



POLICY PAPER

SOCIAL SERVICES

Introduction – the essential role of social services

Social services provide essential assistance, whether for a long or short term need, covering the main risks of life, such as ageing, as well as for specific circumstances, such as disability, and difficult life situations such as homelessness. They often address not only physical and mental needs but also the spiritual aspect of care for each human being. They enable people to integrate or reintegrate into society, to access and retain employment, offer a route out of poverty and exclusion, reinforcing socio-economic independence, enabling people to fulfil their potential. Social services are therefore an essential part of any social inclusion strategy, both preventive services, to address the causes of and prevent poverty and exclusion, as well as services that tackle the symptoms. Diaconal organisations continuously aim to better meet needs, and develop service models for sustainable societal development.

The belief that all humans are created in the image of God with equal worth and dignity forms the basis for all Eurodiaconia's work. Given the role of social services outlined above, Eurodiaconia believes that access to social services is necessary to uphold human dignity and is a fundamental right. This is supported by Part 1 article 14 of the European Social Charter¹ and Article 34 1 of the Charter of Fundamental Rights².

In 2006 the European Commission first recognised the special characteristics of social services¹, and their special nature is now recognised in the 2014 public procurement directive, justifying a lighter regime for the contracting of such services. As opposed to other “network” services of general, or public interest such as water provision they are not provided within a “normal” supplier/consumer relationship, rather an “asymmetric” one due to the position of the service user in relation to the service provider and the personal nature of the service.

However, based on the experiences of its members Eurodiaconia believes that social services are often not given the recognition or financial support that they deserve and need, despite their special nature. Despite an increase in demand for services, Eurodiaconia's member organisations experience falling income and therefore increased difficulties in providing their services², partly because of the financial and economic crisis and the impact of austerity measures and ensuing cuts. Funding cuts in the social sector have also been seen in part as a result of the low value attributed to social care.

This document presents Eurodiaconia's recommendations on how to protect social services' special nature and role in society, on how to ensure access to quality social services for all. We believe that institutional actors at all levels and stakeholders must work together to carry them out.

Public Responsibility and Solidarity

Eurodiaconia members believe that government is responsible for ensuring the dignity of its people and for guaranteeing access to social and health care. A free market would not guarantee access to services for all; often those with the least financial means have the most needs and life risks such as unemployment are often structural, beyond an individual's control, rather than due to the actions of an individual. Public responsibility and therefore public financial commitment is necessary at all levels of government to ensure access for all to social services and that service providers are able to provide quality services. In the context

¹ Communication from the Commission of 26 April 2006, Implementing the Community Lisbon programme: Social services of general interest in the European Union [COM\(2006\) 177](#) final

² As reported in Eurodiaconia publication *Policy Recommendations For Social Services In Times of Crisis*, December 2012



of increasing interest at EU and national level for involving private finance for the development of social enterprises, which includes social services provided in a market, this finance should not detract from the state responsibility to financially support organisations providing services, and in terms of regulating to ensure access.

The Lisbon Treaty states with reference to “services of general interest”, which include social services, that “*The Union and Member States...shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions*”. Yet the European Commission and many Member States neither take into account the negative impact of cuts to financing of social and health services on society nor the concept of social investment³. Investing in social and health infrastructure and services should not be regarded as a cost, and in particular preventive services in many cases reduce long-term care or service needs, therefore reducing expenditure. The Commission persists in promoting measures to improve growth and competitiveness over measures that could improve the social situation, despite the potential long-term negative impact on millions of people across Europe of such measures.

Our recommendations

- The relevant funding, supervising, and legislating authorities and institutions at all levels must ensure that the financial, social and regulatory environments are such that social service providers are able to fulfil their missions
- The European Commission should carry out ex-ante social impact assessments of any policy or reform recommendations to ensure economic and financial policy supports social cohesion and inclusion
- Ensure a social investment approach, including the promotion of adequate social protection, is mainstreamed into all EU-level processes, through the Europe 2020 strategy and European Semester process, ensuring the sustainability of essential social protection systems and social and health services
- National and EU investment to promote growth should include investment in social and health services and infrastructure

Quality

Eurodiaconia has developed a detailed document on quality in social services which stresses the importance of integrated, flexible, continuous care, and lays down quality principles that service providers and their staff should follow. Service user involvement and empowerment is a key element. Service providers should see users as equal partners in creating their service plan and users should be involved in carrying out the service they receive, as well as its evaluation as they are able and wish to. Service users’ quality of life increases as services take into account their wishes and as users gain ownership over the process of service delivery. Service quality also improves as a better understanding of the users’ wishes, capabilities and needs is gained and services are more tailor-made to the individual. Everyone should have the right of access to *quality* services.

The scenario in which a two-tier care system develops, whereby in some areas only low-quality care is accessible because quality services are not affordable should be avoided by sufficient funding. Cuts to social and health budgets can have a negative impact on the quality of those services as pressure to provide a minimum service increases.

³ For more information regarding Eurodiaconia’s analysis of the Europe 2020 strategy and European Semester process please see here: <http://eurodiaconia.org/our-work/policy-areas/eu2020>



Public finance

Eurodiaconia members report that public contracts or public funding is often short-term, including contracts financed by public authorities using EU funds, and funding may not be adjusted to inflation. Service providers also struggle to find funds for needed investments, in infrastructure for example, only receiving funding for operational expenditure, which makes long-term sustainability and quality difficult. Another challenge members face is too-infrequent rounds of funding, making planning and continuity of service provision difficult.

Public procurement: the EU directive

The 2014 EU directive on public procurement⁴ highlights the special characteristics of social services and their societal importance. However, EU public procurement rules allow funding authorities to award tenders for social services, as with all services, on the basis of the “lowest price”. Yet, for social services, quality is essential in order for the service to achieve its goal of meeting a need. Many providers who take on services at these lower costs then find it difficult to provide high quality care and support as they are working with minimum resources, and in some circumstances do not bid for a contract because they feel they could not provide a high-quality service with the anticipated budget. The Directive does allow 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.

The directive also 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. Procedures other than the standard competitive tendering procedure are possible, such as competitive dialogue and innovation partnership. These allow engagement of service providers with experience on the ground in developing the service concept. The possibilities mentioned here are dependent on whether the Member State decides to include them when it “transposes” the directive into national legislation.

Article 77 addresses “reserved contracts for certain services”. Whilst at first glance the article would seem to provide an opportunity for not-for-profit organisations to be favoured when contracting authorities seek a provider of services addressed by the special regime, the definition of the organisation that would qualify for a reserved contract doesn’t correspond to any existing definition of cooperatives or social enterprises, and could be open to many organisations that would not normally qualify as such structures. In addition, an organisation can only be awarded a contract for a maximum of three years and could not be awarded a contract under a reserved contract procedure twice, which raises concerns about continuity. However, it could be possible that before the end of that contract the contracting authority launches another more open procedure whereby the same organisation could reapply to run the service.

Other parts of the text are not self-explanatory and there has been much misunderstanding about the content of EU public procurement legislation and what it does or does not allow. In addition, it is not very clear when a public authority does not need to carry out a competitive tender; information has been provided by the European Commission in this regard but it is not in binding documents⁵.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0024>

⁵ Such guidance can mainly be found in the Commission *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* (2013)



Our recommendations

- Contracts for or financing of social and health service contracts should be for a minimum duration of three years
- Contracting authorities should take into consideration the situation of social service providers when planning bids, provide clear information about timing and aim for regularity, without gaps in funding
- Public authorities should meet social service providers' investment needs, not just running costs
- The European Commission must provide guidance to member states and contracting authorities about the social dimension of the directive, clearly explaining the possibilities in the legislation to enable long-term financing of quality social services
- The European Commission should highlight the conditions for other options for choosing a service provider other than through a competitive procurement procedure
- The European Commission should monitor the impact of EU rules on social services and not-for-profit providers and take action to amend rules or improve understanding where necessary
- Legislative authorities should allow contracting authorities to reserve contracts to sheltered workshops for persons with disabilities and disadvantaged persons, transposing Article 20 of the directive into national legislation
- Legislative authorities should permit and encourage the use of procurement procedures involving negotiation and consultation with stakeholders 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
- The implementation of article 77 must include a definition of social enterprise that fits with existing national definitions
- When awarding contracts under the regime laid down in article 77, contracting authorities should take into account the importance of continuity and launch an open procedure whereby the same organisation could reapply to run the service at the end of the three year period
- Following the planned assessment of the effects of article 77 an amendment should be made to the directive to allow repeat contracts under this scheme and without a time limitation, as with any other type of contract



Public procurement: framework contracts

Some Eurodiaconia members report that contracting authorities are increasingly using framework contracts, whereby a number of providers are chosen through a competitive tendering procedure, without any guarantee that the authority will allocate service users to any one provider and therefore without any guaranteed income. The providers must have the infrastructure in place in order to qualify for the tender, and therefore they experience a high financial risk, having no control over whether they will need to provide the service. The existence of small service providers can be threatened and services for persons with complex needs can be particularly disadvantaged as such a system tends towards standardisation and excludes specialist services.

- Public authorities must not enter into contractual arrangements where they control the demand for a service but the service providers take full financial risk.
- If a framework contract is concluded, all providers must be guaranteed a minimum number of services users and therefore income

State aid

Eurodiaconia welcomed the so-called “Almunia package” of rules which simplified requirements to prove that grants or subsidies are not state aid or are permissible aid in the field of social and health services. However, the rules are not easy to understand, despite a revised *Guide to the application of the European Union rules*⁶.

There are still challenges related to benefits granted to not-for-profit organisations specifically. In some countries, tax breaks or other similar benefits given to not-for-profit service providers can be put at stake as they are operating in a market in competition with for-profit providers. However, this fails to note the specific nature of not for profit social and health service providers. Although a surplus may be made it would be reinvested in the services provided. Under state aid regulations this may be questioned and seen as unfair even though the income is reinvested. The disadvantages of having to re-invest profit are not taken into account whereas the tax advantages themselves are. This could lead to reduced funding to organisations that have a person’s well-being and not profit as their goal.

Our recommendation

- 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)

Private finance

Private financial institutions are increasingly interested in investing in social enterprises and bring an expectation of social and economic returns. With an increased involvement of private finance there is a risk of monetisation of service outcomes and a ‘creaming’ effect, whereby services for the most vulnerable might be discontinued in favour of projects that lead to higher success rates because of higher financial returns. There is a risk that if privately funded services become unprofitable, they will be withdrawn to the detriment of those persons whose well-being is dependent on them. There is a fear that the state would renege on its responsibility if services are increasingly financed by philanthropic organisations or that the interests of the financier would take priority over the interests of and protection of the service users.

Private finance or philanthropic organisations may be more ready than public authorities to support new, small projects, but also often with a focus on groups that are more “favoured” in the eyes of the public, such as children, and not asylum seekers for example.

⁶ *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 (2013)*



Our recommendations

- Public authorities must retain responsibility for setting the legislative, regulatory and financial frameworks for social services to ensure access to those services for all that need them
- Private financing instruments should complement existing (public) ways of financing rather than replacing them
- Private financing tools should not be considered *a priori* as a way to save public money or to bring efficiency gains in public spending
- Private financial institutions should engage in an open dialogue with stakeholders on how to provide financial support most relevant for them and on how to favour long-term rather than short-term financing and hybrid financing (public and private)

Employment in Social Services

Many countries experience a shortage of workers in the care sector and EU research⁷ has shown that the social sector is growing, with demand for services increasing and expected to continue to do so. Given demographic trends more of the population will need the care and support that social services provide which also means that jobs created in the sector will be long-term. If services are sufficiently financially supported there is the potential to provide new quality jobs and sustainable employment.

Irregular working hours, physical and mental burdens as well as increasing time pressure discourage people to start their career in the care sector and it is a challenge for providers to ensure decent working conditions due to pressure on costs, yet quality staff are essential for effective social services. Improving working conditions in the sector and promoting the image of care work would prevent some of the black and “grey” market work and abuses of migrant workers.

Our recommendations

- Governments must ensure a financial framework in which social service providers can pay decent, competitive wages and provide training and lifelong learning
- The Commission should gather more data in this field in order to better prepare EU level initiatives and promote an environment where providers are able to ensure attractive working conditions.
- Providers should develop care workers’ roles, giving more responsibility and widening their skills and knowledge base
- National information campaigns to promote working in the social sector should be launched
- The EU must work to enable the mutual recognition of qualifications in the social sector

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⁷ Briefing paper: the employment potential in the social services sector (April 2012) from the European Commission, Biennial report on social services of general interest, Brussels, European Communities 2008, p. 10