



POLICY PAPER

THE ADDED VALUE OF NOT-FOR-PROFIT SOCIAL SERVICE PROVIDERS-RECOMMENDATIONS FOR ENHANCING THEIR SUPPORT

Introduction: context

Eurodiaconia is a dynamic, Europe-wide community of social and health care organisations founded in the Christian faith and working in the tradition of diaconal service, which are committed to promoting social justice. It represents more than 40 members working in over 30 countries, including churches, not-for-profit welfare organisations and NGOs.

In the past ten years or so a number of European countries moved away from public provision of social and health services and instead contracted private (profit or not-for-profit) organisations to provide them. This increased opportunities for some not-for-profit organisations (NFPOs) but an increasing number of private social service providers also started operating, particularly in the field of care for older persons and employment advice and labour market integration services, which led to increased competition. Some high profile cases of private care companies going bankrupt in the UK prompted some to question the involvement of private actors in the care sector. In Sweden a law designed to promote choice for service users also led some to question the ethicality of private for-profit providers making profits with public money and started a debate on whether sectors should be reserved to not-for-profit providers.

Even before the financial crisis that started in 2007 not-for-profit social and health care providers experienced a decrease in financial resources and Eurodiaconia members have generally been severely impacted by the crisis, with an increasing demand for services but decreasing financial and political support. This has contributed to an increased interest both from funders, governmental and private, and service provider organisations, to demonstrate explicitly the value of their work, to promote public and private investment in them.

The understanding and definition of the term or legal category “not-for-profit”, as well as the rules associated with such a status, varies among countries in Europe. Eurodiaconia has therefore not created a definition of not-for-profit social service providers. This policy paper explains key elements of the added value of not-for-profit social service provision that may distinguish such organisations from other types of providers. It is aimed at policy makers who are in a position to be able to develop supporting legislative and financial frameworks that enable NFPOs. It can also be used by NFPOs in their own advocacy work, and in negotiations with public and private funders.

Promotion of social cohesion and inclusion through service delivery

NFPO social service providers seek to meet people’s needs, including basic needs such as food and housing, but they also contribute to the greater goal of developing social cohesion and reinforcing community; creating learning and work opportunities, building social capital, and supporting people to take part in society as respected and responsible inhabitants. This in turn contributes to economic development and strengthens society.

Their mission includes all people, but particularly people and communities that for different reasons experience a disadvantaged social situation and the subversive forces of marginalization, invisibility and exclusion. Social NFPOs also aim to meet the needs of disadvantaged people and communities that are not





met in a sufficient way by government support/services or by goods, services and activities affordably available in the market. It has been said that the mission of NPOs is to meet a “considerable quantity of social needs that are not being met either by the market (due to a lack of solvent demand with purchasing power) or by the public sector (as public funding is incapable of doing so)”¹. If NFPOs did not do this, these needs might remain un-seen and/or un-met. The character and degree of “un-met needs” for disadvantaged people and in communities will differ a lot, depending on the economic and social situation and on the dominant political ideology in each country. In times of increasing unemployment, poverty, migration and long-term austerity policy measures, the importance of NFPO activities to fill social gaps is increasing². Many NFPOs also pioneered the services they currently provide, being the first to identify and meet a need and then persuading the state to take responsibility for making the necessary services to meet that need universally available³.

Community building, long-term commitment and financial added value

NFPOs are established and organized to create social value as their superior, long-term objective, often particularly targeting vulnerable groups and disadvantaged societies. Often the main aim of private sector organizations is to create profit for its owners from market activities with goods and services. Creating “social value” can be the result of such activities, but “social value” is not the first and founding cause of their operations. Specific values of NFPOs include inclusion, trust and solidarity, user participation and cooperation. As NFPOs are usually founded on such values they therefore have a long-term interest in working towards these. In the social sector this represents a long-term commitment to seek to promote the well-being of those that use their services as well as the wider society, protecting and promoting the needs of service users and potential service users, rather than a short-term interest such as maximising income for shareholders or investors. NFPOs are often community-oriented and community-based, and can bring local expertise to service delivery, well understand the local context and needs and are therefore better able to reach marginalised and isolated people. Investing in their services can make communities more resilient and have a preventive approach to social challenges.

NFPOs are not allowed to use funds from the non-profit area to fund commercial activities nor to pay out dividends to members or third parties. NFPOs are bound to use their resources timely and in accordance with their articles of association. Any remuneration for services rendered by members or third parties must not be disproportionately high. Therefore, they provide an added value for the public authorities that fund their work, as any profits generated from public or private money are reinvested for the general interest. It has been said that “the lack of profitability of the work carried out demonstrates the purity and rectitude of the motives that underlie it”. While many NFPOs are to some degree dependent on public funds, both national, regional, local and EU, some are self-financed and many are financed from multiple sources. Non-institutional sources include grants from foundations, individual donations and in some cases trading surpluses.

NFPOs may also fulfil tasks the state is responsible for overseeing, as they work for the general interest they relieve the state. This is the reason why they usually receive some privileges themselves, such as tax benefits. This system of partnership between not-for-profit providers of social services and public bodies can only work if the state can be sure that the money spent is invested in the social purpose. This social purpose has to be defined by law in order to be a part of the general interest. Furthermore it has to be an element of the statutes of the not-for-profit service provider which is the basis for a public monitoring regarding the fulfilment of the social purpose.

The main functions of NFPOs can be mapped in a triangle defined by the political, economic and social dimensions. NFPOs translate these three spheres into advocacy, service delivery and community building functions (see Figure 1).

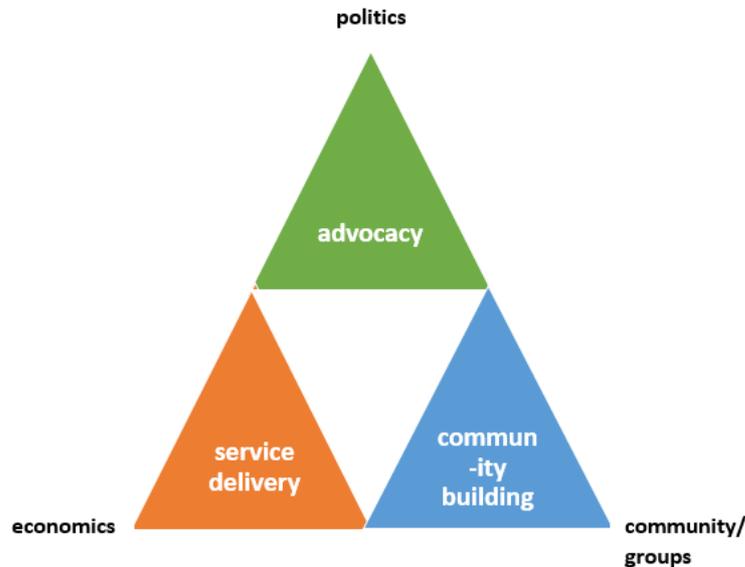
¹ The Social Economy in the European Union, CIRIEC for the EESC (2012), p. 16

² See for example Eurodiaconia’s publication *Policy Recommendations For Social Services In Times of Crisis*, December 2012, which summarises research done among members about the impact of the crisis and ensuing cuts on their work.

³ <https://www.ncvo.org.uk/policy-and-research/public-services/what-we-believe#commissioning>



Figure 1 The welfare triangle: functions and relating societal spheres



Source: Michaela Neymayr and Michael Meyer, 'In search of civiness: an empirical investigation of service delivery, public advocacy and community building by civil society organizations', in Taco Barndsen et al., eds., *Civiness in the governance and delivery of social services*, Nomos Publishers (2010), p. 203

Advocacy

Advocacy involves changing or retaining societal norms and values in the interest of specific groups. Not-for-profit organisations are often advocates for the vulnerable in society, including working toward ensuring that all have access to quality services. Advocacy describes the process of interventions through which voluntary organisations aim at influencing political or institutional decisions which are in the public interest or in the interest of a special group.

There are numerous forms of advocacy that NFPOs carry out. Direct advocacy includes interventions directly addressed to decision makers in politics or administration such as face-to-face conversations, monitoring and participation in legislative procedures⁴. Indirect advocacy includes activities that aim at influencing public opinion or mobilising the population, such as signing petitions, media campaigns, organising demonstrations or writing protesting letters. Individual advocacy, aligned at a specific person and focusing on effects that have already occurred, and finally systematic advocacy; changing political or legal frameworks, focusing on causes for discrimination, and which has a preventive effect: NFPOs can apply the knowledge and expertise gained through working on the ground and from the experience of service users to bring about service and policy improvement through its advocacy. They are therefore much more than simple service providers.

Involvement of volunteers⁵

⁴ For example Elizabeth J. Reid, 'Advocacy and the challenges it presents for nonprofits', in Elizabeth T. Boris and C. Eugene Steuerle, eds., *Nonprofits and Government: collaboration and conflict*, Washington, Urban Institute Press (2006), pp. 343-372

⁵ Eurodiaconia defines a volunteer as a person active in an organisation or institution in an unpaid activity, normally for a defined period of time on the basis of an agreement between him/herself and the organisation involved. Volunteering can be occasional or regular, part-time or full time, short and long term. He or she can serve at home or abroad following a free and informed personal decision without



NFPOs often involve volunteers, and even though NFPOs may be professionalised, volunteers are often still extremely important and are vital to the sustainability of many of their services. The non-profit workforce accounts for over 7% of the total workforce on average in countries for which full data are available. One third of this figure is made of volunteer, non-paid workers⁶. Eurodiaconia believes that volunteering plays an important role in promoting the inclusion and integration of people who are excluded from society. On one hand volunteers are in particular the main agents when it comes to social inclusion through their engagement with those at risk of social exclusion. On the other hand, volunteering provides people that are at risk of being socially excluded with ways to feel useful and connected to society such as those who are unemployed, retired and elderly, people with disabilities, migrants and people experiencing poverty. Volunteers have an important role to play in bringing ownership of the services by the community. Local volunteers can help build community cohesion as they bring innovative perspectives to the service and can provide a source of local knowledge about the community.

Both international volunteering and local volunteering provide opportunities for intercultural learning which is key in the fight against xenophobia, racism and discrimination and building more cohesive societies. Volunteering also encourages participatory democracy in that those engaged in volunteering are directly or indirectly working to improve society for all at a local, regional and national level. Voluntary activity facilitates the involvement of local actors who become empowered through participation, involvement and action. It is a means by which citizens detect, voice and respond to needs arising in society. It is also an invitation to participate in and improve the life of the community, whereby people become active partners in community development.

Volunteering can also be a tool of empowerment by providing a platform for getting people back into education or employment and in general, tapping into people's potential. Volunteering activities are part of informal and non-formal learning for people at all ages and at all stages of their lives. It contributes to personal development and to learning life skills and competences, enlarging social contacts, building self-esteem and in doing so, enhancing employability which when it leads to quality work, can help bring people out poverty and social exclusion. Eurodiaconia believes that volunteering contributes to EU goals of a more competitive labour market by providing lifelong learning opportunities.

Volunteering is known to improve the health and wellbeing of the volunteer with reported higher levels of happiness, life-satisfaction, self-esteem, a sense of control over life, and physical health, as well as lower levels of depression. In particular, volunteering provides a means to foster active ageing, not only through serving the elderly, but as retired or elderly people themselves volunteer they may stay healthy and active for longer⁶ with reported better health in later years. Volunteering can provide retired or elderly people opportunities to contribute to and feel part of society which may be lost once they are no longer active in the labour market. Volunteering can also help tackle demographic change and build intergenerational solidarity by creating links between young, middle and older generations and the promotion of mutual cooperation and interchanges between the generations.

Employment of disadvantaged groups

Employment is a main pillar in people's lives for almost every dimension of the conception of "social value". Unemployment has increased to critical levels in many countries. National programs for re-integration into the labor market give priority to individuals with the best chance to succeed. Migration in and into Europe make the challenge much more complex and the risks for the different disadvantaged groups of permanent exclusion from the regulated labor market and for being trapped in poverty are increasing.

For diaconal organizations, work integration projects of different kinds are therefore an adequate response to the present economic situation and the social needs of individuals, families and communities in all countries.

compulsion by the state. Volunteers usually serve in projects which promote the common good and which are not for profit. Volunteers are often "invisible", working behind the scenes and often not recognised as "volunteers".

⁶ Lester M. Salamon et al., 'The state of global civil society and volunteering: latest findings from the implementation of the UN Nonprofit handbook', Working Paper no. 49, Baltimore, Johns Hopkins Center for Civil Society Studies (2012), p. 2.



Creating jobs in the social economy sector is also a less expensive option than standard public sector job creation.⁷

Numerous NFPOs provide jobs to unemployed people from disadvantaged communities, and Work Integration Social Enterprises (WISE) are a particular form of organisation found among NFPOs. WISE play a special role in combating social exclusion, particularly of disadvantaged groups. The core mission of WISE is creating jobs for disadvantaged people and the integration of these people into society by offering them a job, “re-acquiring the complete economic and social dignity that derives from being workers in the true sense and, in many cases, even members and co-owners of the firms”⁸. They are often trained either to re-enter the labour market or the focus may be socialisation.

Many Eurodiaconia members run such enterprises, where excluded or disadvantaged people are employed in a mainstream business environment, such as a café or gallery, or where they work in sheltered workshops. It can be said that WISE “*make a drastic choice: organising themselves in a different way, they lower the threshold of the capacity of workforce utilisation, and, in this way, generally lower the threshold of access to the labour market, extending the employment capacity beyond the implicit frontiers defined by the entrepreneurial systems on the basis of their productive, organisational and profit-related demands*”⁹.

The 2014 EU directive on public procurement¹⁰ widens the possibilities for Member States to allow the reservation of contracts for products and services to sheltered workshops for not only people with disabilities but also disadvantaged workers (article 20), thus recognising the added value of such contracts.

EU recognition of added value

Although EU treaties uphold the principle of the “neutrality of the provider”, which for example means that a public authority cannot favour a type of organisation when awarding contracts, there is one relevant context where positive discrimination can take place. Reserved markets where only NFPOs may bid for a contract are allowed if legislation is made at national level allowing this and that it is justified as being in the public interest (known as the “general interest” in EU law) to reserve such markets. The not-for-profit dimension as an added value is recognised in case law that allows Member States to legislate to create reserved markets for not-for-profit organisations. The European Commission wrote that “*national law regulating a particular activity might, in exceptional cases, provide for restricted access to certain services for the benefit of non-profit organisations. In this case public authorities would be authorised to limit participation in a tender procedure to such non-profit organisations, if the national law is compatible with European law... [and] justified on a case-by-case basis. On the basis of the case law of the Court of Justice, such a restriction could be justified, in particular, if it is necessary and proportionate in view of the attainment of certain social objectives pursued by the national social welfare system*”¹¹.

The 2014 EU directive on public procurement¹² highlights the special characteristics of social services and their societal importance. The Directive allows Member States to develop national legislation that requires social and other services provided to the person to be awarded on the basis of the best price-quality ratio, and Member States could also require contracting authorities to include criteria that relate to the quality of the service in the technical specifications. There is an explicit reference to the European Voluntary Quality Framework for Social Services in recital 11 of the directive and key quality criteria are listed in article 76, which is part of the rules of the directive applicable to social service. However, EU public procurement rules

⁷ Employment Observatory RESEARCH Network paper *The job creation potential of the service sector in Europe* (2000), p. 284

⁸ A WISE way of working. *Work Integration Social Enterprises and their role in European policies. Guidelines for European policy makers*, (2008) www.wiseproject.eu, p.7

⁹ *Ibidem*, p.6

¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0024>

¹¹ In paragraph 209 of its *Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest*.

¹² *Ibid*



ultimately allow funding authorities to award tenders for social services, as with all services, on the basis of the “lowest price” only, which puts NFPOs with strong values and commitment to quality at a disadvantage.

Recommendations: how to support NFPOs?

- Carry out ex-ante social impact assessments of any policy or reform recommendations to ensure the economic and financial objectives support social cohesion and inclusion.
- Ensure a social investment approach, including the promotion of adequate social protection, is mainstreamed into all EU-level processes, guaranteeing the sustainability of essential social protection systems and social and health services.
- Ensure that the disadvantages of being a not-for profit organisation operating in a market environment are taken into account (such as not counting tax breaks as subsidies).
- Public authorities should meet NFPOs’ investment needs, not just running costs.
- The Commission should ensure guidance to member states about the 2014 public procurement directive in the transposition phase and afterwards, clearly explaining the possibilities in the legislation to enable long-term financing of quality social services and highlight the conditions for other options for the contracting of services than procurement.
- Contracting authorities must avoid short-term contracts for NFPOs providing services to enable them to maximize their potential for job creation and facilitate social inclusion.
- Legislative authorities should allow contracting authorities to reserve contracts to sheltered workshops for persons with disabilities and disadvantaged persons, transposing Article 20 of the public procurement directive into national legislation.
- Legislative authorities should permit and encourage the use of procurement procedures involving negotiation and consultation with NFPOs such as the competitive dialogue and innovation partnership.
- Contracting authorities should always make use of the best price-quality ratio and weight quality criteria at least 50% compared to other criteria such as price.
- If a contracting authority decides to use the lowest cost award criterion, they should include quality criteria in the technical specifications.
- Quality criteria used in procurement procedures should be developed in consultation with stakeholders and be independently verified, taking into account the European Voluntary Quality Framework for Social Services.