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Innovating through Design in Public Services Seminar Series 2010-2011

Seminar 2: Designing 'Big Society' Service Provision

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Designing 'Big Society' Service Provision

Paul Rainford and Jane Tinkler

Soon after taking power in May 2010, the coalition government announced that it was putting Big Society provision at the heart of public sector reform (Cabinet Office, 2010). The Big Society programme is built around five policies that include giving communities more powers, and encouraging local people to take more active roles in their communities. Policy point 4 states: *Support co-ops, mutuals, charities and social enterprises*

- *We will support the creation and expansion of mutuals, co-operatives, charities and social enterprises, and support these groups to have much greater involvement in the running of public services.*
- *We will give public sector workers a new right to form employee-owned co-operatives and bid to take over the services they deliver. This will empower millions of public sector workers to become their own boss and help them to deliver better services (Cabinet Office, Building the Big Society, 2010).*

At present though, despite intense media coverage, the details of these policies are still sketchy. Even Francis Maude, Minister for the Cabinet Office, said: 'The Big Society is a big idea, not a big plan' (Public speech in Liverpool, 2010).

However, the Labour party and many other critics have alleged that even the idea of Big Society is too vague. Or that it is essentially a cloak to disguise government disengagement from previous levels of intervention, whether assisting in local economic development or in providing social welfare. Trade unions such as Unite believe that Big Society is a smoke-screen to hand the provision of public services over to the market. The debate on these points will continue.

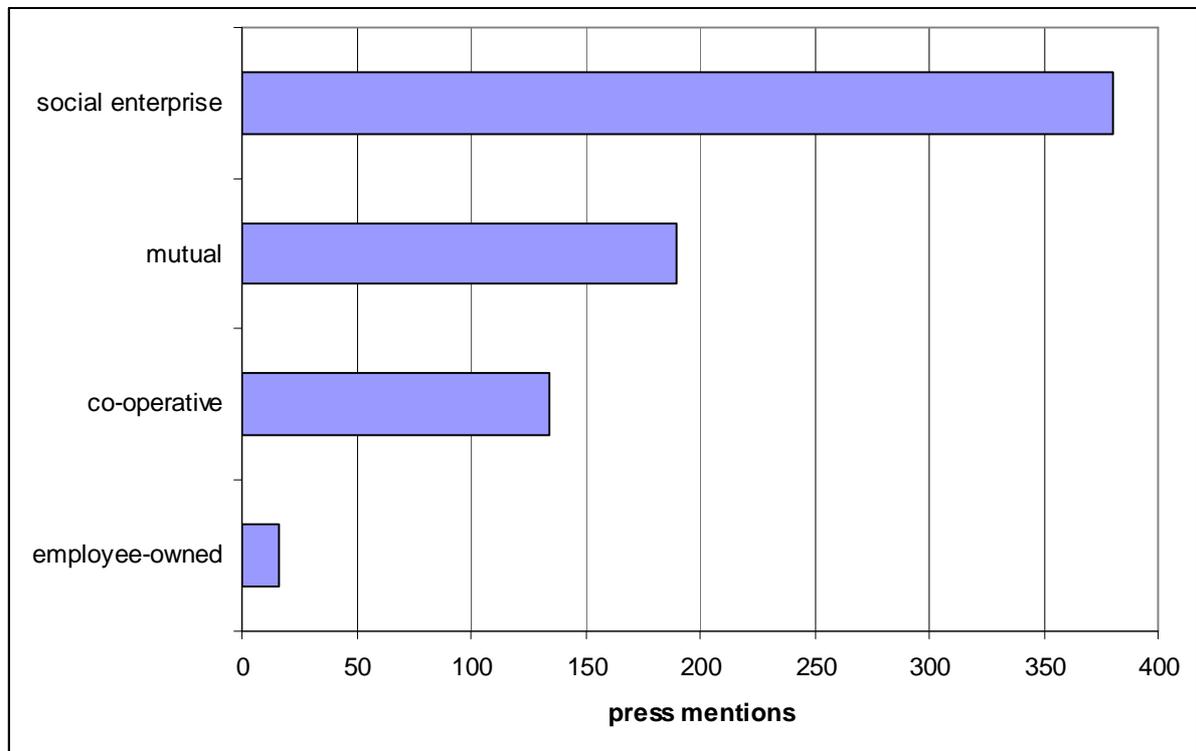
Here we begin to look at the types and characteristics of these new providers of public services. We briefly look at possible legal issues around non-public sector providers. Finally we pose

some questions that the government and providers need to consider when designing reform of public services the 'Big Society' way.

Section 1: Types and Characteristics of Big Society Providers

What is immediately apparent when looking at definitions of organisations such as social enterprises, co-operatives and mutuals is that characteristics of these types of organisations are shared. Organisations can be mutual co-operatives, employee-owned co-operatives and for-profit social enterprises. Some types of organisations are only theoretical as they have only been proposed and not so far been constituted. A quick press search reveals that the provider type most commonly referred to is social enterprise (see Figure 1 below), which seems to almost have become a 'catch-all' term for voluntary sector organisations.

Figure 1: UK press mentions of types of providers alongside 'Big Society' in the last six months



(Source: Nexis)

a) Co-operatives

A co-operative is a mutual business, the governance and operation of which accords with the International Co-operative Alliances' principles and values (David Rodgers, LSE event presentation 2010):

- Voluntary and Open membership
- Democratic Member Control
- Member Economic Participation
- Autonomy and Independence
- Education, Training and Information
- Co-operation among Co-operatives
- Concern for Community

As such a co-operative is: 'An autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise' (International Co-operative Alliance, 2010).

In 2008/09, there were '48,000 co-operative businesses in the UK, owned by 11 million people – one in five of the population – and sustaining more than 200,000 jobs. The sector has a combined turnover of almost £29 billion – or £550 million per week' (Mutuo, 2010a). The UK's largest, and best known, co-operatives are the Co-operative Group and John Lewis. Co-operatives are strong in the financial sector with building societies, credit unions and mutual insurers holding total assets of £437 billion (Co-operatives UK, 2010: 11). The co-operative model is already used in public service provision in schools and housing with 671 housing co-operatives bringing in a turnover of £136.5 million per year. Growth in both turnover and membership in co-operatives in the UK has grown by around 20 per cent in the last three years.

b) Mutuals

Mutuals are also organisations that already exist in the public sector such as NHS foundation trust hospitals and housing associations. They are 'organisations which exist to raise funds from a group of members in order to finance the provision of common services to those individuals ... In some cases mutuals are established to serve the needs of a broader community, with each member having a 'share' only in a notional sense' (Office for Public Management, 2010: 8). The Cabinet Office's *Mutual Benefit* report says:

Mutual organisations are either owned by and run in the interests of existing members, as is the case in building societies, co-operatives and friendly societies, or – as in many public services – owned on behalf of the wider community and run in the interests of the wider community, for example, NHS foundation trusts and co-operative trust schools. There is also scope for other local services, like community buses, to be run as mutual or co-operative groups. To help ensure the organisations best serve the interests of their members, mutuals are characterised by their democratic governance arrangements. They usually have 'one member, one vote' systems for balloting members and

governance structures that formally incorporate a variety of stakeholder interests.

(Cabinet Office, 2010: 5)

The number of people employed in the UK mutuals in 2010 is over one million and the gross annual turnover of the sector is over £100 billion. GPs in 34 areas in the UK have grouped together to create GP mutuals and co-operatives. Between them, they support around 7,500 employees and have a turnover of around £120 million. Two thousand housing associations exist in this sector, overseeing the housing needs of almost 6.5 million people and employing nearly 165,000 people.

c) Social Enterprises

Current social enterprises are working extensively with central and local government. Around 40 per cent of current social enterprises report that over half of their income comes from these sources. (Social Enterprise Coalition, 2009: 7). 'Social enterprises are businesses trading for social and environmental purposes. Many commercial businesses would consider themselves to have social objectives, but social enterprises are distinctive because their social and/or environmental purpose is absolutely central to what they do - their profits are reinvested to sustain and further their mission for positive change' (Social Enterprise Coalition, 2010:).

There are approximately 62,000 social enterprises in the UK contributing at least £24 billion to the economy. Social enterprises are estimated to employ 800,000 people and are particularly active in health, social care, and education. (Social Enterprise Coalition, 2010) The Social Enterprise Coalition found that 56 per cent of their members reported an increased growth in turnover in the last year compared to only 42 per cent of SMEs responding to the Small Business Survey (Social Enterprise Coalition 2009: 14). Seventy per cent of social enterprises reinvest their profits back into the organisation to develop it further.

Social enterprises use a wide variety of legal forms (Social Enterprise Coalition, 2010) including:

- **Community interest company**
- **Industrial and provident society**

- **Companies limited by guarantee or shares**
- **Group structures and charitable status**

Whilst there are many employee-owned social enterprises, ‘there is nothing intrinsic to the social enterprise model that says it has to operate along any principles of shared ownership, and there are very many social enterprises that have no element of employee or user ownership at all’. (Office for Public Management: 8) Sixty per cent of social enterprises are limited companies. (Social Enterprise Coalition, 2009: 27).

d) Civic companies

Civic companies, as proposed by Phillip Blond in *The Ownership State* (2009), ‘rest on the basis of a “new power of civil association” to allow staff and/or users to take over ownership of public services, each owner having an equal share. Delegation of responsibility for delivering public services would be accompanied by full budgetary responsibility, although the model also proposes an asset lock to prevent public assets being transferred out of the new organization’. (Office for Public Management, 2010: 31).

e) Community trusts

‘Community trusts – or community land trusts – were defined in law in July 2008 as corporate bodies established for the express purpose of furthering the social, economic and environmental interests of a local community. Community trusts achieve this by acquiring and managing land and other assets in order to provide a benefit to the local community and ensuring that the assets are not sold or developed except in a manner that the trust’s members think benefits the local community. Crucially, individuals who live or work in the specified area must have the opportunity to become members of the trust, but community trusts are prohibited from paying benefits directly to members. As well as land and housing, community trusts may also provide work spaces, community facilities (such as leisure or advice facilities) and parks and gardens’ (Office for Public Management, 2010: 8).

f) Employee owned model

‘Employee-owned organisations are those with more than 50 per cent of the value of the organisation in employee hands; co-owned organisations are those with a smaller but still significant employee share (and with the other value in the hands of investors, for example). In such organisations, ownership can be direct, where employees (for example) as individuals own shares in the company, or indirect, where a block of shares is held in an employee trust that exercises control of the company on behalf of the employees, or may be a combination of the two’ (Office for Public Management, 2010: 8).

g) Public interest companies

The ‘public interest’ model is one developed by Office for Public Management and is ‘based on its experience of combining full employee ownership with governance mechanisms to include a wider stakeholder group to reflect the public interest. Public interest companies combine: employee ownership through a trust, the company board having non-executive directors drawn from voluntary sector and public service organisations to represent a user perspective, and a “public interest general council” to hold the organisation to account for achieving social value’ (Office for Public Management, 2010: 30-31).

Section 2: Legal Definitions of Big Society Providers

Emmanuel Melissaris, LSE Law Department

The question is straightforward: Will ‘Big Society’ agencies be public or private in character? Or will they be some type of hybrid association with characteristics unfamiliar to us as yet? The implications of this are of utmost significance.

If essentially private, ‘Big Society’ agencies will of course be governed by private law. They will therefore not be under the same duties of equal distribution as public agencies but will be determined by contractual terms setting out obligations and entitlements. And it is on these terms that they will be justiciable. They will also not be required to be democratic, unless the participants in them so choose, neither will they be subject to the requirements of the rule of law. Now consider all this in conjunction with the fact that ‘Big Society’ agencies will be

delivering essential services and allocating basic resources in the face of forces and imperatives to which private relations are vulnerable. I believe it is not hard to see how this scheme undermines the liberal ideal of the State as a collective guaranteeing freedom and equality and fairly distributing the resources necessary for all to pursue their idea of a good life unfettered from such forces and imperatives.

Another implication of the essential private character of Big Society agencies is that they will not be subject to the Human Rights Act 1998, which regulates only relations between the State and its agencies on the one hand and individuals on the other. This could be a roundabout way for the Tories to disentangle some parts of government from the inconvenience that is the HRA 1998. If so, this leaves the Liberal Democrats in an uncomfortable position.

If 'Big Society' agencies are essentially public in nature, therefore subject to public principles and rules, then the novelty seems to lie only in the vast proliferation of public services, which is contrary to the very aims that the government sets out to achieve. Unless of course they are envisioned as a different type of association gaining their legitimacy in different ways. If this is the case, we need further information and rather urgently too.

Section 3: Issues to Consider

For government:

- What public services are best suited to Big Society provision?
- If a service is no longer required, how will the delivering organisation be compensated?
- Where will the responsibility for pension provision lie?
- How will the commissioning the procurement landscape change?
- How can government better support new style provider needs?
- How can assurances of the continued quality of services be provided?
- Can competition between providers be used to the benefit of service quality?

For providers:

- How can new cultures of service and enterprise be rapidly adopted?
- What type of organisation might be most appreciate for which services?
- How will these bodies be designed and services operationalised?
- What will be the effect on terms and conditions of work for employees?
- How can a balance be maintained between risks and incentives between government bodies and big society providers?
- How can existing employee-owned organizations inform the design of 'Big Society' service provision?
- Where will the money come from? The State of Social Enterprise Survey 2009 found that 'finance and funding is both the greatest enabler when present... and the greatest barrier by far when unavailable' (2009: 36).
- How can all relevant stakeholders be involved in designing new forms of provision?
- How can users be most usefully and productively involved in designing and running Big Society provision?

Further Reading

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