



EAST SUSSEX IN 2019 – KEY ISSUES TO DISCUSS

PART ONE: SUMMARY

The SpeakUp Forum welcomes ESCC seeking the views of stakeholders and the public on how it responds to its significant financial challenges and those our communities face. In particular, as the Voluntary and Community Sector (VCS) we have a key role in enabling the Council to work differently and in enabling communities to do more to support each other.

In representing Voluntary and Community Sector partners, we have been gathering views and concerns and seeking solutions to a number of key issues, including:

- Core Council and budget plans.
- The key risks from TUPE and pension transfers, redundancy costs, and the need for these to be addressed.
- The importance of local social value and sector views on work in this area
- Key commissioning principles to be adopted.
- Working with the wider public sector.

These issues are barriers to the VCS playing the enabling roles it needs to play in the county. Detailed points for each of these items can be found in sections two to six of this paper.

We would emphasise the following:

- The importance of preventative services and of community-led approaches.
- The relationship between the financial challenge and the opportunity for statutory bodies to take on more of an enabling role.
- The readiness of our sector to work with other stakeholders on the best community solutions.
- The strong partnership development in our local sector and the opportunity this brings.
- The importance of local social capital in its trusted relationships with local communities and its role in ensuring resources are maintained and grown locally.
- The significance of overcoming key risks to successful strategic development.

We would welcome feedback on and responses to the points in the paper.

In addition, we propose a meeting, or series of meetings, between senior figures from our sectors to discuss the key issues raised and how best to find the solutions we need.

PART TWO: 2019/20 BUDGET AND CORE COUNCIL

No one would deny the financial challenge that ESCC faces as a result of changing demands in our community and we understand that difficult decisions are necessary. The Voluntary and Community sector recognise that you have a legal duty to set a budget – and so, to coin a phrase, doing nothing is not an option.

For our part, we want to encourage you to maximise Civic Leadership. This would enable the VCS to develop solutions rather than simply asking the community to endorse the Core Council. ESCC should recognise that it is less a director of what is on offer and instead a partner in supporting the needs of local people.

Our local VCS wants to see increased opportunities for collaboration rather than competition. For us, balancing the budget is not just a cuts list, but involves working with communities to find solution and mitigation.

We believe there are risks of a core offer not allowing East Sussex to maintain a whole community approach. We would also highlight that our collective view is, that to retreat from any kind of preventative or community-based approach to meeting the needs of potentially vulnerable people, will have serious consequences for the community.

In discussing the Core Council approach and engagement we have identified some serious reservations about the process itself e.g.:

- The q2 issue – which **MUST** be answered to be able to fill the rest in – where participants must either agree with a 23% council tax rise or with massive cuts. This is **too narrow** a choice.
- The public needs more information on exactly what reductions are going to be implemented if they are to make an informed response. A menu of services, at face value, could look OK if you don't realise what is **NOT** on the menu.

Key Questions from the VCS

In the light of the above, the VCS has identified some key questions that should be answered before decisions are made, as follows:

1. The direction of travel towards a Core Council will, in our view, disproportionately impact on equality groups. We would like to understand the EIA work taking place and its outcomes and what is going to be done to mitigate this impact.
2. There are significant reductions listed for Children and Young People's services and we would like to understand a bit more about why so many savings are suggested here.
3. What does preventative mean? The phrase 'some element of preventative services are included in the core offer where they prevent immediate need for more costly interventions.' What does this mean in practice? In order to respond we need to understand what is in – and what is above the statutory minimum – and what is not and what 'immediate' means.

4. Many preventative services are NOT immediate, such as work to prevent homelessness; work to reduce hospital and care home admissions; work to prevent young people falling out of the education or training system. What is the future of these preventative interventions and what impact analysis has been prepared to enable the Council to make their decisions?
5. Many of the groups we work with do not know about the sustainability of funding for their work. This lack of knowledge seriously impacts their ability to plan for the future. We feel that this lack of information creates an impasse where organisations feel unable to plan for the medium and long term and this risks impacting their capacity to support the most vulnerable.

The VCS is asking for a clear statement from ESCC of:

What funding will be withdrawn, and when, how will this be decided, and how will organisations be informed so that they can plan appropriately?

6. How are you proposing to address TUPE and Pensions risks when contracts end?
7. What do you see as the relationship between asset-based commissioning and procurement and the implementation of Core Council?
8. Suggested changes to the speed of SEND EHCP assessments and inclusion support services for schools will be very damaging for those CYP impacted who may be excluded more from their local mainstream school. This will cost ESCC more money in the longer run and these proposals seem to conflict with the new SEND strategy that seeks more inclusion. How can we help some already overwhelmed families understand what will happen?
9. In our view, the key to communities doing more for themselves is local Social Value – how are the County Council planning to strengthen this? How will you ensure that your own competitive procurement and commissioning practice does not undermine local social value further through investment in out-of-area organisations?
10. Is the Council simply expecting communities to do more for themselves, and if so, what are the plans for creating the infrastructure to enable this to happen? Without those plans we are simply shifting risks from the Council into underfunded communities.

PART THREE – THE IMPACT FOR THE VOLUNTARY AND COMMUNITY SECTOR OF TUPE'D STAFF AND ASSOCIATED LIABILITIES FOR REDUNDANCY COSTS, PENSIONS AND PENSION STRAIN AND SALARY BANDS

TUPE transfers have become more common as services shift ever more frequently between different providers and the public sector radically adjusts to new economic realities by spinning out services or areas of delivery.

We recognise that TUPE acts as a positive mechanism to protect the rights and interests of employees when contracts transfer or organisations merge. However, transfer contracts to the Voluntary and Community Sector from direct statutory sector delivery will have significant implications and create real risks for voluntary organisations in the following areas: -

1. Loss of a contract to another provider is a disruptive experience. The costs of HR and legal support have not been foreseen and are therefore not factored into contract budgets or are not seen as a legitimate expense by commissioners. It is not possible to accumulate within these contracts a level of 'profit' which covers these costs
2. New and additional financial challenge is created where public sector contracts (which have been running for many years including direct statutory provision) are being terminated. This holds extremely serious implications for the organisations who are holding these contracts at the time of termination who potentially are left holding years of accumulated liabilities for redundancy costs, pensions, pension strain and employment related payments. No allowance for these significant levels of financial liability has been countenanced within contract sums. The management of risk in such situations and the impact on voluntary organisations (who may be far less willing to take up contracts with inherent liabilities within them) will need to be carefully examined. It will also have implications for and would need to be assessed within the VCS Market Position Statement.
3. Assessment of the level of risk is difficult: Organisations assessing the risk of accepting contracts often suffer from a lack of information from the outgoing provider(s); organisations may not have the capacity or resources to access legal advice which places them at a disadvantage; contracts can be predicated on rolling provision forward (even to a new provider) and never on the basis that the service will cease and therefore financial liabilities which have not been budgeted for accrue.
4. The existence of TUPE and associated liabilities will impact on the financial health profile of voluntary organisations at a time when their reserve positions have declined since the beginning of the Economic Downturn in 2010. These liabilities directly impact on the viability and future of voluntary and community organisations but have accrued over years before an individual organisation has taken on leading that contract. Financial liabilities are generally associated with wage levels, pensions and pension strain but also include the expert capacity to deal with closure of services and consultation with staff over service closure or transformation and the requirement for costly expert legal and HR advice and capacity.
5. Even if the principles of full cost recovery are observed (which they frequently are not) there is no possibility of costs associated with TUPE financial liabilities ever being contained in a viable contract bid.

6. These costs have never been factored into budgets and a statutory approach which indicates these are legitimate risks for the organisation cannot be agreed nor can these costs be a legitimate use of organisations' charitable reserves.

PART 4: SOCIAL VALUE

As VCS partners, we understand the need to do all we can to grow and support local social value.

In discussion with ESCC officers, we have been raising several issues and concerns about the ESCC approach to social value, and these are summarised below.

Key Speakup Points on the Social Value Charter/Framework

1. The current social value framework doesn't serve the VCS well. Because the social value framework is targeted at the private sector, any VCS bidder will inevitably feel frustrated that the scope for them to include evidence/measures of the hugely wide social value their service brings is very limited. In a nutshell, the framework measures social value where it is additional to the work of the organisation (private business) and not where it is core (VCS).
2. Whilst we understand why the framework has sought to give as much guidance as possible to bidders on quantifying the social value they propose to offer, it is also problematic. As options are limited, it constrains any bidders from thinking creatively about their offer. Instead, bidders are obliged to fit themselves into rather narrow pre-determined criteria.
3. We would argue that increasing the scope for bids to include measures other than those suggested – for all outcomes in all themes – would be a simple way to help address this. The Brighton & Hove Social Value framework offers a useful example of how this might be achieved.
4. The Framework is, in many areas, complex. For example, it would be useful to have more guidance about how to calculate unit quantity of measures.
5. We'd also like to express concerns regarding the consistency with which the spreadsheet is completed across organisations. We suggest using a narrative from the organisation to accompany the spreadsheet, with more weight given to the narrative piece.
6. The private sector may be able to fund social value activities through their profit margins but there are challenges for non-profit projects and organisations since there is no margin.
7. Sustainability beyond the contract duration is an important part of social capital that could usefully be considered within the contract evaluation.

Key SpeakUp Points/Questions on the Social Value Marketplace

1. Will there be due diligence of the users – i.e. to check authenticity of requests?
2. Any benefit to a community organisation should outweigh the time it takes to complete an online request.
3. "Contact us" and "FAQs" sections need to be added.
4. There is a risk that community groups might put up requests and receive no response from businesses.
5. The Marketplace is very much that – a marketplace. It may well be most useful for the 'easy to fund' and least useful for the 'hard to fund.' We want resources targeted at communities and groups who most need support.

6. At the same time, it's important to recognise that the Marketplace may well be of benefit to many smaller VCS organisations. It was noticeable at the Big Event workshop, attended by people from smaller and medium VCS groups, that they showed positivity towards the Marketplace itself.
7. Finally, a web platform alone will not produce the best outcomes. Support from businesses to communities and community organisations tend to develop well when we build RELATIONSHIPS as well as one off offers, and so for the Marketplace to be most effective, we need to think about how best to create these.

A Local Example: If you want to increase social value, support the local VCS

The VCS adds massively to Social Value and so supporting the VCS is also a brilliant way to increase social value. This can be especially so for work that may not fit smoothly into glossy marketplaces or business brochures.

The work of Home-Start East Sussex, centred around domestic violence, gives a good example of the added social value that can come from supporting the work of local VCS organisations.

Home-Start East Sussex's work has resulted in:

A reduction in the number of women entering subsequent domestic abuse relationships, particularly:

- (i) those with disabilities who disproportionately experience domestic abuse
- (ii) women from BME groups who are likely to experience additional cultural issues
- (iii) pregnant women who can be more vulnerable
- (iv) women in poverty who experience the most excessive violence
- (v) women experiencing psychological and psychiatric problems

An increase in the number of women:

- (i) understanding the difference between healthy and unhealthy relationships
- (ii) able to recognise the different types of domestic abuse and the early warning signs

A reduction in the number of children and young people:

- experiencing problems with education, development and mental health due to a safe home environment

Fewer problems relating to:

- housing e.g. number of rent arrears, vacant properties, pressure on local housing authorities for re-housing

- homelessness e.g. number of homelessness applications, rough sleepers and people seeking emergency accommodation
- mental & physical health, which may contribute to a community's poor health status
- education e.g. underachievement, absenteeism
- the safety of women and children e.g. at work, at school, in public and at contact centres
- the neighbourhood e.g. sights and sounds, resident turnover, poverty, breaking up of extended family and/or community groups
- anti-social behaviour e.g. children and young people loitering around vacant properties, substance misuse, crime, decreased safety & stability of an area
- local businesses and employment with regards to employment, job turnover, absenteeism, anti-social behaviour such as vandalism and theft, tendency to employ local people
- local support agencies such as housing authorities, the police, health services and the voluntary sector

Added Value

This is the work of a small, independent charity rooted in its local community. It builds and nurtures social networks, earning the respect and trust of both local people and agencies. It has a clear understanding of our local community because it is part of it and its size and independence from centralised decision-making means it can be innovative and agile.

Knowledge of the local context informs this work, and this has helped to:

- (i) identify gaps in local services - the knowledge that there were no standard to medium risk services for victim-survivors led to the development of the programme.
- (ii) appropriately refer clients to the specialist local services.

Finally, it can source additional funding over and above funding from local commissioners.

PART FIVE: COMMISSIONING PRINCIPLES

We urge our statutory partners to take forward commissioning in a way that best meets local need and enables local social value to grow.

To help take this forward, we would recommend the approach in the table below:

SpeakUp and East Sussex VCS Alliance Development Group: Commissioning Principles	
VCS Requested Commissioning Principles	How to achieve through procurement processes
VCS are seen as full partners and experts by experience with their skills and knowledge used to shape the design and transformation of services	<ul style="list-style-type: none">• Ahead of tendering, co-production exercises are undertaken with providers, stakeholders and clients to help inform and develop service specifications.• SpeakUp's VCS Alliance Development Group is used as a regular reference and consultation group by commissioners to discuss future commissioning plans and, via SpeakUp, to link with the wider voluntary sector.• VCS take a lead role in the development of new service models (e.g. Social Prescribing).
Stability and vibrancy of the local VCS is supported	<ul style="list-style-type: none">• Minimum 5-year contract with +2 years extension option.• Assessment of Social Value adopts a new model that recognises the impact that local providers and partnerships bring and not just the added value they fund above commissioned services (the Brighton & Hove social value framework is a good example of how to do this).
Maximise funding opportunities for the full range and size of East Sussex VCS providers	<ul style="list-style-type: none">• Tender specification and/or assessment criteria state need to maximise opportunities for partnership working with a range of <u>local</u> VCS providers.• Lead Provider/Alliance models include requirements to assist capacity building of smaller VCS partners.• Specification sets a required contract % to be delivered by micro providers.• Micro providers can receive funding via grants as opposed to sub-contracts within a Lead Provider model.

<p>Full Cost Recovery model approach to commissioning</p>	<ul style="list-style-type: none"> • Acknowledgement of need for cost inflation reviews/renegotiation of capacity during contract period <u>or</u> acceptance that providers need to build in sufficient margins over length of contract to mitigate increased costs. • Increased understanding by commissioners of the business model for VCS providers e.g. VCS led information sessions offered to commissioner and procurement teams. • Risk sharing approach to TUPE transfer of staff when have statutory agency terms and conditions (NHS or Local Government).
<p>Value for Money</p>	<ul style="list-style-type: none"> • Where there is set funding agreed for a contract by commissioners at tender, the financial assessment score of bids should be based on the capacity of services to be delivered/outcomes and not on bidders receiving additional scores for offering below the available funding level – this works against Full Cost Recovery and promotes a ‘race to the bottom’ culture. • Lighter touch contract monitoring that is focused on outcomes achieved rather than inputs.

PART SIX: WORKING WITH THE WIDER PUBLIC SECTOR

Alongside closer partnership working with the VCS, we also believe that stronger partnerships between ESCC and the wider public sector can strengthen the Core Offer. There is potential to collaborate and develop new approaches across sectors that is not yet captured in the Core Offer.

Real partnerships are needed if we are to serve East Sussex residents and offer the widest possible network of services to meet their needs. Circumstances demand that the wider public sector and voluntary sector need to change and develop the way in which we work together. Our ambition is for East Sussex to become an exemplar area where collaboration between the voluntary sector and the public sector is meaningful, creative and making a real difference.

Tinkering around the edges is not good enough, we now need a fundamental re-think about how we make best use of our resources through partnership working. We need equitable environments in which planning can take place and through which we engage strategically to address challenges and create opportunity.

Examples of where ESCC, public sector and VCS could improve the Core Offer:

- **Inward investment:** We all want East Sussex to secure inward investment. We need to develop robust processes and respond effectively to funding calls where these involve cross sector working, multiple partners or the deployment of match funding.
- **Cross Sector Understanding:** Understanding of the VCS is variable across the East Sussex public sector. We can improve knowledge and increase positive pathways for referrals into voluntary sector services through a jointly developed approach.
- **Strategic Cross-Sector Engagement:** There are multiple structures which bring the VCS and Public Sector together, but there is no consistent, strategic dialogue capable of tackling the “big picture” issues. A review of approaches would enable leaders across sectors to share thinking and re-define the nature of their relationships. Our goal should be more equal, collaborative, holistic and reflective engagement that addresses the needs facing East Sussex.

PART SEVEN: CONCLUSION

We hope it has been helpful to pull together key views from our local sector on some of the key strategic issues, challenges and opportunities we face.

We are submitting these in the spirit of partnership working. This is a time for community-led approaches to be championed and enabled, and for the fabric of local community services on which the council depends to be a participant in finding and implementing the best solutions for our communities.

We look forward to meeting with you to discuss these points and finding the best solutions together.

LIST OF ORGANISATIONS SIGNING THIS POSITION PAPER:

Action in Rural Sussex

Age UK East Sussex

Amaze

Care for the Carers

East Sussex Association of Blind and Partially Sighted People

East Sussex Community Voice

East Sussex Parent & Carers Council

Eastbourne Citizens Advice Bureau

Greenhavens Network

Hastings and Rother Rainbow Alliance

Hastings Voluntary Action

HomeStart East Sussex

Lewes District Citizens Advice Bureau

Possability People

Rother Voluntary Action

seAP Advocacy

Southdown

Sussex Clubs for Young People

Sussex Community Development Association

Wealden Citizens Advice Bureau

3 Voluntary Action