers including the statutory sector, NHS providers, et cetera, some of those funds have been spread wider afield to [the] community sector, so that's a benefit of it.*

Indeed, it would be wrong to assume that VCSE organisations only enter into these consortia agreements as the minor party. We heard of several successful contracts where the VCSE organisation was the lead provider that subcontracted with an NHS trust.

> *We commissioned a clinical service through a community, voluntary sector provider, who subcontracted an NHS trust… So it meant that the service provided [was] far better and a far better community response. So the people who attended it had a far more rounded service than simply just a clinical service which it provided.*

> *Our biggest targeted or tier two CAMHS [child and adolescent mental health services] service is run by a voluntary sector provider, and it leads a consortium of three – [the lead VCSE provider], another voluntary sector provider and the smallest partner in that one is our mental health trust, interestingly.*

Not all commissioners were equally enthusiastic about the advantages of using contracts that required effective partnership working between providers. Some expressed scepticism over whether VCSE providers would benefit from these new contractual arrangements.

> *[The VCSE sector] can be squeezed out particularly when savings need to be applied, particularly if the third sector are applying some of the softer, sort of, more engagement type stuff, if that's not feeding directly into the public outcomes framework indicators or any other, kind of, major KPIs [key performance indicators]. It's very easy to say, 'Well, I'll go and shave a couple of grand off here by not asking that organisation to deliver the work anymore'.*

Others feared that larger VCSE providers would dominate; crowding out smaller, local organisations. Commissioners reported that contracts were already being awarded to organisations that had no history of work in the local area.

> *A large children's charity have very recently taken on quite a big role working with the local authority and, I suppose, those sorts of deals are going to be much harder, I suppose, for some of the smaller local voluntary sector providers to pitch for and win.*

Some questioned whether the use of this type of contracting was sometimes more for the benefit of the commissioner 'so they have one contact to deal with and they're just transferring the risk to the provider'. Others highlighted their concerns about working with a group of VCSE providers: 'it feels like you're just pouring money into a hole in terms of dealing with the conflict between the members'.

2 Summary of findings

We found wide variation in commissioning practice, not least because we sought to identify areas that were seen as having particularly helpful or unhelpful commissioning practices by the VCSE sector. There were commissioners who saw their role solely as stimulating a market of providers, with VCSE organisations no different to any other provider, who did not see themselves as having a particular role in creating a strong VCSE sector. Equally, there were commissioners whose organisations had made a clear strategic choice about the value of the VCSE sector as a critical player in developing asset-based approaches to care, engaging VCSE organisations as key partners in co-production of health outcomes.

It became clear from our interviews that the primary drivers for choosing a commissioning approach were local, not national. In fact, national narratives were seen as conflicted; on the one hand, emphasis was on place-based care, strong communities and population health, and on the other, short-term financial and performance imperatives.

Successful co-production takes skill, time, confidence and mature relationships built on trust, and it requires a strong sector to respond and play an active partnership role. Strong local leadership, often political, created a culture that championed a social value approach and was able to counter sometimes seemingly conflicting national priorities. A stable VCSE sector, with well-developed relationships both within the sector and between the sector and commissioners was also required. Sector leaders have a key role in building strong and mutually beneficial relationships both within and outside the sector, while managing financial sustainability and maintaining their core ethos and values. These two interdependent factors seemed to be the drivers of good practice, though it was difficult to tell which was the primary driver.

Changes to the commissioning landscape may provide more challenges for successful co-production. As integrated care organisations develop, it is unclear who is responsible for supporting and developing community assets to address the needs of the population. In the absence of clear incentives to involve VCSE organisations in co-producing commissioning intentions, there is a risk that more transactional approaches will develop. Again, the sector itself

has a role in coming together to provide a strong voice in these models in order to have greater impact.

Acknowledgements

We would like to thank all those who contributed to this report, particularly the commissioners who gave up their time to be interviewed and the members of the GSK IMPACT Awards network who shared their insights on this project.

We would like to express our thanks to those who reviewed earlier copies of the report as it was developed, including Alex Fox OBE, Chair of the VCSE Joint Review and colleagues at The King's Fund.

References

Addicott R (2014). *Commissioning and contracting for integrated care*. London: The King's Fund. Available at: www.kingsfund.org.uk/publications/commissioning-contracting-integrated-care (accessed on 6 February 2018).

Amin-Smith N, Phillips D, Simpson P (2016). *Council-level figures on spending cuts and business rates income*. London: IFS. Available at: www.ifs.org.uk/publications/8780 (accessed on 13 April 2017).

Charity Commission (2017). 'Recent charity register statistics'. GOV.UK website. Available at: www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission (accessed on 29 January 2018).

Charles A, Ham C, Baird B, Alderwick H, Bennett L (2018). *Reimagining community services: making the most of our assets*. London: The King's Fund. Available at: www.kingsfund.org.uk/publications/community-services-assets (accessed on 6 February 2018).

Department of Health, NHS England, Public Health England (2016). *Joint review of partnerships and investment in voluntary, community and social enterprise organisations in the health and care sector: final report produced in partnership by representatives of the VCSE sector and the Department of Health, NHS England and Public Health England* [online]. GOV.UK website. Available at: www.gov.uk/government/publications/review-of-partnerships-and-investment-in-the-voluntary-sector (accessed on 3 February 2018).

Ham C (2018). 'Making sense of accountable care.' The King's Fund website. Available at: www.kingsfund.org.uk/publications/making-sense-accountable-care (accessed on 6 February 2018).

House of Lords Select Committee on Charities (2017). *Stronger charities for a stronger society* [online] HL 133 (2016-17). Parliament.uk website. Available at: www.publications.parliament.uk/pa/ld201617/ldselect/ldchar/133/13302.htm (accessed on 29 January 2018).

Lloyds Bank Foundation for England & Wales (2016). *Commissioning in crisis. How current contracting and procurement processes threaten the survival of small charities.* London: Lloyds Bank Foundation. Available at: www.lloydsbankfoundation.org.uk/news/news/2016/12/07/commissioning-in-crisis-report/ (accessed on 6 February 2018).

Local Government Association (2015). *The Care Act 2014: how do you know your council is successfully embedding the Care Act?* London: Local Government Association. Available at:

www.local.gov.uk/sites/default/files/documents/must-knows-successfully-e-d46.pdf (accessed on 3 February 2018).

NCVO (2015). *A financial sustainability review of the voluntary sector: change and adaptation in the voluntary sector as the economy recovers.* London: NCVO. Available at: www.ncvo.org.uk/images/documents/policy_and_research/funding/financial-sustainability-review-of-the-voluntary-sector-july-2015.pdf (accessed on 19 April 2017).

NCVO (2017). *UK civil society almanac* [online]. Available at: https://data.ncvo.org.uk/ (accessed on 3 February 2018).

People and Communities Board (2017). *A new relationship with people and communities: actions for delivering Chapter 2 of the NHS Five Year Forward View*. London: People and Communities Board.

Think Local Act Personal (2015). 'Co-producing commissioning and commissioning co-production' Think Local Act Personal website. Available at: www.thinklocalactpersonal.org.uk/co-production-in-commissioning-tool/Co-production-in-commissioning-and-market-shaping/In-more-detail/Co-producing-commissioning-and-commissioning-co-production/ (accessed on 29 January 2018).

Weaks L, McKenna H (2015). *Submission from The King's Fund to the VCSE Review's discussion paper on challenges and solutions to better investment in and partnership with the VCSE Review*. London: The King's Fund. Available at: www.kingsfund.org.uk/publications/vcse-review (accessed on 3 February 2018).