

BSA - The Business Services Association

A new landscape in education: A short guide for partnering with the private sector

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Introduction

Commissioners of education services are facing a new landscape, whether at individual school, or Local Authority (LA) level.

For commissioners at school-level - either head teachers or School Business Managers - the significant rapid growth in numbers of academies in the UK, from 203 in May 2010 to 1400 now, and devolution of increased procurement powers and responsibilities to individual maintained schools, means that an increasing number of education services will now be purchased by individual schools rather than LAs. School leaders are therefore working in a new landscape confronted by:

- **Financial situation:** In the 2010 Spending Review, the Department for Education announced “a cash terms freeze (real terms cut) in existing per-pupil funding” over the current Parliament - although this does exclude additional pupil premium funding.¹
- **Increased responsibility:** With a rapid rise in academies (from 203 in May 2010 to 1400 currently) and with an expectation that individual schools will be expected to save at least £1 billion in procurement and back office spending by 2014-15, spending decisions are increasingly being devolved to school level.² Whilst maintained schools were previously allowed to commission services from providers other than their local authority, this was rare and LAs were consistently seen as the default provider. The potential withdrawal of LAs from the education services market (see below) will change this context and require a significant increase in the number of maintained schools engaging with contracted education services providers.
- **Increasing regulation:** 32 different pieces of health and safety legislation already impact on the management of a school estate, and with increased attention to nutritional requirements of pupils and environmental performance of buildings, this is only likely to increase. This will pose complex legal challenges for schools.
- **LA withdrawal:** The rapid growth of academies means that LAs have fewer guaranteed consumers of their non-statutory education support services, and are facing a corresponding reduction in funding. This has led certain local authorities to consider withdrawing from service provision altogether on the basis of lost economies of scale - 80% of local authorities have made (or are planning to make) cuts to centrally provided education services.³ The withdrawal of what was previously the main provider of services to individual schools will require schools to engage with a wider range of alternative providers of education services.

LA staff face similar challenges, for example, the continued provision of statutory and non-statutory services in the face of declining economies of scale.

In both instances this challenge comes with the core responsibility of education professionals - increasing educational attainment of young people in the UK.

For both school-level and LA commissioners, a potential solution to the dilemma posed by this new landscape is opening services up to competition and establishing a partnership with an experienced independent sector provider to deliver education services, who can help deliver increased quality, reduced cost and innovation.

This paper is aimed at commissioners of education services. It a) sets out what the benefits of contracting independent providers to deliver education services are; and b) provides examples of where independent sector provision has been successfully used.

¹ IFS – Pupil Premium: Simple and Transparent Financial Incentive - <http://www.ifs.org.uk/publications/5371>

² Department for Education – White Paper: The Importance of Teaching – 2010.

³ Times Education Supplement – Nearly 80% of local authorities plan cuts to education services as funding crisis hits – 15th October, 2010.

What is commissioning?

Directors of Children’s Services in local authorities, and many headteachers may already be experienced commissioners. However, given the context discussed above, many school-based staff will have been charged with commissioning services for the first time - which could be a daunting prospect.

Commissioning is defined by the Department for Education sponsored ‘Commissioning Support Programme’ as *“the process for deciding how to use the total resource available...in order to improve outcomes in the most efficient, effective and sustainable way.”*⁴

The Department for Education has produced a range of useful resources offering guidance on how to commission services. These can be accessed online at: <http://www.education.gov.uk/childrenandyoungpeople/strategy/a0072465/commissioning>. Commissioners should consult these for the more technical aspects of commissioning and consult outside experts where necessary.

However, to offer a basic summary, the Department for Education suggests that the core commissioning process revolves around four stages: understand, plan, do, and review⁵. They summarise that process as follows:

- **Understand:** Service users should be gathered together - i.e. school pupils, parents and other key stakeholders - to ascertain what needs to be achieved from the provision of a given education service.
- **Plan:** Based on the input provided by service users, commissioners should then consider a range of different options for meeting those goals in a sustainable way. It is sensible to involve providers of services at this stage to ensure that expertise is sufficiently involved in the discussion.
- **Do:** Make an investment decision based on what was decided at the ‘plan’ stage.
- **Review:** Assess, through a continuous monitoring process whether the strategy pursued fulfilled (is fulfilling) the objectives desired. Any review can then feed into future ‘understand’ and ‘plan’ stages of the process.

⁴ Commissioning Support Programme – Good Commissioning: Principles and Practices – September, 2010.

⁵ Department for Education – Commissioning – online resource - <http://www.education.gov.uk/childrenandyoungpeople/strategy/a0072465/commissioning> (accessed 24.11.11)

How partnering with independent sector providers can benefit schools and local authorities

Exposing education services to competition and developing partnerships with private providers can increase quality, and promote innovation.

The education sector is unique. As a vital public service, commissioners of education services can derive a number of benefits which are unique to the education sector by partnering with independent sector providers.

Outsourced service providers are specialists, able to bring a wealth of experience and expertise. Independent sector providers are experts at cleaning, catering, maintaining assets and many other education services, and have built successful FTSE 100 and 250 companies on the back of that expertise. By partnering with such companies, head teachers - whether in an academy or maintained school - can commission with confidence, knowing that the service they receive will be of a high standard. This is particularly important given that many schools will be new to their role as a commissioner of services.

Partnering with an independent sector provider allows head teachers to share risk appropriately in an increasingly complex regulatory environment. 32 different pieces of legislation contain health and safety implications for the management of a school - including the Pottery (Health and Welfare) Regulations 1950.⁶ By contracting with a private provider, individual schools which have relatively recently begun to purchase support services are able to ensure that they do not fall foul of this extensive body of legislation, by sharing risk with an established and experienced supplier. This element of risk sharing is crucial to understanding the advantages that partnering with an external provider can offer. Protection against occurrence of, and liability for, issues such as in-school fires and Legionella outbreaks is a key advantage of contracting with an independent sector provider.

Thirdly, and finally, having commissioned with confidence and shared risk appropriately, head teachers and other frontline school staff are able to focus on their core function - educating young people - rather than expending energy on managing complex services of which they have little experience.

Section summary:

- Exposing education services to competition can help commissioners of education services secure lower cost, higher quality and innovative services.
- Partnerships with independent sector providers of education services offer a number of advantages which are unique to the education sector, such as increased expertise and opportunities for schools and local authorities to share risk more appropriately.

⁶ See - <http://www.banut.net/Relevant%20Health%20and%20Safety%20Legislation.pdf>

Partnering with the private sector - Mythbusters

A number of myths exist about what happens when private providers are used to deliver a public service. This section seeks to dispel a number of those myths:

MYTH:

When public sector services are contracted out, the quality of service deteriorates.

REALITY:

- The Labour Government's independent review of what it then called the 'Public Services Industry' states: "The academic literature typically found the cost savings from competitive tendering to be between 10 per cent and 30 per cent (including when the in-house team won the bid) with no adverse effect, and sometimes an improvement, in service quality."⁷

MYTH:

Public sector workers will lose their pension rights if their organisation is outsourced.

REALITY:

- Private sector companies are obliged to meet TUPE regulations and the standards of the Government's 1999 Fair Deal. This latter deal, which goes further than TUPE, and asserts that the pension scheme offered by the new private sector employer must be "broadly comparable" to that offered to the staff member in by their public sector employer.

MYTH:

Outsourcing and business services companies operating in the public sector do not offer value for money.

REALITY:

- In her independent review for the Labour Government, Dr DeAnne Julius found that competitive tendering brought about cost savings of around 20% even when the in-house team won; competitive tendering in the health sector reduced costs by as much as 34%; the prison sector had reduced costs by 20% and internationally, savings were around 10-30%.⁸ These are real savings for Government.

MYTH:

Outsourcing and business services companies working in the public sector create a 'two-tier workforce'.

REALITY:

- The strength of our businesses is our people. This means investment in good employment, training, skills and working conditions. BSA members abide by the rules set by government when taking on public sector workforces. The BSA did not lobby for the removal of the two tier code which dictates that new entrants to a transferred public sector workforce are given the same terms and conditions.

⁷ *Public Services Industry Review*, by Dr DeAnne Julius, Jul 2008, p.ii, <http://www.berr.gov.uk/files/file46965.pdf>

⁸ P.26, *Public Services Industry Review*, by Dr DeAnne Julius CBE, 2008, <http://www.berr.gov.uk/files/file46965.pdf>

MYTH:

When public services get outsourced, public sector workers' wages are cut.

REALITY:

- In 2008 the National Audit Office looked at the terms and conditions of over 15,000 staff who had moved from the public to private sectors and it found that staff generally benefited in terms of pay from the shift to private employment and that in the majority of cases differences in rates of pay had narrowed over time and were less pronounced at the time of the survey [in 2004]."⁹

MYTH:

When public services get outsourced their jobs are in danger.

REALITY:

- This is simply not the case, as we comply fully with the present legal arrangements and norms of employment practice such as TUPE and the Fair Deal. A 2008 National Audit Office report found that total employment increased by 20% and the turnover of staff who transferred to the private sector was 7% a year compared to 12.4% average for the public sector as a whole.¹⁰

MYTH:

Profits for financiers go beyond a fair return.

REALITY:

- It is true that outsourcing and business services companies make profits. They operate in a highly competitive market, in which they face competition not only from the private sector but also from in-house teams which have the unfair advantage in cost terms of a government guarantee of their pension liabilities. Any profits they achieve are the net result of their work providing better quality and better value services; creating a stronger more agile workforce; and bringing a business ethos to management which allows for risk taking and creativity in solving problems and improving services. Not embracing the potential that outsourcing offers is unfair for the people who are both receiving services and ultimately paying for them through their taxes.

⁹ NAO (2008) *Protecting staff in PPP/PFI contracts*. The study looked at 15,400 staff who transferred from the public to private sector as a result of 43 PFIs signed between 1992 and 2004.

Examples of effective competition in education services

What is the evidence that competitively tendering education services and developing partnerships with independent providers leads to lower cost, increased quality and innovation? This section provides a pool of evidence and case studies across a number of education services which can be used as a resource for academies, maintained schools and local authorities. Below we have highlighted the strong track record of independent providers in delivering the following services:

- Facilities management (asset management and catering)
- School improvement
- Pupil Referral Units (PRUs)

The paper also contains a directory of each BSA member, and the education services which those members provide. This can be used as a resource for education service commissioners interested in developing partnerships with the education sector.

Facilities management

As highlighted above recent government reforms and the current economic context have created a new landscape of opportunities and challenges facing schools regarding how they manage and maintain their assets and deliver catering services to their pupils, in a cost-effective way. Good maintenance of the school estate is essential and results in cost savings over the life of estate management. It is estimated for example that the significant capital expenditure required for the Building Schools for the Future programme would not have been necessary had maintenance been adequate over previous years.¹¹

Devolution of procurement responsibilities to individual schools which are (understandably) inexperienced as commissioners, in the face of reduced budgets and increasing regulation (both health and safety and environmental) makes managing facilities on a school site a difficult proposition. Competitively tendering cleaning, catering, janitorial, security, energy management and grounds and buildings maintenance, can help increase quality, reduce cost, deliver innovation and, most importantly, share risk. This risk sharing element is essential given the nature of school buildings: large groups of young people moving around often older buildings, and chemistry laboratories and other features of school estates pose significant health and safety and environmental concerns. Contracting with an experienced private provider, and sharing risk with that provider can offer head teachers or school business managers piece of mind and confidence in the safety of their environment and that of their pupils.

BSA members provide a high standard of service to schools they partner with, which surpasses what a more traditional ‘caretaker’ could offer. Frequently, whilst maintaining an on-site caretaker under a contract, BSA members are able to provide a range of regional specialists - in issues such as gas safety, water safety, and electrics - to ensure that all work is performed to as high a standard as possible. This ensures that a large portfolio of skills is available to a given school at short notice. Contracting with a large provider such as a BSA member - which has economies of scale - also reduces potential human resource problems which could result from staff departure or sickness. As large organisations, independent sector providers are likely to be able to cover staff sickness and departure to ensure a high level of service continuity within a school. There is also a higher level of accountability when partnering with an independent sector providers. School-based commissioners are able to write Key Performance Indicators (KPIs) into contracts to ensure high quality management of their school estate. Given that any partnership is a contractual arrangement, this gives schools the option of terminating the contract if they are not satisfied with a provider’s performance. Such high levels of accountability are not so easily exercised through a traditional ‘caretaker’ arrangement.

¹¹ Audit Commission – Improving School Buildings – 2003

To demonstrate these advantages, research has shown that schools which develop partnerships with private providers to manage school facilities reported a “positive impact experienced by both themselves (teaching staff) and pupils.”¹²

Case study - Pinnacle PSG total FM contracts

Pinnacle PSG provides the operational facilities management service to 19 PFI schools within four contracts across the country in Leeds, Kirklees, Slough and Clacton. The service covers cleaning, catering, caretaking, grounds maintenance and helpdesk services. The services are provided by directly employed specialist on-site management teams, backed by a highly skilled central team of facilities management and technical service professionals.

These contracts contain a high degree of accountability to ensure stringent performance standards are met. To ensure that Pinnacle PSG are delivering ‘Best Value’ to their client, they provide monthly audited reports, and a 5 yearly benchmark/market test exercise on the cost of delivering key services.

Under total FM PFI contracts, output specifications for all services are measurable and demonstrable against Key Performance Measures (KPMs) which are constantly monitored. The financial penalties for not meeting the KPMs are tough and ultimately continued failure to meet standards could result in loss of the concession to manage the schools.

Pinnacle PSG has also sought to innovate within contracts and deliver services above and beyond those mandated by the contract to ensure better results. For example, caretakers have been provided with enhanced training in health and safety, plant and equipment usage and cleaning and maintenance techniques. Such innovation has come at no additional cost to either the local authority or schools concerned.

School improvement

School improvement services include mentoring, professional development, governor support and curriculum development. Using independent providers to deliver these services can introduce fresh ideas where in-house services have failed to improve school results over a consistent time period. Education spending increased from £69.7 billion in 2005-06 to £89.4 billion in 2010/11 yet “slow progress of many satisfactory schools remains a concern” and 50% of secondary school teaching is considered no better than satisfactory.^{13 14}

By contrast, studies have shown that, between 2000 and 2005, where school improvement services are exposed to competition and outsourced, the proportion of pupils who gained five or more A*-C grade GCSEs increased by three times the national average.¹⁵ Despite this, LAs remain broadly the monopoly provider of school improvement services, which has led to a top-down target focussed approach. A particular concern is that smaller LAs are unable to attract the high standard of educationalists required to drive school improvement, compared to global companies which are able to.

¹² PricewaterhouseCoopers – Evaluation of Building Schools for the Future – 2008

¹³ HM Treasury – 2010 Budget – 2010.

¹⁴ Ofsted – Annual Report 2009/10 – 2010.

¹⁵ CBI – Could do better: Encouraging alternative provision in education support services – 2007

Case study - Babcock 4S joint venture with Surrey County Council

Through their joint venture with Babcock 4S, Surrey County Council has benefited from fast improving school results, multi million pound savings and a steady stream of cash dividends.

- Surrey is now ranked 19th in the country for Key Stage 4 performance, a significant improvement from 47th in 2004.
- Surrey estimates that its savings from the joint venture are approximately £11.3 million (or 15% of the cost of the work carried out).
- The council also receives financial benefits from the joint venture in the form of a dividend, receiving £1.7 million from the most recent dividend.

Babcock has delivered this level of returns to the Council through business improvement techniques such as service innovations, effective performance management, proper costing of services and wider commercial expertise.

The success of the joint venture is down to its collaborative nature, built on partnership working. For example, proper governance and accountability is built into the arrangement through the formal JV board, to which both the Council and Babcock appoint Directors. Furthermore, because the JV is a partnership the service can evolve over time in response to regular contract monitoring and annual service commissioning. This flexibility has been particularly valuable to Surrey given the current uncertainty of future education funding settlements.

Council portfolio holders and local headteachers have praised the scheme:

“(Babcock’s) support in raising staff morale...has been invaluable in helping put it in the top three most improved schools in the country. The HMI inspecting the school said that he would not have believed the speed of recovery had he not witnessed it for himself.” - Alex Russell, Headteacher, Epsom and Ewell High School

“Our innovative JV partnership with Babcock has delivered excellent education results, good financial returns and a stable partnership for the future.” - Cllr Peter Martin, Cabinet Member for Children and Learning, Surrey County Council

Case study - Serco’s school improvement services in Stoke-on-Trent Council

In April 2007, Stoke contracted with Serco to improve education services, particularly in relation to school improvement, within a context of tight financial constraints and savings targets.

Serco’s remit was to improve the overall attainment of pupils in Stoke - combining rapid improvement of underperforming schools, but also the continued improvement of schools rated as good and outstanding. When Serco left Stoke in April 2010, there were 25 schools and settings judged outstanding by Ofsted, which represented a record number in the city.

This was achieved through an ethos of innovation. For example, restructuring and remodelling the way the department operated was key to the success Serco achieved.

In addition, a key benefit of working with Serco stemmed from the advantage of working with a large organisation. Serco’s work with National Leaders in Education helped to ensure that outstanding professionals, who might otherwise have left Stoke for promotion opportunities elsewhere, were motivated to stay within the authority.

Pupil Referral Units (PRUs)

One service which LAs are required by statute to provide - regardless of the impact a changed education marketplace has on their economies of scale - is Pupil Referral Units for children with behavioural issues, for whom mainstream education has been deemed inappropriate. This duty is set out in Section 19(2) of the Education Act 1996. PRUs are not required to follow the national curriculum but instead must “provide efficient education suitable for (a child’s) age, ability and aptitude and to any special educational needs.”¹⁶ As LAs lose funding and capacity in their non-statutory services this is likely to have knock-on effects on statutory services they continue to provide. For example, due to staff reductions and a lack of economies of scale for the department as a whole, LAs may find it more expensive to purchase equipment, technology and training for staff. LAs faced with this dilemma should consider exposing PRUs to competition in order to drive better value in that service.

Whilst some LAs already outsource PRU management, PRUs are typically run in-house, and broadly speaking have a negative reputation - for example, a recent Ofsted annual report described one in eight PRUs “inadequate.”¹⁷

Involving independent providers in the delivery of this specialist form of education has unlocked innovation and encouraged new ways of working. Class sizes are generally smaller and pupils are proactively consulted on changes to how programmes are run. Bradford District PRU worked with Serco to establish a commissioning enterprise which commissioned services from 15 different providers; a new approach whereby the PRU did not work from any single building but instead tailored learning pathways to suit individual pupils. Some independent sector providers have achieved savings of 50% compared to local authority run PRUs.¹⁸

Case Study - Education Bradford District PRU

Education Bradford District PRU was first created in November 2008 as a commissioning enterprise which engages a number of key providers to provide education and skills to young people with complex needs.

The PRU, which was re-branded as MORE4U after consultation with young people using the service, brought together a range of different alternative providers such as PRUs and Short Stay Schools to allow them to tailor the best educational pathway for each individual learner. This recognises that no two pupils have the same background or needs, and works across 15 different providers to ensure that each young person gets the best education possible.

Ofsted appraisals of Serco’s performance have been encouraging, rating MORE4U as satisfactory with good capacity for sustained improvement.

Pupils attending MORE4U centres have endorsed the scheme:

“Being here changed my life” - Learner, 15

“Since I have been at District PRU I have learned to control my anger and turn it to positive energy. This is because my tutors treat me like a young adult.” - Learner, 16.

¹⁶ Education Act 1996 – 19(2)

¹⁷ Ofsted – Pupil Referral Units: Establishing successful practice in pupil referral units and local authorities – 2007

¹⁸ Children and Young People Now – Back to Education – 4th May, 2011

Summary

A combination of falling education budgets, increased responsibility for commissioning in individual schools, increased regulation affecting school buildings, and the withdrawal of certain LAs from the education services market is likely to lead to an increased number of schools considering the independent sector as an option for the provision of such services.

Working in partnership with a provider from the independent sector can lead to significant advantages for both schools and LAs. Chief amongst these advantages is a more appealing sharing of risk around compliance issues. For example, increasing regulation around the management of school buildings, in particular for health and safety requirements is extremely complex. Poor building management can lead to criminal liability. Working with expert providers in the private sector helps to share this risk more appropriately and allow for school staff to concentrate on their core responsibility - educating young people. A range of other advantages include increased accountability, and quality and innovation promoted through the use of a competitive tendering process.

Finally, as the above examples have shown, partnerships with the independent sector have a track record of delivering high quality and cost-effective education services. We believe that, in the new context in which both schools and LAs are operating, the extension and expansion of such partnerships should be embraced.