



STOP
PRESS

NHS 'to undergo radical overhaul'

Just as DCAN was going to print, the Secretary of State set out the Government's plans to reform the NHS during this Parliament and for the long term.



The White Paper 'Equity and Excellence: Liberating the NHS' was published on 12 July and details how power will be devolved from Whitehall to patients and professionals. The White Paper covers many points but DCAN obviously has an interest in the proposals for the future commissioning of services. Under the new plans, groups/consortia of GP's and their practice team will be given freedom and responsibility for commissioning services for their local communities.

The vision in the White Paper is that providers of services will have new freedoms and they will be more accountable, that there will be greater competition in the NHS and greater co-operation, and that services will be more joined up, supported by a new role for Local Authorities to support integration across health and social care. An independent and accountable NHS Commissioning Board will be established to lead on the achievement of health outcomes, allocate and account for NHS resources, lead on quality improvement and promoting patient involvement and choice. The Board will have an explicit duty to promote equality and tackle inequalities in access to healthcare. However, all this will mean that Strategic Health Authorities and Primary Care Trusts will be phased out and that GP's and their practice teams will take charge of much of the budget, estimated to be about 80%. Carol Lawton, Chief Executive of Links, the Council for Voluntary Service and Action Limited in Chesterfield, commented, "Links is concerned that the White Paper proposes a massive increase in GP based commissioning and the destruction of PCTs. In the last ten years we have seen reorganisation of the NHS in Derbyshire at least four times and each time it has proved difficult to establish new working relationships and the voluntary sector has experienced delays on decisions from the PCT. Our experience over 15 years is that GPs are not prone to purchase services directly from the voluntary sector. Links spent over a year with one practice in Chesterfield trying to establish support for an interpreting service, which was eventually supported financially by the then Health Authority rather than the practice.

Derbyshire Contracts Advice Network has spent some time trying to work with the current Practice Based Commissioning model, but again it has not led to much financial support or contracts for voluntary organisations. It is the PCT which has funded welfare benefits advice in GP surgeries and support for credit unions/financial inclusion strategies. We hope that GPs will recognise the value in continuing to fund these and other services which are currently provided by small voluntary sector organisations. A further concern is the scope for the infiltration of private sector organisations 'skilled in commissioning' who will offer to sell services to groups of GPs.'

The White Paper is the start of an extensive consultation that will take place over the coming weeks, ending on 5 October 2010. The plans will be rolled out over the next three years and the White Paper contains a detailed timetable for action, subject to Parliamentary approval for legislation. We are advised that there will be further White Paper around Public Health, which will be vested in the Local Authority, in the Autumn and that there are many details yet to be clarified. For more information and to access the White Paper in full, go to www.dh.gov.uk/en/MediaCentre/Pressreleases/DH_117360

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Transfer of Undertaking and Protection of Employment (TUPE) Transfer – The Enable experience

By Jackie King-Owen

Jackie King-Owen, the Chief Executive Officer, the Enable Group, consisting of Enable HA and its wholly owned subsidiary Enable Care and Housing Support, has produced a report which outlines the historical context and details their experience in the transfer of 173 staff from Derbyshire Primary Care Trust to Enable Care and Home Support. Jackie hopes that the report will prove useful and informative to other organisations, which may be considering TUPE transfers. Jackie's report is concise but informative and clear and a full copy will be published on the Links website www.linkscvs.org.uk. The report also includes Jackie's 'Top 10 Tips for TUPE Transfer' the headings for which are listed below, but again, a full explanation of the headings will be available on the Links website.



Top 10 Tips for TUPE Transfer

1. Be clear about the scope of the project and the complexity of the task ahead.
2. Know the key players – talk at the right people at the right time.
3. Assess the risk from your organisation's own perspective and accept that there are other agendas
4. Be clear about the non-negotiables (aka deal breakers).
5. Be clear, open and transparent in all dealings. Be true to yourself.
6. Keep to timescales and action plan. The shorter the better, but if in doubt, string it out.
7. Get good legal advice but be clear about what you are asking – after all time is money.
8. Fight your corner and accept that pump priming may be necessary: you have to speculate to accumulate.
9. Keep the Board on Board (after all it is their business).
10. Expect (and give) equal status and mutual respect. Above all, be tenacious, resilient and passionate about the service.

Leading Your Charity Through a Time of Change

Carol attended a national conference "Leading your charity through a time of change" organised by Action Planning on 9.6.10 with 600 attenders.



Francis Maude, Cabinet lead on voluntary sector, spoke on the "Big Society". He said three times "there is no money". He wanted to counter the argument that the model would only work in affluent areas. He said the fund would target deprived areas. He wanted "more resources for the voluntary sector" but not from the government.



Suzi Leather, Chair of Charity Commission, followed, saying the next few years were going to be very tough. The cuts would be "quick and deep". The Charity Commission surveys are already showing the effects of the recession. By September 2008 40% affected, by March 2009 60% affected. She said "It is questionable whether the voluntary sector can fill the gap left by cuts".

The remainder of the speakers and sessions at the Conference were about coping with changes.

NCVO – Understanding the Emergency Budget

In their non member bulletin NCVO (National Council for Voluntary Organisations) has produced a short summary of the key points to help you understand what the Emergency Budget means for the voluntary and community sector and how it will affect your organisation. They also have a 'Coping with the Cuts' section on their website, together with some useful guides and practical tools to help to guide you through the challenges ahead, go to www.ncvo-vol.org.uk/copingwithcuts

DCAN and the City

The DCAN Project has been operating across the County since the Autumn of 2007 with 210 voluntary organisations being supported in a variety of ways. To date DCAN has worked with only a small number of City based organisations. We want to increase this level of support where City organisations are contemplating the development of tenders and responding to contract opportunities for the first time. We have also successfully offered a variety of support to organisations who have significant experience in contracting. The Project is now coming to the end of its 2nd year and has proved very effective across parts of the County. The Project has funding for 5 years.

The service includes one to one support for smaller providers, training events, forums and seminars, working pro-actively with BME Groups, and exploring links with other services and projects. A further popular development has been a "Tender Alert Service" and use of legal advice provided by a solicitor with specific expertise on public sector tendering and contracting. A free newsletter is available electronically or by post.



Derbyshire CAN is looking to increase its support to City based organisations. Let us know your views and experiences? Contact us to find out more about our services?

Our sector faces significant challenges. The period leading up to April 2011 and potential major cost cutting initiatives will have a significant impact on the Voluntary Sector, the services we deliver and the methods of funding our activities : –

ARE YOU CONTRACT READY?

Adrian Dewhurst from the Derby City based charity, Umbrella has worked with DCAN and comments as follows – *“as an organisation we have had to embrace change and the increasingly competitive marketplace for funding and financial support we now find ourselves in. Contracting is increasingly becoming the norm. Support from DCAN has been invaluable, increasing our knowledge of what’s happening in the marketplace, what support is on offer and alerting us to contracting opportunities”*.

“I’d recommend making contact with DCAN and finding out what support they can offer to organisations in the City”.

Contact DCAN on linkscvs@btconnect.com or ring our Advisers on 01246 274844 for support, advice and information.

Information

The personal risk of being sued

A recent court case provides a reminder to company directors about representations they make on behalf of a company. A company is generally regarded as a separate legal entity so that in the event any claims it is the company which is claimed against, not the individual directors. However, a director can be held liable for any losses caused where they have assumed some sort of 'personal responsibility' for a contract, or any negotiations surrounding it. In the recent case, a director had personally provided some crucial information to enable the contract to go ahead and this information was relied on and placed into the legal documents for the transaction. However, it eventually transpired that the information provided by the director had been incorrect and vastly elaborated.



The court found that the director had knowingly made false representations and for this reason the director was found to be personally liable for the statements made and ordered to reimburse the losses suffered.

So when a director signs a contract, or anything on behalf of a company, they should always add the words "For and on behalf of the company" after their signature. This will help prevent the other party from establishing that there is some sort of special relationship between you, meaning it will be harder for them to prove personal liability.

Do email exchanges form a binding contract?



Nowadays, with much reliance on computers, you might rely on email to provide quotes and negotiate contracts quickly, but if a dispute later arises over what was agreed, will emails always form a legally binding contract?

A contract must contain four separate elements.

1. an offer is made by one party to another
2. this is accepted
3. 'consideration' by each part re supply of goods/services on one hand and payment on the other
4. there is an intention to create a legally binding relationship

Unless an email outlines very clear terms, e.g. delivery and payment dates, it will probably be seen as nothing more than part of the negotiations. To make sure you can't be held to any email content, always mark them "Subject to Contract". This allows you to walk away from any offers contained in the email.

Social Finance launches first Social Impact Bond



Social Finance, the London based social investment organisation, has announced, with the Ministry of Justice, the launch of the first Social Bond. A Social Impact Bond is an innovative financial instrument; it is a hybrid with some characteristics of a bond (e.g. an upper limit on returns, but also characteristics of equity with a return related to performance.

Social Finance launches first Social Impact Bond continued.....

The Bond has been designed by Social Finance to raise capital for investment in the social sector. Financial returns to investors will be based on improved social outcomes. This first issue will fund social organisations working to reduce re-offending rates of short sentence male prisoners leaving Peterborough Prison. The Ministry of Justice has agreed to make payments to investors in the event that re-offending is reduced below an agreed threshold. The size of these payments depends on how successful the services are. The Social Impact Bond is designed to fund preventative approaches to social issues. Preventative services can be difficult to fund through mainstream funding, as Social Impact Bonds transfer the risk to investors, the idea is that the Bond should make it easier to address social problems earlier, generating benefits for both public sector budgets and wider society. For more detailed information on the Social Impact Bond, go to www.socialimpactbond.org.uk

Useful Resources

The LawWorks Choices Project



The LawWorks Choices Project has now achieved 1850 hours of pro bono work amongst the current volunteers. However, there is always scope for more. LawWorks is a small independent charity which matches volunteer lawyers with opportunities to use their skills for the public good (pro bono). The Choices project is designed to match unemployed lawyers with pro bono activities. The solicitor members are always looking for opportunities to undertake pro bono work. If you have an opportunity for this bank of qualified solicitor volunteers, please contact **Lorna Heselton, Choices and ALLIES Project Officer Tel: 0207 090 7368** with a description of the work to be done, the location and the hours/days required. This can then be advertised on the LawWorks Choices website, and the volunteers can then apply for a position. They also offer a free legal advice scheme which is staffed by qualified lawyers. Initial Electronic Advice is an automated web-based system, which allows not for profit organisations and advice agencies to submit a short legal query and have this answered by a lawyer via email, completely free of charge. In addition they also offer a brokerage service for small not for profit groups in need of casework assistance from a solicitor. For more information go to <http://lawworks.org.uk/?id=468>. More information on what is on offer is available on www.lawworksiea.org.uk or email Alison Ingram at alison@lawworks.org.uk

Pro Bono Economics

Pro Bono Economics is a new charity whose aim is to broker economists into the charitable sector to help on short and medium term assignments, typically addressing questions around measurement, results and impact. Charitable work can have wider social and economic benefits. Qualitative evaluation by economists can help in measuring these benefits and in determining the most effective ways of channelling support to achieve them.

Interested in Pro Bono Economics?



If you are a charity interested in participating in their programme, you can register with them via their website www.probonoeconomics.com or contact them by email at info@probonoeconomics.com



ACEVO Commissioning Support Helpline

The ACEVO (The Association of Chief Executives of Voluntary Organisations) Commissioning Support Helpline offers advice and support on procurement and commissioning issues. The initial contact is with ACEVO, and this is then directed to Bates Wells and Braithwaite, Solicitors, who are based in London. The first half hour of advice/support is free – if the issue cannot be dealt with within that time the charge is then £200 per hour.

However, in the same way in which DCAN has obtained advice from solicitors in the past, if you have anything concerning contracts which needs this level of advice/support, DCAN is able to make the contact with the ACEVO Helpline on your behalf. and also to fund anything which goes over the level of free advice time. This will centralise requests and received information and, if appropriate, e.g. not breaching any confidentiality, would enable DCAN to circulate any information obtained, thereby providing an added benefit. It would also save you money! If you believe strongly that you need to make personal contact with the Helpline, please ring DCAN for contact details.

Publications

Commssioning and the Community Sector

How community sector organisations can be ready for commissioning



This publication has been produced by the Kindle Partnership, the community sector partnership for children and young people.

However, the information can be used by most organisations. It is very clear, very easy to read and very informative. Commissioning and the Community Sector has been written specifically for community organisations to help them understand commissioning and seize the opportunities that this process affords. These include the opportunity to use their local knowledge to shape services for children and young people as well as being funded to deliver those services. The publication provides an introduction to commissioning for small and medium-sized voluntary and community organisations working with children and young people. It focuses on these organisations because due to their size and capacity, they may face challenges that make being involved in the process of commissioning particularly difficult.

Section 1 explains the commissioning process;

Section 2 explains what is meant by the work 'commissioning and gives illustrations of the contributions made by voluntary and community organisations to the commissioning process.

Section 3 explains the way that national policy relates to regional priorities and other factors and how this affects local commissioning.

Section 4 provides an understanding of the opportunities for organisations to become involved in the commissioning process, as both strategic and delivery partners, by providing practical steps and considerations for organisations.

The NHS Commissioning Environment: A guide for organisations in the third sector

This makes interesting reading, but please bear in mind that this publication was produced by the previous government. However, it is still listed in the publications library on the Department of Health website, which is currently under review.



The guide aims to support third sector organisations and social enterprises to make the most of the opportunities available and maximise the extent to which they are able to achieve their full potential in contributing to improved health and well-being services and outcomes for the population. It does this by describing the key features of the NHS commissioning environment, along with key stages in the commissioning cycles, highlighting the potential roles and opportunities for the sector, setting out the key stages in being commissioned, in particular focusing on:

- understanding how the NHS commissioning environment is structured;
- how third sector organisations and social enterprises can engage with HS commissioners; and
- tendering processes and funding routes that the NHS uses.

A full copy of the guide can be downloaded from www.dh.gov.uk/Publications As with any of the website addresses given in the newsletter, if you have a problem accessing them, please contact Links on 01246 274844.

Derbyshire CAN

Contracts Advice Network



How to contact us:

The Newsletter is compiled distributed by Links CVS. We welcome articles. The newsletter is produced electronically: to join the mailing list email

For more information about any items in this newsletter please ring 01246 274844 or email linkscvs@btconnect.com

Derbyshire Contracts Network is steered by a Core Executive:

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Sylvia Green, DRCC;
Jason Hughes, Groundwork Derby & Derbyshire;
Angela Kerry, Southern Derbyshire Voluntary Sector Mental Health Forum; and
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The opinions expressed in this newsletter are the views of the authors and not necessarily of the above partners. While every effort is made to check accuracy, no liability can be accepted for any error or omission.

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What is Derbyshire CAN!

The Derbyshire Contracts Advice Network brings together voluntary sector providers, infrastructure agencies & commissioners to focus on the procurement agenda. It is led by Links in partnership with many other infrastructure bodies. Derbyshire CAN has 5 years Big Lottery Fund support from the BASIS programme.

Derbyshire CAN help your group

One to one support is available to help with contracts of any shape and size, and the policies you need to be contract compliant. Do you need help with costing a tender or financial projections? Contact Sandra or Carol at Links.

Here to support you

You don't have to be actually bidding for a contract to access support from DCAN. We can work with you to explore if contracting is the right approach for your organisation, what type of contracts might be most appropriate, consider whether to go it alone or join in with others and even – before we get to any of that – help you assess if your organisation is contract ready by having the policies, procedures and capacity to take on contract work and if not - what you need to get there.

Training

Derbyshire CAN provides in house training on tendering and contracts in response to groups. We can also organise specialised training on request eg legal aspects of contracts, VAT, procurement terms. Contact Carol.

Free legal advice & other professional help

Derbyshire CAN has retained a solicitor to advise on the legal aspects of contracts. We may be able to access other experts to help with contracts. Contact Sandra or Carol with queries.

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