National Council for Voluntary Organisations

Public Service Delivery Network

Payment by Results

Discussion Paper

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'I want it to be a mechanism for good, to drive assets to the right place' - commissioner

Summary

This paper addresses the concerns of the voluntary and community sector (VCS) around the expansion of Payment by Results (PbR) across public services. This is a paper for discussion, not a policy statement, and based on the discussion of an expert roundtable hosted by NCVO in September 2011. Delegates included representatives from across government, from social investors, and from the VCS.

This paper covers:

- Developments
- Problems
- Expectations
- Transition support

This paper is to prompt further discussion. Comments and questions are welcomed, and key questions are marked by bullet points. To respond, please email Fiona on psdnetwork@ncvo-vol.org.uk or see www.ncvo-vol.org.uk/commissioning/paymentbyresults for further information and resources.

What is Payment by Results?

Payment by Results is seen my many as 'the way the world is going' when it comes to funding the provision of public welfare services. Programmes are operating across public services, including the DWP Work Programme, Ministry of Justice prison and rehabilitation services, and acute and mental health services in the National Health Service.

'Payment by results' (PbR) is the practice of paying providers for delivering services *after* agreed results have been achieved.

This principle of paying for quality of performance, rather than for activity, is one NCVO agrees with. Yet the ability of providers to perform is decided by a range of factors, many of which they do not control.

PbR programmes can therefore present an unbalanced and untenable risk for providers who have to fund services for a duration without any guarantee of payment.

How stable PbR can prove to be in the complex area of achieving welfare outcomes is still in question. It is clear that success for all is dependent on effective ‘results’ frameworks and fair ‘tariff’ systems that reward those results. For the VCS, access to capital funding to run services paid for in arrears is the third substantial issue.

Models of Payment by Results
Payment by Results includes an enormous variety of funding models, including:

Binary models:
The provider has to achieve an absolute target. The model is ‘binary’ in the sense that there is an absolute yes/no distinction to whether they receive payment – payment is not graded for achieving lesser results.

An example is the DWP Work Programme, where service users have to return to work for a fixed period, or no result at all is funded.

Frequency scheme:
As opposed to the binary model. Rewards are staggered along agreed frequency of results, with payments increasing as results increase.

This is a model used in Ministry of Justice pilots to address reconviction numbers.

Hybrid grants / PbR model:
This is a mixed model, where the cost of delivering a service is funded, but additional payments are rewarded as bonuses if ‘additional’ impacts are demonstrated at the end of a programme.

What is the purpose of PbR?

Payment by results intends to:
1. improve service quality, by offering bonuses for performance improvement, or withholding payment for poor performance;
2. improve transparency around spend, by putting a tariff on services and user needs;

3. ease pressure on public spending budgets by staggering payments over longer time periods.

To some PbR is punitive to providers, forcing them to shoulder the financial burden of service delivery. Others see this is an incentive to improve quality, and a freedom to focus on outcomes, not methods.

Concerns and questions to address

Seven key issues were raised in the September roundtable. Under

1. What is a result, and who gets to decide?

PbR has been well developed in areas of public services – like waste management (Local Authorities) or hospital operations – where outputs are absolute, and costs easy to allocate in tariffs for payment. A commissioner knows if rubbish has been collected, or a hip replaced. Applying PbR to welfare outcomes – infamously hard to quantify and attribute – is a far costlier and more complex process.

While we agree that public money should be focused on what services achieve rather than simply for the activity itself, two fundamental questions must be addressed if PbR is to work:

- What makes a good result/ outcome?
- Who should develop and agree results frameworks?

There is a lack of clarity on both these questions. PbR programmes have been developed in very different ways, ranging from the very bad to the good. It is clear that some public bodies have set their results frameworks without wider discussion from experts in the field, service users, or alignment with the funding and outcomes of other public bodies. If we agree with democratic accountability, personalised choice, and the need for plurality of decision makers to drive quality in public services, such isolationist working can only be against the grain of best practice.

Fundamentally, a results framework is a valuation of what does and does not matter, and what should and shouldn't be funded. This makes it of the utmost importance that ambitions and rewards in the framework meet those recognised by the principles and best practice supported by all stakeholders.

'Those areas not covered by PBR are unlikely to attract investment – issues that are no ones responsibility. Needs outside of results analysis won't get picked up elsewhere' – roundtable delegate

A framework is effective in targeting resources towards particular interventions or outcomes, but what happens to those impacts / user needs not recognised within the results framework and its funding? A polarity is created between rewarded results and unrecognised results.

Furthermore, if we're funding 'results', we are focusing on final interventions, and interventions that produce solutions. Many services don't have easily definable nor final results. Great swathes of services don't have positive outcomes – but act to mitigate the further worsening of negative conditions, social isolation, or social injustice. These aren't 'results' in themselves, but provide important preventative and welfare support to individuals and communities. Such services could lose direct state investment, or needs assessment, or infrastructure support, or could be reframed around artificial and forced 'results', rather than the needs of the individual receiving the intervention. Users could be forced towards 'results' that are inappropriate, by providers needing to reach payment thresholds.

- What are the consequences of imposing a results framework? (good and bad)

2. Impact on service users

Continuing this concern: how do results frameworks impact on service users? The most often cited impact is the cherry-picking of individuals with whom its easiest to obtain the result eg returning to work. Known as 'creaming and parking', in this practice, those least likely to achieve the result, or whose needs are too costly and complex to address – and therefore those most needing state interventions – are ignored by providers seeking to win the financial result. Work is prioritised on a basis of what is most financially valuable to the provider, rather than socially valuable to the individual.

Of course, good tariff systems, modifiable and reflective of the true cost of meeting the full range of an individual needs, should prevent such bad practice, and actively encourage support of the most vulnerable. It is this that we need to see achieved.

- What safeguards can mitigate creaming and parking?
- How will creaming and parking impact on VCS services?

- To what extent does PbR either enable or limit personalisation?

3. Tariffs: fair risk and reward

'The issue is tariff systems and SROI systems potentially push things down to price and one single number and then too much decision rests on that' – roundtable delegate'

PbR covers a wide range of possible payment structures and timetables, conferring different levels of risk between funder and provider, and potentially recognising different needs through staggered outcomes frameworks (in mental health, there are 21 differently tariffed needs clusters).

One key structuring principle must be followed: payment must reflect the risk and cost to the provider. The DWP Work Programme comes as an example where this hasn't been the case. It uses a tariff system is based on savings to the funder (through savings in benefits payments for those now returned to work) rather than funding the true costs to the provider. Unfair to the provider, this distortion creates an environment of cherry picking, where the costs of working with the most in need are not fairly met, and therefore working with these individuals is discouraged, or made impossible.

If providers' costs are not covered, as businesses they cannot operate. It is not for charities to subsidise the state.

If we believe that diversity of provision is absolutely necessary to meeting the complexity of our welfare needs, then the development of tariff systems must be managed flexibly and in discussion with providers representing the full variety of business structures in the market. One delegate, an investment analyst, was clear that having looked at the Work Programme payment models, they had not funded any VCS to enter contracts. The risks were not matched by rewards, and undermined organisational and financial stability. Similarly, trustees cannot allow organisations to undertake undue risk. The VCS therefore cannot compete, or – as for other providers – be viably sustainable.

The repetitive process of trial and adjustment of tariffs in the DH mental health PbR programme is seen as an example of intelligent PbR development, from which others could learn. The two-tier system adopted by mental health (see 'Progress so Far, below) allows for a mix of provision made of:

a. A standardised offer made to all users in each of the 21 tariffed needs clusters;
b. And special, proven personalised interventions available in addition within these clusters.

The process of developing the mental health PbR tariffs has been long and arduous, and is testament to the complexity of developing socio-economic tariffs manageable for the funder, and still able to deliver personalised flexibility around user's needs. One delegate noted that, 'in finance it's taken about 150 years to get a good system. So we should recognise that it's a long journey to model these things'. Roundtable delegates asked that the OCS take the lead in developing cross-governmental understanding of socio-economic modelling for tariff systems and shared understanding of unit costs and impact measurement and outcomes measurement.

Some 'outcomes mature quickly… this is the challenge when you extend this to other areas of social policy where outcomes don't emerge for a long time'. Acknowledging this fact of PbR, how can we ensure learning between providers and contracting bodies isn't delayed too? We feel there is a substantial risk of that at present.

- How can PbR programmes develop with input from a useful range of stakeholders?
- What is the role of Compact and Merlin in this issue of risk and reward?

4. Will access to capital distort the market?

As PbR pushes the running costs of a service in part or whole on to the service provider, providers require upfront capital to win contracts. In the case of the DWP Work Programme, providers had to have a £20+ million annual turnover to be a market-managing prime provider. Quite clearly, the VCS are excluded from competition on this basis as:

a. It is widely known that VCS organisations often have limited reserves (in the employment and training sector, an average of 3 months at the start of 2010)
b. Approximately 97% of VCS organisations have incomes of under £500,000
c. Only 438 charities having an income of over £10 million (accounting for 44% of the sector's income)
d. Financiers often request track record of profitable activity before loans / capital is invested
e. Financiers sometimes insist it is inappropriate for a charity to be seeking loans and capital.

Subsequently, of the 500+ VCS predicted by government to be involved in delivery of the Work Programme, only one VCS was accepted to the prime provider framework.

This demonstrates procurement distorting and narrowing provision. It also narrows the significant opportunity for organisations to be market-managers as prime providers. The roundtable were very clear this was far from best practice. It was recommended that the Office for Civil Society share lessons from this approach with other PbR programmes.

Without opportunity for the VCS to be market-shaping prime providers, the roundtable were insistent that the innovation and social value of quality VCS work will be significantly reduced in public services, to the detriment of much-needed attempts to improve design and outcomes. This is more than a moral statement. We believe this has substantial impact on the quality of services and the quality (and therefore value-for-money) of contract management.

To mitigate this artificial distortion and its impacts, contracts must be let at a scale and tariff reflecting not simply the intentions of funders, but the capacity of quality service providers across their intended markets, including the VCS. To achieve this, statutory bodies must better gather, analyse and apply information about the markets they fund, and particularly which tools are required to trigger and sustain innovation.

While access to capital is one barrier, it was felt the greater problem now is lack of confidence within the VCS to use what access there is. In particular, organisations lack persuasive financial models to attract funding. The roundtable felt there is an imperative need for VCS organisations to begin building links with social investors and other capital funders, to understand and model against the liabilities of carrying PbR contracts. If left too late to build VCS confidence in accessing capital through social investment, the risk is that 'these markets will be carved up', by organisations with more ready money.

- What 'is the appetite in the market to take on PbR liabilities'?
- Why are VCS organisations reluctant to take on social investment?
- Is the right support around risk / finances and investment for organisations to make informed decisions?

5. Is PbR a barrier or a driver to integration?

As PbR is so varied and we remain in relatively early days, we don't yet know if it will be a driver for integration amongst providers and amongst funders. Yet we do know that integration is absolutely crucial to improved effectiveness and personalisation of services.

Issues that will either support or discourage integration at provider and funder level include,

a. It can be extremely hard to determine which intervention / service has produced a result and therefore should be rewarded;
b. It is also hard in some cases to determine who should be providing the funds;
c. And therefore which funder should recoup savings made and how decommissioning will be managed.

Roundtable delegates felt the role of PbR in enabling integration should be supported and reviewed by the Treasury, such is the importance of integration.

- Will PbR support or provide further resistance to integration of budgets and of providers?
- What kind of information will be required to demonstrate accountability for a provider achieving a result: how contested will this be?

6. Will it replace commissioning?

'Commissioning is dead', was one alarming prophesy at the roundtable. Commissioning, ran the argument, has been to blame – or at least a red herring – in the recent failure of public services to improve at the rate required. Once championed as the best possible way to allocate resources – collaborative, cyclical, and needs-led and outcomes-focused when at its best – has commissioning shown it cannot work? And as such, has government fallen out of love with it?

Commissioning is the responsibility of statutory bodies to lead on. In contracts, PbR can be used to lessen this responsibility, stipulating to providers only what the end result should be, not the process of achieving it. Seen at its most unsympathetic, PbR suggests it can give the commissioner the guaranteed result without the effort.

But that is a very simple reading, Roundtable delegates were keen to emphasise that while PbR potentially changes the role of commissioners, it doesn't become easier or less important:

a. Time will be transferred to trying to agree and articulate the 'results' and attached tariffs that contracts should award;
b. Commissioners in the future must understand unitised costs and cashable savings, and will have to work out economic matrix on which to let their contracts;

c. PbR doesn't escape the critical challenge for public funding of welfare needs to be integrated, and to break out of the artificial silos under which they currently operate;
d. Commissioners will be the parties to manage market transition to PbR models.

At its most removed, PbR can reduce statutory commissioning functions to mere contracting responsibilities. This is called the 'black box' approach. Here, the funder has no interest in what happens until the result falls out of the box at the end. They don't care to be party to the needs assessment, market development or service design that takes within the black box. That is all the role of the provider.

The extent to which this is true will vary substantially between contracts. The DWP Work Programme demonstrates a black box approach in which prime providers manage the market, and balance needs with service solutions. It's unlikely all public bodies would choose to take such a hands-off approach. The distance this produces between the frontline and the funder reduces the public sector's understanding of emerging needs, of good practice, and of scope for integration and changing funding models. Public bodies could suffer a disabling reduction in their skills and knowledge, advantaging the market, and reducing the funders' strategic authority.

- Can commissioning ever live up to its rhetoric and ambition?
- How will the role of statutory funders change under PbR?
- How will tools and approaches to shaping markets change under PbR?

7. What will be in contracts?

As we've said, PbR enables commissioners to be less prescriptive – taking the focus off activity and on to results. Yet the breadth of PbR models does allow for contracts to still focus heavily on activity and service specifications if public bodies choose.

- Will 'black box' contracts become the norm?
- Do 'black box' contracts transfer unhelpful liabilities to providers?

What is the progress of Payment by Results so far?

Local Authorities

We have to remember that PbR is nothing new. Lots of local government contracts use this model. Local government, like other parts of the public sector, is now interested in applying PbR models to the welfare market. Some local authorities are doing modelling around PbR now.

It is expected that LAs will move far more cautiously to PbR models in their welfare services than have central government departments. In part, having just been through the upheaval and challenge of developing personalisation for adult social care markets, LAs are liable to be less inclined to adopt new structures.

Ministry of Justice

Since 2003 the MoJ has been paying 30% of probation contracts on performance (a PbR model).

MoJ are piloting Payment by Results, for example the private sector run Doncaster prison (SERCO in partnership with Catch 22 and Turning Point). This model works with 90% as normal payment for operating the service, 10% paid on agreed results preventing reconviction. This 10% is about £2 million in the average prison. There are three years of activity before payment, therefore three years of risk. How many organisations, of any sector, are likely to be willing and able to take on such risks?

Shortly to be announced are two public sector prisons operating similar models. Pilots are being developed as providers bring ideas for innovation forward, and then PbR can be included as the new mechanism to stimulate performance.

Payments are paid on the result of reconviction rates per ‘cohort’ of prisoners / individuals in probation. This means, the percentage of reconviction per 1000 prisoners, or per 100-500 individuals on probation, as compared to the national average.

The MoJ has funded these pilots assuming results will be achieved to fit in with a predicted ‘envelope of affordabilty’. The MoJ are concerned however of the risks of unintentionally increasing their spend: that they will be paying more to providers for achieving results which keep people out of prison; but that those (judges and magistrates) who also influence the numbers of people entering prison will fill any gaps by sentencing more individuals as places become available. The MoJ will then be spending more – the very opposite of their aim.

By 2015, MoJ want all contracts to be PbR in some manner.

DWP Work Programme

Probably the most well known example of PbR affecting the voluntary sector. Government has rolled almost all employment and training contracts (excluding Job Centre Plus and disability-specific support) into PbR contracts, let on a regional basis. The size and lag-time payment structure of this framework has excluded all but one not-for-profit organisation from being the lead provider on these contracts. Not-for-profit organisations are now only able to contribute to the market as sub-contracted organisations. See NCVO’s recent summary report of Work Programme concerns (PDF 222KB).

Acute health services

PbR is the standard mode of operation for this part of the welfare state. Developed to keep waiting lists down under media pressure, PbR encourages hospitals to get people through the door by paying the per activity (‘result’) eg hip operation. Results are costed on a national tariff system (with some caveats for local variation).

Mental Health

Mental health has divided the needs of their service users into 21 clusters. The clusters have a core component of care that the Department of Health have evidenced to be effective and standard practice for individuals within that ‘cluster’ of needs. Surrounding the core offer are other possible interventions which might be brought in, depending on the individual. This two-tier model straddles the balance between:

- wanting innovative, personalised outcomes at the discretion of the individual case
- building a managed and standard menu of services, evidenced and agreed to be effective

Progress in mental health has been long and challenging, reflective of the complex 'bucket' of needs which mental health services address (far harder often than the predictable progress and therefore cost of physical health interventions).

The impetus in mental health has been both financial – protecting budgets by trying to predict spending – and also acting as a lever to force substantial improvements in service quality. Certain areas of mental health provision (eg forensic mental health beds) were felt to have stagnated and not improved – and PbR was a mechanism to force change by withholding money if services didn't meet standards.

Expectations for the future

Non-PbR models at the roundtable were very much viewed as the old way of doing things – 'pumping out money to pay for activity'. 'We now have to be selective, we can't pump out billions of pounds' without performance being assured in some way, and payment by results is an obvious mechanism to do that.

The current government is clearly very committed to this agenda, with senior Ministers taking a keen interest and stake in its success. One delegate marked ruefully at the end, that much of PbR is 'doomed to success'.

Alongside PbR being trumpeted – or noted with less enthusiasm– as the 'way the world is going', the roundtable experts posed a number of cautions on its progress.

Only beginning
'We're at the foothills' of this agenda, so expectations must recognise we're very much in a stage of learning.

Incremental change
'The world will not change overnight'. Instead, change will tend to be gradual, with contracts incorporating PbR components. Even with substantial changes in the funding of welfare services, much that is fundamental about relationships will stay the same.

Start simple
Things need to be kept simple. Despite the recognition that a one-size model is too narrow, PbR can offer an effective clarity and steer to providers to improve quality of outcomes. The VCS therefore will have to accept natural limitations on the model – but do what we can to ensure those models that are used are the most effective to achieve quality outcomes and effective markets.

Bureaucracy won't reduce
This system will not be cheaper or less bureaucratic than the old. What it can do is focus on performance. Implementing it to save money will leave commissioners sorely disappointed. The cost of public services is still tied up in professionals working with individuals – and we still have a substantial way to go to become properly personalised.

Trial and error is inevitable on the way to transformation
We have to allow innovation. While few would argue just how damaging bad PbR programmes can be, we do need to support genuinely meant attempts to improve quality in services, and in many instances, PbR is that attempt.

It won't apply everywhere
The restructuring of services and procurement is costly. Therefore it will take place only where it creates best value: in expensive, acute services, rather than preventative, community services.

Support for the VCS market

The roundtable made clear NCVO and other support agencies (including Government) have much to do to make PbR successful. Challenges include:

Communication
Communication around PbR, social investment, and what the longer-term environment for public service markets will look like; how cashflows and contracts will operate.

Governance
Organisations don't necessarily understand PbR or know how to engage with the issue – likely to be risk adverse. Many trustees are small-c conservative.

Business and contract skills
An absence of business and negotiation skills. Organisations being reported as signing up to deals that are suicidal. VCS aren't good contract managers so 'take the brunt' of their subcontractors failings and also lack the skills to renegotiate back with the contracting body if terms need to change.

Strategic access to working capital and finance
A lot of programmes require 18 months. Some orgs have never borrowed before. Regard external finance as a 'sin' – and don't trust those pedalling it. There is a lot of money out there in investors – that isn't the issue. What these investors need to see is a realistic payment structure. There 'is not the clarity or the confidence'.

Increased monitoring
We need to be careful about levels of monitoring – because this would be a cause for people to upscale contracts if monitoring is expensive and then we won't be able to compete.

Understanding of implications for different organisations
To what extent do the challenges vary for VCS organisations of different sizes? There is no clarity or research on this question.

Next Steps

We want your comments on the questions raised in bullet points. Have we understood the key issues? How should we proceed in supporting the sector and representing the sector to government? We will use this to develop a policy position and influence government, the VCS, and other funders.

If you are interesting in hearing more, specifically about PbR, please contact me on fiona.sheil@ncvo-vol.org.uk and I will ensure you're kept involved in our work and the work of others on this topic. We are developing resources on PbR and we're keen to share them. see our webpage www.ncvo-vol.org.uk/commissioning/paymentbyresults

For questions and comments specifically on the DWP Work Programme, contact paul.winyard@ncvo-vol.org.uk.

Fiona Sheil, November 2011