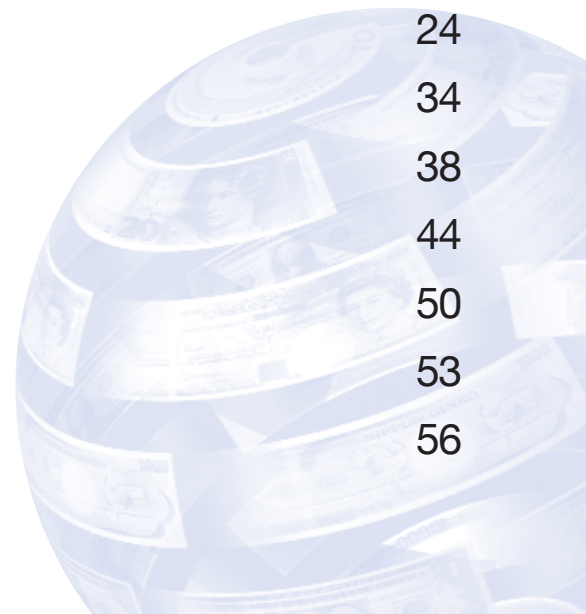


Birmingham City Council Third sector commissioning

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Executive summary

Birmingham City Council has modernised its partnership arrangements with the local third sector. The Council recognised that relationships were poor, it did not obtain full value for money from its grant aid and funding was geared to legacy arrangements, breaching the principles of fairness, equality and transparency.

The change programme also sought to align the activities of the funded third sector more closely to Birmingham City Council's corporate priorities. A move to a third sector commissioning framework has generally worked well, winning the Council Beacon status for the programme. But the reform proved more complex, more expensive and required more time than anticipated.

Local context

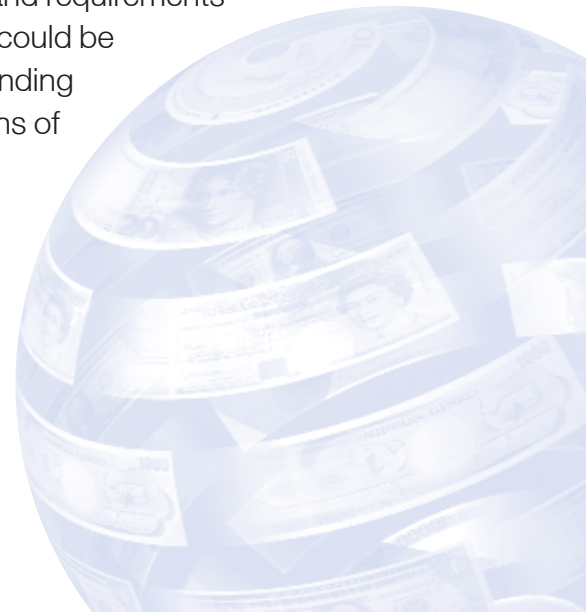
- 1 As with most large local authorities, Birmingham City Council's expenditure on its third sector is large – £28 million in the year 2005/06. Also like many other authorities, the Council was unclear what value it was achieving from this spending and to what extent grants to the third sector furthered the Council's core objectives.
- 2 The relationship between the City Council and the local third sector was poor and marked by mutual distrust. The use of annual grants, awarded shortly before the beginning of each financial year, created uncertainty for Voluntary and Community Sector (VCS) groups about their future funding, creating difficulty in forward planning and staff retention. For other VCS groups the long history of annual grants gave them a false sense of security and encouraged complacency over managing their long-term funding.
- 3 Birmingham has embarked upon a comprehensive corporate transformation project, which includes the creation of a new system of contract management. The move to a new system of third sector commissioning is just one part of the wider strategy of transformation.
- 4 Birmingham's Community Strategy, its Local Area Agreement and the Council's corporate plan and best value performance plan all set clear objectives to increase the role of the third sector in the Council's service delivery. These are underpinned by a commitment in the Birmingham Compact between city public sector partners and the VCS to move to a three year funding basis and full cost recovery.

Definitions

- 5 Birmingham defined third sector organisations as:
 - voluntary and community organisations;
 - faith groups engaged in voluntary/social action;
 - social enterprises; and
 - not-for-profit organisations.
- 6 The new third sector commissioning framework affected grants made to all these organisations. However, it does not affect contracts won by groups within this sector where they have competed in open tender against other organisations, such as those in the private sector.

The state of play

- 7 Birmingham City Council realised it had many problems with its funding of the third sector. Funding was made by grants, but these were awarded on grounds that were not necessarily objective, fair or transparent. Grants tended to be influenced by past history and the political strength of a particular group or community. The Council did not necessarily make funded groups fully or effectively accountable to it for their use of grants, nor was the Council always clear about what it expected from a group in return for its grant, or how the grants it awarded furthered the Council's corporate or departmental objectives.
- 8 There were concerns about the lack of consistency in approach across the Council and fears that directorates might have different policies and requirements of third sector groups. Specifically, one department could be unaware that another department had withdrawn funding to a group because of an alleged breach of conditions of grant aid. It was possible that grant aid might be duplicated by departments, with a third sector body funded more than once to achieve the same objectives.



- 9 So much grant was paid to established groups on a legacy basis, that it became very difficult for new groups, including groups servicing recently established or enlarged communities in Birmingham, to obtain grant aid. This created the perceptions of favouritism, inequality and that funding to established groups was reappraised automatically.

The Audit Commission's analysis of the problem

- 10 The seriousness of the situation was underlined by a series of critical reports by the Audit Commission. Its Corporate Assessment in 2002 reported that 'partnership working with the independent and voluntary sector is not fully exploited'. A meeting between the Commission's external audit manager and the Council in 2003 expressed concern that the Council had not implemented recommendations from a District Audit report in 1998/99 and that it had not taken sufficient action in response to three successive District Audit management letters in the years 1995/96, 1996/97 and 1997/98. Encouraging the City Council to implement those recommendations became a priority for the Audit Commission in its work with the authority.
- 11 A Birmingham City Council internal audit carried out in 2003 confirmed the Audit Commission's findings and reported that recommendations going back several years had not been implemented. It found that, as of 1998/99, the Council spent £22 million annually on grants to about 620 organisations. The audit expressed concern about whether this grant-making process supported the authority's corporate objectives of 'flourishing neighbourhoods' and service improvement. The District Auditor had previously criticised the controls and processes for administering and monitoring grants to voluntary organisations. Audit Commission reports concluded that there was no corporate strategy for grants to voluntary organisations and no clear leadership on voluntary sector issues at corporate level.
- 12 Although the Council had agreed in principle in 2000 to have a local compact, this had still not been finalised three years later. Further, there was no mechanism in place to prevent duplication of funding by different departments; no corporate mechanism for monitoring compliance with funding procedures; and no corporate performance indicators for the activities of the third sector. The District Auditor initially identified these issues in 1995/96. Even by 2003, the Audit Commission felt unable to give an assurance that there were adequate corporate governance arrangements in place for the management and control of the Council's funding relationship with the voluntary sector.

- 13 The Audit Commission became a catalyst for change and enabled council officers to drive through a move to a different approach, acting as a ‘critical friend’ as well as auditor. For the 2005/06 year, the Commission continued its involvement, but in a different form – moving on to audit the performance of the pilot reform project. The Commission’s findings fed directly into Birmingham’s Corporate Third Sector Group to help it plan for the ongoing development and implementation of the third sector commissioning strategy.

The Birmingham Compact

- 14 A ‘National Compact’ was published in 1998, being the basis for a formal agreement between the government and the voluntary sector to improve relationships. Subsequently, local compacts have been agreed, led by local strategic partnerships (LSPs).
- 15 The Birmingham Compact was written by the Birmingham Voluntary and Community Sector Commission (BVSC) and endorsed by the Birmingham Strategic Partnership (BSP) in 2004 and by the City Council later that year. It is a collective agreement by members of BSP to establish a new relationship between the statutory and third sectors in the city and to monitor the quality of that relationship. It was approved in July 2005.
- 16 The Compact commits partners to an ongoing dialogue and a process of working together. It stresses the need to work in partnership on agreed agendas, acknowledging areas where agreement cannot be reached immediately, but where ongoing discussions could progress matters. A Compact Champion was appointed in January 2006 to assist with progress in Compact implementation. The Compact includes good practice principles relating to governance, black and minority ethnic issues, partnership working, funding and commissioning.
- 17 Principles incorporated into the Compact include full cost recovery, three year funding cycles for most third sector service delivery activities (but the opportunity for short-term funding of pilot projects), transparency of relationships and consistency of approach across departments of statutory funding bodies. The Compact commits its signatories to a dispute resolution mechanism.



- 18 Consultation events in the run-up to the implementation of the Compact were used by Birmingham City Council to make clear to third sector groups that they should use the Compact as a means to push the Council to improve the way it works with the sector and to use the Compact constructively as a means of driving compliance with good practice and the removal of barriers.
- 19 The signatories to the Birmingham Compact are:
- [Birmingham Voluntary Service Council \(BVSC\)](#);
 - [Learning Skills Council](#);
 - [Eastern and North Primary Care Trust](#);
 - [West Midlands Jobcentre Plus](#);
 - [West Midlands Police](#);
 - [West Midlands Fire Service](#); and
 - [Birmingham City Council](#).
- 20 BVSC accepts that the City Council is the statutory body that has come closest to full compliance.

Objectives

- 21 The City Council had a range of objectives for its move to third sector commissioning.
- To get better value for money from the grants awarded to the third sector.
 - To improve the linkage between corporate objectives and priorities with the activities carried out by third sector organisations using council grant aid.
 - To improve services for citizens.
 - To adopt a more equalities-led approach, seen by all communities and citizens as fair and objective.
 - To provide a better service by the City Council for the third sector, including greater clarity by the Council in what it expected the third sector to provide.
 - To produce greater consistency and transparency in the awarding of grants.
 - To assist local third sector organisations in their own medium-term management and planning.

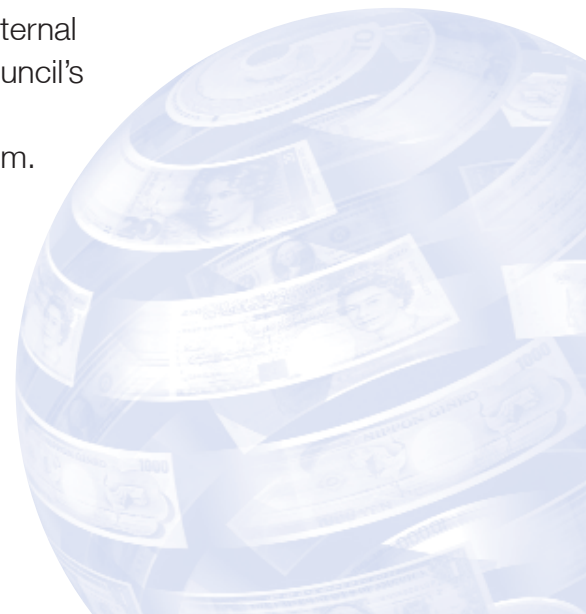
- To reduce transaction costs for the Council in administering grants.
- To increase and improve the accountability of third sector organisations to Birmingham City Council.
- To increase and improve the accountability of Birmingham City Council to a variety of stakeholders, including the third sector.

The commissioning framework

- 22** Birmingham City Council agreed to implement a third sector commissioning framework between 2004/05 and 2006/07 in place of its traditional grant aid arrangements. Established grant aid programmes were phased out, backed by transitional support. The Council planned to have the new system in place across the authority in time for the 2007/08 financial year.
- 23** Each directorate had to set clear and precise departmental objectives of where the third sector groups could add value, formulating prospectuses through which third sector organisations would bid for financial support. Departmental objectives had to fit within the framework of overall corporate objectives, as laid down in the annual Council Plan. Those groups that best demonstrated their ability to fulfil the tender obligations were chosen for financial support. Directorate panels assessed all tenders. The panels included representatives of the third sector, some from outside Birmingham.

The change process

- 24** The Council phased the implementation of the third sector commissioning framework, starting with a single directorate. The Council learned lessons from successes and failures of this pilot scheme. Three internal groups led the programme of change across the Council's five directorates: a Corporate Third Sector Group; a corporate project team; and an officers' working team.



- 25 The Corporate Third Sector Group gave strategic leadership to the third sector project: developing the corporate funding strategy and commissioning framework. It led the programme of change across the Council's five directorates. It was chaired by the project manager – an existing assistant director. The group brought together one representative (at assistant director level) from each directorate; one representative each from equalities, housing and policy and performance; and representatives of the third sector (as agreed by the group) and the third sector chief executives' network. Together they established the strategy, policy and implementation framework, including timescales.
- 26 The corporate project team consisted of a senior policy officer from the corporate policy and performance team, who was appointed as project coordinator, and a dedicated third sector project officer. The third sector officers' working group was a practical, officer-level group, consisting of the Councils' directorate-based grant administrators. They considered operational matters flowing from the reform. The corporate group and project team were responsible for ensuring commitment and co-operation from all directorates.
- 27 Each directorship formed a team to oversee its transformation process and to manage individual funding agreements, including providing assurance of compliance with the grant aid conditions. Directorates were given responsibility for designing individual funding agreements, within the corporate framework.
- 28 The corporate working group also oversaw the creation of a third sector funding database to record the funding the entire Council invests in third sector organizations and to help identify and prevent duplication of funding or commissioning activity. A separate database of commercial contracts is also being built-up to improve standard procurement. Eventually the Council intends to cross-reference the commercial contracts database with the third sector grants management system, which has yet to be procured.
- 29 The Council accepted that the move to third sector commissioning should not be confused with commercial contracting. Relationships with the third sector had to be 'funding agreements' linked to 'service level agreements' and not contracts. If they were regarded as contracts the payments would be subject to VAT, whereas service agreements specifying the conditions for grants are VAT free. Payments under the service agreements are not 'performance related', but are subject to clawback where performance does not comply with grant aid conditions.

- 30 The role of council officers responsible for relationships with third sector organisations has changed substantially as a result of the reform process. Former project officers will cease to have responsibility for specific third sector bodies: now they monitor and support particular funding agreements. The move to a new system was strongly driven by the appointment of a ‘cabinet third sector champion’, the lead member for adults and communities. It was also enabled by the secondment for 10 weeks, on a one day a week basis, of BVSC’s head of contracting to design and review, with a third sector project team, the commissioning framework documentation.
- 31 The move from grants to funding agreements was undertaken in stages. The regeneration, local services and housing directorates were the first to move to the new system. In each case, the change process proved more challenging than anticipated. Each directorate underestimated the level of support required for both the third sector and those officers immediately involved in the process of change.
- 32 By using a very clear and independently assessed scorecard, the new commissioning arrangements had transparency. This provided evidence of the honesty and legitimacy of decisions on the allocation of funds. These scorecards were made available to BVSC’s Chief Executives Forum which was then able to reassure groups that the decisions taken were fair and reasonable. Individual third sector organisations were given selected feedback from the scorecards to support the decision-making transparency.
- 33 The principles of the new system were simple. But the practical details were complex and required detailed and defensible technical, legal and procurement support. The level of this technical support was much greater than expected.



Implementation challenges

- 34 The Audit Commission conducted an interim audit of the commissioning strategy, examining its pilot adoption in the regeneration services directorate. This audit illustrated that while the objectives of the new system were sound, implementation was difficult. Specifically, the Commission raised questions and concerns about the practical application of the policy, including how it fitted with other corporate policies.
- Could a third sector organisation bid for funding from more than one directorate? What would happen in practice if it did this?
 - How would the role of district/constituency offices in commissioning services fit with the overall corporate strategy on the third sector?
 - How would directorates' various priorities, policies and tender criteria be coordinated, consulted on and moderated?
 - How would assurance be provided that third sector groups were not in receipt of duplicated funding?
 - How would there be equality and transparency in the appraisal and selection process?
 - How would the commissioning criteria make clear to potential bidders the specified outcomes?
 - Proposed performance indicators need to be based on outcomes and value for money not inputs.
 - The pilot bidding, selection and appraisal process was effective and well-received, but costly for the Council and some third sector organisations.
 - Consultees within the third sector were concerned that the tendering system could present difficulties for smaller organisations.
 - There needed to be proportionality between the cost to organisations in tendering with the amount of funding they might receive.

- 35 Moving to the new system highlighted the shortage of commissioning skills within the City Council. This issue was exacerbated by the simultaneous move to devolved decision-making within district/constituency offices. Effective commissioning from the third sector requires, for instance, understanding of full cost recovery and unit costs. It is unrealistic to expect this of staff who have not been trained in basic financial management principles and raises challenging questions about the competence of devolved offices to be fully empowered in commissioning and the resources required to enable this to happen.
- 36 The role of the Audit Commission proved very important. Having criticised the old system of working with the third sector, the Audit Commission was a catalyst for change and enabled the Council's officers to drive through a different approach.
- 37 Guidance from both the Improvement and Development Agency and Birmingham Voluntary Service Council also proved very useful, particularly in giving best practice advice and was influential in the design of the new system. The role of these external organisations was very helpful in persuading the local third sector of the potential benefits of moving to a new system. Given the strained relationships between the City Council and the local third sector, there would have been scepticism about the motives without that external validation – with likely accusations that the change was designed to save money.

Persuading the third sector

- 38 Birmingham's third sector recognised that it could potentially gain substantially from a change in approach by the Council. The poor quality of communications between the City Council (especially those who made commissioning decisions) and the third sector was a legacy problem which had to be overcome as part of the change process. The existing poor relationship between the third sector and the Council reinforced the recognition on both sides of the need for better ways of working.



- 39 Grievances from the third sector included the lack of full cost recovery – for example, that if the Council paid a third sector body to provide a certain number of home helps it did not also make a contribution towards the employing organisation’s overall administration costs. The third sector had been frustrated, too, at the late notice of funding approvals before the start of each financial year, leaving groups with inadequate time to plan. In particular, this caused difficulties in retaining staff – who were often unsure about the continuation of their own contracts of employment – and in recruiting new staff. In turn, these problems undermined the ability of third sector organisations to provide services in the most effective manner.
- 40 Confusing and duplicated systems of reporting to the Council and accountability to funding departments were a strain on the administration of third sector groups, as well as the Council itself. Creating a single, unified, system of reporting offered potential efficiencies to both sides. There was an expectation that a move to a new system would lead to more effective administration on the parts of both the Council and third sector organisations.
- 41 Birmingham’s third sector was fully involved in the planning and implementation stages of the reforms, with a senior official – BVSC’s head of external relations and contracting – seconded one day a week to the Council for the duration of the programme of change. The Council opened up its internal working groups to members from the third sector.
- 42 After complaints from the third sector at difficulties in the pilot programme – reported by the Audit Commission in its interim performance audit – a ‘light touch’ application process was established for smaller financial applications, between £5,000 and £50,000. This ensured that the most extensive analysis of tenders was restricted to major schemes, valued at over £50,000.
- 43 The Council implemented a range of capacity building measures to support the third sector’s move to the new system.
- The Council’s existing in-house third sector capacity building services have the specific remit of building capacity in the third sector. Development support is particularly targeted at groups who have not traditionally received financial support from the Council, whose memberships are marginalised, or where a group is newly formed.
 - A procurement portal was established on the Council’s website for third sector organisations.

- The Council and the third sector agreed a procurement concordat.
- A joint working group between the Council and the Birmingham and Solihull Social Enterprise Consortium advised on developments.
- The Council hosted trade fairs to raise awareness of procurement opportunities and the ability of the third sector to exploit those opportunities.
- Third sector providers have been given a role within several of Birmingham's constituency/district offices, to promote local choice in service delivery as a pilot programme.
- Third sector procurement guidance has been drawn-up for council officers, along with a social enterprise promotional guide produced by the Birmingham and Solihull Social Enterprise Consortium.
- The Council has established an External Funding Support team, which aims to maximise income for the third sector in Birmingham by providing advice for organisations on external funding sources, including public sector initiatives, charitable trusts and foundations. This has been backed by training events. Significant additional income (more than £1 million) has been generated for Birmingham with the backing of this team.

Outcomes

- 44 Relationships and communications have improved between the Council and funded third sector organisations. The Council is clearer about what it wants and funded organisations are better able to meet these more transparent requirements. Reporting systems to the Council for third sector organisations are clearer and less onerous. There is less duplication of streams of accountability.
- 45 For the first time, the third sector is subject to a system of performance management. While this has become a requirement of the Council, this is flowing into third sector organisations themselves. Input based measurement of the third sector has been replaced by measurement of outcomes.



- 46 There is now much better partnership working not only between the third sector and the City Council, but also within the third sector. Several partnerships have been formed between third sector bodies to enable groups to jointly fulfill funding and service agreements. This increases the spread of coverage achieved by individual funding and service agreements and can reduce the administrative burden falling on individual groups, enabling them to devote a higher proportion of their resources to service delivery.
- 47 The third sector now feels listened to by the Council and that it can influence the Council. It also feels that council officers have a better understanding of how the third sector works. There is now adequate advance warning of changes to funding and service agreements. Both the Council and BVSC believe that Birmingham's citizens have become much better served as a result of the adoption of the third sector commissioning framework.
- 48 The focus of funding and service agreements has become firmly on the services to be provided, on the locations where these are provided and on the Council's service targets. This has moved service delivery onto council priorities, rather than the demographic membership profiles of groups who have obtained grant funding.
- 49 According to assessors of Birmingham City Council's successful bid for Beacon status for the project, 'There is no doubt that considerable trust, the most important ingredient, has now been built-up between the Council and key third sector bodies and that the direction of travel is well set.'

Beacon Council

- 50 Birmingham City Council became a Beacon council for 2007/08 for 'increasing voluntary and community sector service delivery'.
- 51 The Improvement and Development Agency graded the Council's application as 'excellent'. Assessors praised the enthusiasm of those involved from the Council and the third sector, their commitment to work together to improve services and highlighted strong, motivational leadership on third sector issues at all levels of the Council.

- 52 The Council was commended in the 2007 Municipal Journal Achievement Awards for ‘Innovating with the Third Sector’, and received the Centre for Social Justice Local Authority Award in June 07 for ‘outstanding partnerships with local voluntary organisations’. Birmingham City Council was also given a gold commendation in the 2006 Compact awards.

Barriers to implementation

- 53 Implementation has been achieved, despite considerable barriers. In particular, it has withstood a change in administration, Birmingham having been run for many years by the same party. The exercise also stayed on course despite the reality that rather than saving money as expected, it has actually required – at least in the short term – additional resources.
- 54 A substantial barrier to implementation was the inherent and residual mistrust of the City Council by the local third sector. The move to the third sector commissioning framework and the associated engagement with the local third sector has overcome this and created a more effective working relationship.
- 55 Having overcome these barriers, both the City Council and BVSC are confident that they will maintain progress.

Lessons learned

- 56 The development of third sector service agreement policies and practices need to involve the corporate procurement teams.
- 57 Moving from grant aid to service agreements cannot be assumed to lead to cost savings. It needs to be entered into as a process to improve efficiency and integrate objectives.
- 58 The adoption of these practices implements an important policy objective – and needs to be fully resourced with this in mind.



- 59 Politicians need to be engaged in the process. In particular, lead councillors must be fully involved, enabling them to get the departments for which they are responsible fully engaged.
- 60 Seconding a representative of the local third sector during the process of transformation can have major benefits. That secondee needs to be able to attend meetings with senior council officers, sit-in on internal meetings and engage with the wider third sector, including black and minority ethnic groups and social enterprises.
- 61 The third sector itself must be fully engaged and made ready to tender for service level agreements. Third sector organisations need to recognise that this move represents a fundamental culture change for themselves, as well as for their funders.
- 62 The local third sector needs to approve the process for awarding local authority commissioning service level agreements.
- 63 The move from grants to commissioning with funding agreements linked to service level agreements needs at least 12 months. This covers the time to notify existing receivers of grant aid of the change in system, enable groups to consider their future and to begin to prepare for tendering. The period allows departments to research how to write tenders – this process can take longer than departments expect. Birmingham City Council’s expectation that this could be achieved in six months proved unrealistic.
- 64 While it is obvious that the third sector requires capacity building, it is less obvious but also true that the statutory sector requires capacity building to work efficiently with the third sector.
- 65 The devolution of decision-making and service management to local constituencies by the City Council increased the need for this statutory sector capacity building; for example, in financial management skills.
- 66 The involvement of the auditor, the Improvement and Development Agency and the Core Cities group proved of great value to Birmingham City Council in managing the change.
- 67 Nomination of a cabinet lead for the project was important in driving the project, both internally and externally.

- 68 Reference to the third sector in Birmingham’s local area agreement was an important driver for change.

Sources

Interviews with:

- Liz Clements, Corporate Third Sector Coordinator, Birmingham City Council;
- Theresa Gillard, Head of Contracting, Birmingham Voluntary Sector Council; and
- Pauline Roche, Lead Officer, Beacon Dissemination Programme, Third Sector Project, Birmingham City Council.

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