



Literature Review



Commission for the Compact

Research into independence and
the Compact

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Contents

| | |
|---|-----------|
| Introduction | 1 |
| Definitions and concepts | 2 |
| The third sector | 2 |
| The Compact | 4 |
| Independence | 6 |
| The importance of independence to the sector | 8 |
| Beveridge and beyond | 8 |
| The Seventies and Eighties | 8 |
| The Nineties and New Labour | 9 |
| Independence in the 21 st Century | 10 |
| Campaigning and controversy | 12 |
| Importance of independence | 12 |
| The Compact and safeguarding independence | 13 |
| Compact principles | 13 |
| Role of the Compact | 14 |
| Alternatives or complements to the Compact | 16 |
| Effectiveness of the Compact | 18 |
| Current policy context | 21 |
| Public service delivery | 21 |
| Community empowerment | 23 |
| International picture | 26 |
| United Kingdom | 26 |
| Europe and beyond | 27 |
| Conclusions | 28 |
| Bibliography | 30 |

Introduction

Two pieces of research are being conducted into the Compact commitments relating to the independence of the third sector. The first, commissioned by the Commission for the Compact and undertaken by Rocket Science, focuses on a cross section of central government departments and will incorporate general issues around independence and the Compact as well as a specific focus on the 'right to campaign'. The study aims to increase understanding of:

- The Compact's role in safeguarding and recognising the independence and voice of the third sector;
- How far the Compact is being implemented in regard to independence within national government, and the different approaches being used; and
- How central government perceives its commitments to safeguarding the independence of the third sector, including the concepts and language used.

In a parallel study, Compact Voice is looking at the role of the Compact in safeguarding independence from the point of view of the third sector, and is aiming to produce guidance on the use of the Compact in relation to independence. Compact Voice's research will consider the following questions:

- Is the Compact fulfilling its commitment to the sector on independence?
- How is the Compact being used to safeguard your organisation's independence?
- If it isn't being used, what are the reasons for this and how can it be more effectively used?

As part of its work, Rocket Science undertook to compile a literature review in order to consider evidence to date about:

- The importance of independence to the third sector;
- The role of the Compact in safeguarding that independence;
- The current policy context that sets the boundaries for the Compact; and
- Some international comparisons, where useful and appropriate.

The importance of the current policy context is that it has introduced a significant shift towards encouraging the third sector to become a major provider of government funded services as well as being a major force for mobilising and empowering communities through the power of voluntary action. As we note below, earned income in 2005/6 was 50.3% of the sector's income, up from 39% in 2000/1.

Why does the commitment of more funds (albeit on a competitive basis) raise issues for the voluntary sector? After all, no-one from the private sector is worried by the opportunity to bid for more government contracts. The main reason, according to the literature, is that the sector (or at least a significant number of organisations) and its advocates see independence from government as one of its key values and fear that this will be put at risk if the sector becomes over dependent on government funding.

Part of the thinking behind the Compact was to ensure that this independence was protected and that receiving government money should not reduce an organisation's ability to campaign on behalf of the communities it serves.

Though the UK is not the only country to have gone down the path of trying to systematise relations in this way – Germany, the Netherlands, Canada and Australia have similar arrangements – the review suggests that none of these are significantly in advance of the UK position.

Definitions and concepts

This literature review concerns the Compact and the independence of the third sector. Before proceeding further, these terms need to be defined. The following pages explore the concepts of the "third sector", the "Compact", and "independence".

The third sector

The concept of the "third sector" is a relatively recent one. The term first emerged in the UK political mainstream in 1995, although it had already gained currency in the USA with the publication of Levitt's *The Third Sector, New Tactics for a Responsive Society* in 1973 and had appeared in EEC/EC official documents in the mid 1980s.¹

Today, the Government defines the third sector as "non-governmental organisations that are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives. It includes voluntary and community organisations, charities, social enterprises, cooperatives and mutuals."² It categorises these further as:

1. Voluntary and community organisations (VCOs)

- (a) **Charities (registered and unregistered)** – in England and Wales at the end of 2006 there were 168,600 registered charities (not including 21,800 subsidiary charities). They range from household names such as Barnardo's (one of the 630 registered charities with annual income over £10 million) to the small trust founded to relieve hardship in a specific parish (typical of the 35,300 registered charities with annual income under £1,000). A recent estimate suggests there are around 110,000 unregistered charities. Unregistered charities include universities, many national museums and galleries, some housing associations, and numerous small educational and religious bodies.
- (b) **Non-charitable VCOs** – Information about non-charitable VCOs is scarce as many of them operate unknown either to public bodies or to researchers. Their variety in size and activities is broadly the same as for charities, though they also include some types of organisations - such as Community Amateur Sports

¹ Haugh, H and Kitson, M (2007), "The Third Way and the third sector: New Labour's economic policy and the social economy", in *Cambridge Journal of Economics*, Vol. 31, pp. 973-994

² Cabinet Office and HM Treasury (2007), *The future role of the third sector in social and economic regeneration: final report*

Clubs, and bodies with what the law treats as a political purpose (e.g. Amnesty International) – that are outside the scope of charity. In common to organisations in this category is that they exist and operate for an altruistic purpose rather than for private benefit; that they were set up, and could be wound up, without needing the permission of the state; and that they rely to a greater or lesser extent on volunteers.

2. Social enterprises

In 2005 there were over 55,000 social enterprises, some of which also come into the categories of VCOs or cooperatives. The annual turnover of social enterprises is around £27 billion and they contribute about £8.4 billion to GDP. Social enterprises are active in a wide range of economic activity, in sectors such as training, social care, housing, leisure and childcare. They include organisations such as those selling fair trade goods such as Café Direct, organisations established to provide employment opportunities for people facing disadvantage (Social Firms) and development trusts.

3. Cooperatives and mutuals

As at December 2005 there were over 8,100 Industrial and Provident Societies registered with the Financial Services Authority, with around 19 million members. The most significant are consumer and worker cooperatives, cooperative consortiums, agricultural cooperatives and housing cooperatives. There were 567 registered credit unions in Great Britain as at September 2006, with just under ½ million members.³

The Institute for Fundraising offers further clarification of the characteristics and structures of the most significant of these categories – that of voluntary organisations:

Voluntary Organisations are:

- set up for charitable, social, philanthropic, religious, political or similar purpose
- required to use any profit or surplus only for the organisation's purposes
- not a part of any governing department, local authority or other statutory body.

Voluntary organisations have a legal structure or status, being an unincorporated association, or a trust or company limited by guarantee. The constitution or governing document and the governing body depend on the legal structure:

- If the organisation is a registered company, the governing document will be a memorandum and articles of association and the governing body is comprised of company directors.
- If the organisation is a trust, a trust deed or declaration of trust will be the governing document and a board of trustees will govern.
- If the organisation is an association set up exclusively for charitable purposes, it will be governed by a constitution or rules, and members of the governing body have all the duties of charity trustees.
- If the organisation is both charitable and a company, the voting members are both directors and trustees.

A registered charity may be all of the above, but is not permitted to have political objectives or undertake political lobbying other than in a generally educational sense. Only registered charities may benefit from preferential tax status.

Source: Institute of Fundraising (2008), *What is a charity or a voluntary organisation?*

This briefing highlights the diversity of the third sector, particularly in terms of the legal structure of organisations. Some commentators have pointed to the difficulties in defining, let alone analysing, a sector which has such a complex structure and fuzzy boundaries.⁴ Nonetheless, as others point out, definitional precision is essential when policies are being scrutinised for effectiveness.⁵

Thus, whilst acknowledging the heterogeneity of the sector in terms of legal structures and activities, this literature review will follow the useful distinction made by Haugh and Kitson, who point out that “An analysis of the social economy can either use objectives or activities as the unit of analysis – in this paper we are primarily concerned with organisations in the third sector who pursue social objectives.”⁶ This focus on social *objectives* as the defining characteristic of third sector organisations reflects the current government definition already presented. Ultimately, the organisations included in our definition of the third sector are those that are “value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives.”

The Compact

Introduced in 1998, the *Compact on Relations Between Government and the Voluntary Sector* is an agreement to improve relationships between government and the voluntary sector to mutual advantage.⁷ The commitments in the Compact apply to all central government departments and agencies, including non-departmental public bodies, regional government offices and local public bodies.

The national Compact emerged from suggestions made in the 1996 report of the independent Commission on the Future of the Voluntary Sector, chaired by Nicholas Deakin. The Deakin Commission report, *Meeting the challenge of change: voluntary action in the 21st century*, called for wide-ranging reforms within government and within the voluntary sector and, in particular, in relationships between the two. It concluded that the terms of the engagement between the two needed to be dramatically changed and, even more radically, that the basic principles for future relations needed to be given formal expression in a negotiated agreement or ‘concordat’ drawn up between representatives of government and the sector.⁸

At the time, the Conservative Government rejected the report’s call for government action to improve its relations with the voluntary sector, albeit endorsing the Deakin Commission’s comments on the need for change in the sector itself. Significantly,

⁴ Brandsen, T. et al (2005), “Griffins or Chameleons? Hybridity as a Permanent and Inevitable Characteristic of the Third Sector”, in *International Journal of Public Administration*, vol. 28, Issue 9 & 10, pp. 749 - 765

⁵ Kelly, J. (2007), “Reforming Public Services in the UK: bringing in the Third Sector”, in *Public Administration*, vol. 85, Issue 4, pp. 1003-1022

⁶ Haugh, H and Kitson, M (2007), “The Third Way and the third sector”

⁷ Compact Working Group (1998), *Compact on Relations Between Government and the Voluntary Sector*

⁸ Commission on the Future of the Voluntary Sector (1996), *Meeting the challenge of change: voluntary action in the 21st century*

however, the ideas contained within the Deakin Commission report were embraced by Labour in *Building the Future Together*, published in 1997 following a review of the party's relations with the third sector. This document echoed the Deakin Commission in calling for what was now called a "compact" between the party and the voluntary and community sector. The compact was envisaged as being underpinned by a set of principles which would form the basis for a partnership between government and the sector.⁹

In the same year, a conference of leading third sector umbrella bodies backed NCVO's proposal for a Compact Working Group to drive the proposal forward from the sector's perspective. In May 1997, Tony Blair assumed public office and the New Labour Government took up the Compact proposal. The Government consulted with over 25,000 organisations on the idea of a Compact before its launch in November 1998.

Since the publication of the original Compact, five Codes of Good Practice have been launched, setting out the detail on particular aspects of the relationship between Government and the sector. These guides to good practice cover:

1. Funding (published 2000, revised 2005 as Funding and Procurement Code)
2. Consultation and Policy Appraisal (published 2000)
3. Volunteering (published 2001, revised 2005)
4. Black and Minority Ethnic Organisations Code (published 2001)
5. Community Groups (published 2003)

Over time, the principles in these guides have become increasingly adopted into new policy and legislative approaches. They have been referred to by the Local Government Ombudsman when making decisions and their use is tested in various inspection regimes, such as Comprehensive Performance Assessment (CPA), introduced in 2002.

Furthermore, since the launch of the national Compact, "Local Compacts" have been adopted in local authority areas across the country. These are local level agreements which adapt the national framework to suit local circumstances and to promote partnership working between the sector, councils and other local public bodies. The first Local Compact was published in 1999 by Dorset County and Local Compact Guidelines were published in 2000 (revised as *Local Compact Implementation Workbook*, 2006).

According to the Commission for the Compact, 99% of local authority areas are now Compact-active (i.e. covered by a published Local Compact or developing one) including all Counties, London Boroughs, major cities and neighbourhood renewal areas. Some of these Local Compacts are linked to Local Strategic Partnerships with sign-up from all local public bodies.

⁹ Labour Party (1997), *Building the Future Together: Labour Party's Policies for partnership between Government and the Voluntary Sector*

The implementation and championing of both the national Compact and Local Compacts has been overseen by a Commissioner for the Compact since 2006. In April 2007, a new Commission for the Compact was set up. The Commission's work includes promoting the Compact and its codes, developing an evidence base to review the Compact's progress, sharing good practice and looking thematically at key issues that affect the relationship between statutory and voluntary sectors.

Meanwhile, the sector remains active in the progress of the Compact. The original Compact Working Group set up in 1997 to drive the introduction of the Compact has since been renamed Compact Voice. It now functions as an independent body, hosted by the National Council for Voluntary Organisations (NCVO), representing the voluntary and community sector in England on taking the Compact forward.

Also based at NCVO is the Compact Advocacy Programme, a scheme set up in 2002 that provides practical support and wider campaigning to the sector in cases where local or national government bodies have breached the Compact. The Compact Advocacy Programme works closely with the Public Law Project to ensure that the links between Compact commitments and public law are made and to support voluntary organisations in challenging poor practice in the most effective way. Finally, complaints about maladministration can also be raised with the Local Government Ombudsman or Parliamentary Ombudsman.

Independence

'Independence' is a controversial and hotly debated term – and not just in the context of the third sector's relationship with the state. The word is defined in the dictionary as "freedom from the control, influence, support, aid, or the like, of others."¹⁰ In the context of the third sector, independence is often construed as an organisation's freedom from reliance on the state (or, indeed, on the private sector).

However, this is to define independence in a negative way, i.e. one's freedom *from* others. Some argue that it should be defined in a more positive way, i.e. one's freedom *to* do certain things oneself. This is more akin to 'autonomy', a term sometimes offered as a synonym or a complement to 'independence'.¹¹ A positive definition of independence as a 'freedom *to*' can be seen with reference to the third sector in Matthew Smerdon's definition of independence as an enabling factor for organisations (see box overleaf):

¹⁰ <http://dictionary.reference.com/browse/independence>

¹¹ See, for example, Roberts, J. (2007), *Partners or Instruments: can the Compact guard the independence and autonomy of voluntary organisations?*

What is independence and what does it enable organisations to do?

Independence is the ability organisations have to enjoy a range of freedoms. Freedom to:

- agree values based on their own experience and vision and not external pressures
- carry out work that delivers the stated purpose of the organisation
- negotiate robustly with funders and partners
- challenge others and engage in public debate

In turn, these freedoms are necessary for organisations to perform their important functions. To:

- identify needs
- pioneer new approaches to tackling these needs
- provide services that meet these needs
- provide the means of empowerment for groups that are marginalised
- articulate dissent
- promote equality
- inspire others

In reality, independence is never absolute: there are legal and financial responsibilities, the need to meet ethical accountabilities to users, members and supporters and requirements to fulfil funding conditions. Organisations operate through a wide range of relationships. Through these relationships, organisations experience pressures which can have an impact on the freedoms set out above.

Source: M. Smerdon (2006), *Allies not servants: Voluntary sector relations with government*, Baring Foundation

As Smerdon points out in the final paragraph of this excerpt, in reality nobody and nothing is entirely independent in a strict sense of the word. Anthony Storr has suggested that recognition of *interdependence* is a mark of maturity in adults, in contrast to adolescent strivings for *independence*.¹² As Knight and Robson point out, this same framework of interdependence can be applied to third sector organisations to shape a more sophisticated debate about independence.¹³

In short, the independence of the third sector does not have to be an absolute “freedom from the control, influence, support, aid, or the like, of others” as suggested by our original dictionary definition. For example, an independent third sector organisation can receive some support from the state. What is more important is that it is free to implement its values, *alongside* (or, as some would have it, *despite of*) any support from the state. Thus, “independence” in this literature review is taken as a positive ‘freedom to’ as much as a negative ‘freedom from’.

¹² Storr, A. (1963), *Integrity of the Personality*

¹³ Knight, B. and Robson, S. (2007), *The Value and Independence of the Voluntary Sector*

The importance of independence to the sector

Beveridge and beyond

Independence from the state has long been seen as central to the character of the voluntary sector in the UK. In his post-war deliberations on the welfare state, William Beveridge described “voluntary action” as private action not under the directions of any authority wielding the power of the state. In Beveridge’s conceptualisation, voluntary action is action that has a will and a life of its own.¹⁴

Beveridge’s association of voluntary action with independent will links to the very origins of the word voluntary itself: from the Latin *voluntas* (‘will’), the word signifies that something has been done in accord with the will. To this day, parts of the third sector are fiercely proud of the sector’s independence of will. Barry Knight describes ‘voluntary action’ as “A form of energy, stemming from free will, having a moral purpose, and undertaken in a spirit of independence.”¹⁵ Julia Unwin praised voluntary organisations’ “independence of thought” in her 2005 Allen Lane lecture, while Knight and Robson have recently pointed to the centrality of the sector’s “independence of mind”.¹⁶

Beveridge saw the voluntary sector as clearly separate and independent from the apparatus of state. However, as Nicholas Deakin has pointed out, the post-war settlement allocated “a place for voluntary action but in a subordinate role, filling the gaps that even an efficient state system would inevitably leave.” Independence was perfectly possible in an environment in which the dominant belief was that “the resources of the state should be brought to bear systematically on major social problem issues” and that voluntary action was consigned to “marginal activities”.¹⁷ The two sectors did not need to significantly overlap in their activities or compete for resources.

The Seventies and Eighties

Independence began to take on a different tone as the post-war reliance on state planning broke down in the late 1960s and 1970s. From the mid-1970s onwards, the government began to rely more and more on market-based solutions to a whole range of activities. The relationship between the voluntary sector and the state became more complex, for example with the government’s attempts to involve voluntary organisations in the delivery of its programmes for relief of high unemployment.

These developments led to a growing debate about the role of voluntary action and the implications of funding arrangements for sector independence. In 1978, the report of the

¹⁴ Beveridge, W. (1948), *Voluntary Action: a report on methods of social advance*; Smerdon, M. (2006), *Allies not servants: Voluntary sector relations with government*

¹⁵ Knight, B. (1993), *Voluntary Action*. Home Office

¹⁶ Unwin, J. (2005), “Dissent, Independence and Risk: The Challenge for Independent Grant Making Trusts”; Knight, B. and Robson, S. (2007), *The Value and Independence of the Voluntary Sector*

¹⁷ Deakin, N. (2005), “Civil society and civil renewal”, in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

Wolfendon Committee, *The Future of Voluntary Organisations*, labelled the voluntary sector as a unified whole and stressed the need for cooperation between the state and the sector.¹⁸ Two years later, the National Council for Social Service (NCSS) renamed itself as the National Council for Voluntary Organisations (NCVO) and restated its aims in its 1980 annual report to include an aspiration “to protect the interests and independence of voluntary organisations.”¹⁹

The increasing complexity of relationships between the sector and government led to *A Code for Voluntary Organisations* being published in March 1984 on relations between the voluntary sector and government. An accompanying *Memorandum of Understanding* between NCVO and its major funder, the Voluntary Services Unit of the Home Office, aimed to help voluntary organisations to secure departmental funding on proper terms. This set out two basic principles for the sector:

- the independence of policymaking, for which trustees carry the ultimate responsibility; and
- the organisation's need for full accountability to HM government for its expenditure through open and detailed account of what has been done.

These two principles reflect the need for balance in the relationship which was beginning to be expressed. On the one hand, the third sector recognised its accountability to the government for state expenditure which had been allocated to it. On the other hand, the sector reasserted the independence of its policymaking regardless of any income from government.

The Nineties and New Labour

The assertions of independence by the sector gained strength in the 1990s. Indeed, Kay Coles has written of the 1990s that “Whereas a decade ago voluntary organisations were perceived largely as an adjunct of the state, now they were seen increasingly as equal and independent partners working alongside the public and private sectors.”²⁰ For Geoff Mulgan, this period saw the terms of the relationship between the third sector and the state changing so that partnership became more equal.²¹

In particular, the late 1990s saw New Labour’s emerging philosophy, especially the development of “Third Way” politics, further articulate the independent role of the third sector. The Third Way took elements of Thatcherism, including a liberal market framework, but retained Labour’s traditional commitment to social justice. This resulted in attempts to ‘marketise’ the public sector, with the state viewed as an enabler which would engage with the third sector to address society’s needs.²²

¹⁸ Kendall, J (2004), “The Mainstreaming of the Third Sector into UK Public Policy in the late 1990s: Whys and Wherefores”, in Zimmer, A. and Stecker, C. (eds.), *Strategy Mix for Nonprofit Organisations: Vehicles for Social and Labour Market Integration*, pp. 41-70

¹⁹ Coles, K. (1993), *The National Council for Voluntary Organisations from 1919 to 1993*

²⁰ Coles, K. (1993), *The National Council for Voluntary Organisations from 1919 to 1993*

²¹ Mulgan, G. (2000), “Government and the third sector: Building a more equal relationship”, in Anheier, H. (ed.), *Third Way, Third Sector*

²² Haugh, H. and Kitson, M (2007), “The Third Way and the third sector”

It was in this context that the Compact was signed in 1998. As we shall see below, the Compact embodied New Labour's acceptance of the need to respect the independence of the sector. However, it was drawn up at a time when it was becoming increasingly difficult to define and protect the independence of the third sector as it took on a greater role in the design and delivery of services.

Independence in the 21st Century

The government's increasing involvement with, and funding for, the third sector has heightened concerns about the sector's ability to preserve its independence and voice. In recent years, the proportion of the third sector's income from the public sector has risen significantly. By 2005/06, earned income from the sale of goods and services constituted over half of all third sector income for the first time. Earned income accounted for £31 billion or 50.3% of the sector's income – up from £23.3 billion or 39.3% of the sector's income in 2000/01.

Moreover, the profile of the sector's income from the public sector has changed dramatically. While grant levels have remained the same since 2000/01, contract income from the public sector has increased dramatically. As a result, the proportion of public sector income coming from grants has dropped to 38% from over 50% in 2000/01.²³

These changes are being driven by central Government. *The Future Role of the Third Sector in Social and Economic Regeneration*, published in July 2007, set out a series of actions to enable Government to use the third sector more effectively in the shaping, design and delivery of public services.²⁴ To support these objectives, Departments have employed Third Sector Liaison Officers, Third Sector Champions and Senior Responsible Officers with accountability for delivery on Public Service Agreement (PSA) targets and cross departmental objectives.

Many both within and without the sector are concerned about the potential impact of these developments on the independence of third sector organisations. Nick Seddon has ominously invoked "that hoary old cliché he who pays the piper calls the tune."²⁵ In his 2007 report for independent think-tank Civitas, *Who Cares? How state funding and political activism change charity*, Seddon even goes so far as to suggest that charities that derive over 70% of their income from the state should lose their charitable status because they have reached a level of dependency which makes them *de facto* state agencies. In Seddon's typology, charities which would be reclassified as statutory agencies include some of the biggest and most famous charity brands: Barnardo's (78% state funded), NCH (88%), and Leonard Cheshire (88%).²⁶

²³ NCVO (2008), *The UK Civil Society Almanac 2008*

²⁴ Cabinet Office and HM Treasury (2007), *The future role of the third sector in social and economic regeneration: final report*

²⁵ See, for example, Seddon, N. (2008), "Comment: Who is in charge of independence?", *Third Sector*

²⁶ Seddon, N. (2007), *Who Cares? How state funding and political activism change charity*

Others have argued that this focus on percentage of income from the state is a distraction from the real issue of independence. Writing for NCVO in 2005, Nicholas Deakin explained that his "reservation would be that the real issue is not a matter of how much funding is given as the terms on which it has been taken and understanding of the consequences."²⁷ As Jane Lewis of the London School of Economics has posited, the problem of the sector's independence when receiving government funding encompasses "both the relatively narrow issue of the terms and conditions of service provision, and the broader issue about the part voluntary organisations might play in policy shaping and democratic renewal."²⁸

According to Cathy Pharoah of the Baring Foundation, perceived threats to this independence include "restrictive or inappropriate performance measurements, under-funding, short-term funding, changed priorities resulting in funding cuts, and government not listening."²⁹ Such threats are making many in the sector nervous about their involvement with government. In the largest survey of charities to date on the subject of public service delivery, the Charity Commission found that only 26% of charities that deliver public services agreed that they are free to make decisions without pressure to conform to the wishes of funders.³⁰

Loss of 'independence' or 'identity' was also identified as a major concern for third sector organisations by the nfpSynergy State of the Third Sector study in 2007. The survey asked respondents an open question about "your biggest concerns or priorities for your charity in the next few years". The responses revealed widespread worries "that the essential ethos of the sector would be lost, through working too closely with government, too many contracts" and brought up "the need for funding to allow organisations to be independent (i.e. not government contracts)". Over half of respondents to the survey believed that government is exerting too much control over the sector.³¹

In this context, the issue of independence has become ever more central to discussions of the third sector. Summing up in 2001 the five years of development of the voluntary sector since the Deakin report, William Plowden concluded that:

"High on the list of priority tasks, therefore, is the need to preserve the concept of the VCS as independent player, rather than merely as service-provider and arm of government. This will require a continuing process of re-education, of government and wider public. The basic message should be that while the many VOs involved welcome their closer relationships with the public sector, and the chance of collaboration for the benefit their 'constituents' and their

²⁷ Deakin, N. (2005), "Civil society and civil renewal", in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

²⁸ Lewis, J. (2005), "New Labour's Approach to the Voluntary Sector: Independence and the Meaning of Partnership", in *Social Policy and Society*

²⁹ Pharoah, C. (2007), *Sources of strength*

³⁰ Charity Commission (2007), *Stand and Deliver: The Future for Charities Delivering Public Services*

³¹ Greenwood, C. (2007), *The State of the Third Sector 2007*

own objectives, the VCS and its objectives go much wider than this."³²

Campaigning and controversy

One concern often expressed by the sector is around its 'right to campaign' against the government, seen as central to an independent-minded organisation. Indeed, 41% of third sector respondents to the baseline survey for the National Programme for Third Sector Commissioning thought that the delivery of public sector contracts would make it difficult for them to play an advocacy or campaigning role.³³

Until recently, there was particular unease around the Charity Commission guidance on the rules governing campaigning and political activity by charities. Some charities complained that it was unclear what was meant by the Charity Commission's statement that campaigning could not be a charity's "dominant activity" and had to be "ancillary to its purposes".³⁴

Reacting to this, in March 2008, the Charity Commission released new guidance on the rules. The new guidelines explicitly state that political activity – seeking to influence a specific law or a policy of central or local government – is legitimate, provided it is not a charity's "continuing and sole" activity and that it is undertaken in the context of supporting the delivery of charitable purposes. The essence of the guidance was that charities are free to work with politicians and political parties, provided they are open about it and preserve their independence.³⁵

The Charity Commission's guidance has cleared up some confusion in the short term but has not alleviated the widespread concerns about safeguarding the independence of the third sector in the current policy and funding environment. The Chair of the Charity Commission herself, Dame Suzi Leather, has spoken of the need for charities to guard their independence in order to preserve their distinct role: "Charities have a distinctiveness they must not lose. We must not see a fourth sector emerge – charities delivering public services which are charities in name only."³⁶

Importance of independence

It is clear that the independence of the sector is viewed as central to its distinct role and to its relationship with government. Indeed, the Baring Foundation has argued that "the quality and effectiveness of the relationship [between voluntary organisations and the

³² Plowden, W. et al (2001), *Next steps in voluntary action - an analysis of five years of developments in the voluntary sector in England, Northern Ireland, Scotland and Wales*

³³ Shared Intelligence (2008), *Evaluation of the National Programme for Third Sector Commissioning: Baseline Report*

³⁴ Maier, E. (2007), "Editorial: The political campaigning situation is as clear as mud", in *Third Sector*

³⁵ Charity Commission (2008), *Speaking Out - Guidance on Campaigning and Political Activity by Charities*

³⁶ Leather, Dame S. (2007), "Speech to the NCVO Annual Conference", Wednesday 21 February

government] is determined by the capacity of voluntary organisations to retain their independence." It follows that if third sector organisations lose a degree of their independence, this will in turn have a negative impact on the overall quality of the relationship between the third sector and the statutory sector.³⁷

Independence, then, is seen as vital to the very character and effective functioning of the third sector. Organisations on the ground, as well as national or political commentators, consistently stress the importance of independence and express concerns about how to safeguard it in practice.

The Compact and safeguarding independence

Compact principles

The ideal of an independent third sector is enshrined at the heart of the Compact. The opening pages set out the "shared vision" which underpins this:

"The underlying philosophy of the Compact is that voluntary and community activity is fundamental to the development of a democratic, socially inclusive society. Voluntary and community groups, as independent, not-for-profit organisations, bring distinctive value to society and fulfil a role that is distinct from both the state and the market."³⁸

This is reiterated in the first three "shared principles" of the Compact:

1. "Voluntary action is an essential component of democratic society."
2. "An independent and diverse voluntary and community sector is fundamental to the well-being of society."
3. "In the development and delivery of public policy and services, the Government and the voluntary and community sector have distinct but complementary roles."³⁹

Following this, the first commitment of the document is that the Government:

"Recognise and support the independence of the sector, including its right within the law, to campaign, to comment on Government policy, and to challenge that policy, irrespective of any funding relationship that might exist, and to determine and manage its own affairs."⁴⁰

³⁷ Smerdon, M (2006), *Allies not servants: Voluntary sector relations with government*

³⁸ Compact Working Group (1998), *Compact on Relations Between Government and the Voluntary Sector*, section 5

³⁹ Compact Working Group (1998), *ibid*, section 8

⁴⁰ Compact Working Group (1998), *ibid*, section 9.1

Role of the Compact

While the Compact is clearly committed to the principle of the independence of the third sector, there is debate about its role in safeguarding that independence. The Compact was an attempt to codify and formalise the sector-government relationship but it has no legal underpinning to enforce the nature of that relationship:

"The Compact is a memorandum concerning relations between the Government and the voluntary and community sector. It is not a legally binding document. Its authority is derived from its endorsement by Government and by the voluntary and community sector itself through its consultation process. The Compact will initially apply to central Government Departments, including Government Offices for the Regions, and 'Next Steps' Executive Agencies (whilst applying in principle to all 'Next Steps' Executive Agencies, in practice the Compact will only have effect where those agencies have a relationship with the voluntary and community sector). The Compact will apply to the range of organisations in the voluntary and community sector."⁴¹

Without a legally binding status, the role of the Compact is a more subtle one. Nicholas Deakin, chief architect of the Compact, has suggested that "At the minimum, the compact structures provide a point of reference to which the sector can appeal."⁴² Phil Hope, the current minister for the third sector, has gone further in explaining that "We believe the Compact is a mechanism for bringing about a culture shift."⁴³ This reflects what a baseline review for the Scottish Compact has called "the view that compacts are about replacing existing government mechanisms and methods of working with new democratic structures which are based upon participative rather than representative democracy."⁴⁴

In England, there is currently debate about whether these more participative structures are sufficient or whether the Compact needs legal status.⁴⁵ From one perspective, the Compact is more powerful for the fact that it is participative in nature and founded upon partnership rather than a legal requirement. Advocates of this view argue that the current Compact documents, along with initiatives such as the parliamentary ombudsman and public law procedures, provide sufficient mechanisms to challenge poor government practice. For example, when a service user of Age Concern South Lakeside brought a judicial review against Cumbria County Council last year for breaching the Compact, a High Court judge upheld the document as "more than a wish list; it is a commitment of intent".⁴⁶

⁴¹ Compact Working Group (1998), *ibid*, section 2

⁴² Deakin, N. (2005), "Civil society and civil renewal", in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

⁴³ Ainsworth, D. (2008), "Compact must cover commissioning and contracts, says Hope", in *Third Sector*

⁴⁴ Hayton, K. and GEN Consulting (2003), *Scottish Compact Baseline Review*

⁴⁵ The Commission for the Compact will be leading discussion on the issue of legal status over the summer and, following this, a decision will be made.

⁴⁶ Plummer, J. (2008), "News analysis: The Compact at the crossroads", in *Third Sector*

Many in the third sector, however, see the Compact's voluntary status as insufficient to safeguard independence. In a recent poll of members of the chief executives body Acevo, 96% of the 139 respondents said they think the Compact should be backed up with statutory powers.⁴⁷ Meanwhile, only 7% of 515 organisations that applied to the Baring Foundation's grant fund designed to support organisations in strengthening their independence from government thought that they could make better use of the Compact in negotiating with government funders.⁴⁸ These two surveys suggest that many third sector organisations see the Compact as irrelevant or ineffective in preserving their independence from the government.

Others see a Compact as inherently undesirable and as corrosive to the independence of the third sector, whether or not it has statutory powers. Plowden has pointed to:

"the force of a more fundamental argument, raised on left and right alike: namely, that the new status is undesirable in principle, or least is incompatible with the original purposes of the VCS, and should be relinquished – at least by those organisations which wish to claim the privileges associated with charitable status. For similar reasons the Compact and its supporting Codes (funding, consultation, BMEs, local compact guidelines) have been criticised, as being 'defensive' attempts to systematise and regulate relationships into which VOs should never have been drawn."⁴⁹

These arguments have been present since the start of the formulation of the Compact. Giving evidence to the 1996 Deakin Commission, Frank Prochaska warned that the voluntary sector was in danger of "swimming into the mouth of Leviathan".⁵⁰ Five years later – and three years after the Compact had been agreed – Ralf Dahrendorf invoked similar fears in his 2001 Arnold Goodman Lecture. He spoke of the Compact as a way of subverting the independence of the sector and subsuming it into government. This, he claimed, was leading to an incipient neo-corporatist "Compact sector" which was fundamentally linked to the purposes of government as opposed to a "non-Compact sector" representing free and independent charitable activity.⁵¹

Jonathan Roberts has contended that arguments such as Dahrendorf's highlight that "There is a tension inherent in the Compact. It may create a space for genuine voluntary action – or it may institutionalise the structured relationship between service-providing voluntary organisations and the state, according to the principles of new public management."⁵² As the above discussion of the literature suggests, academic and sector commentary on the role of the Compact in safeguarding independence has at times tended to polarise around this tension.

⁴⁷ Ricketts, A. (2008), "Acevo members back statutory powers for Compact", in *Third Sector*

⁴⁸ Pharoah, C. (2007), *Sources of strength*

⁴⁹ Plowden, W. et al (2001), *Next steps in voluntary action - an analysis of five years of developments in the voluntary sector in England, Northern Ireland, Scotland and Wales*

⁵⁰ Quoted in Deakin, N. (2005), "Civil society and civil renewal", in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

⁵¹ Dahrendorf, R. (2001) *The Arnold Goodman Lecture*

⁵² Roberts, J. (2007), *Partners or Instruments: can the Compact guard the independence and autonomy of voluntary organisations?*

There is a need to paint a more balanced picture: as Hayton has pointed out, “As with all such polarised arguments, there are probably elements of truth on both sides, with the reality, possibly, lying somewhere in between.”⁵³ Even Nick Seddon – proponent of the argument that charities that derive over 70% of their income from the state should be termed statutory agencies – concedes that “Generally, it’s alarmist to claim that government is some malicious leviathan intent on colonising voluntary and charitable organisations... Government as a funder – like any funder – has a right to specify what it wants its money to achieve.”⁵⁴

Nicholas Deakin goes further in arguing that “the extent of the danger can easily be exaggerated.” His point of view is not that the Compact is completely free from danger to the third sector but that the dangers are more complex than the extreme anti-Compact commentators have suggested. Thus, “The real danger of engagement on compact terms is not so much cooption leading to irreversible mission drift as participation fatigue – the edge of innovation being blunted by endless consultative processes and repeated demands to participate which leave little or no spare time to pursue the possibilities of taking new initiatives that ‘push out the envelope’.” Another problem pointed out by Deakin is that there is a real danger that participation in partnership with government at all levels could create or reinforce divisions in the VCS.”⁵⁵

These comments point to a more nuanced view of the role of the Compact in safeguarding the independence of the third sector. In essence, the Compact is an agreement based on principles of partnership and shared vision. As such, it can be a point of reference for policy or can be invoked in negotiations between government and the sector. A few voices in the literature warn of the dangers of cooption but most see the document as strengthening – or having the potential to strengthen – the independence of the sector. There are, however, widespread concerns around the lack of statutory powers, the potential blunting of innovation, and the creation of divisions in the sector.

Alternatives or complements to the Compact

The Compact is not the only means available of protecting the independence of the third sector. Some argue that it is the wrong way of safeguarding independence; while others opine that it needs to be complemented by other methods. For example, Ben Wittenberg, director of policy and research at the Directory of Social Change, recently told *Third Sector* that “The biggest reason the Compact hasn’t taken off is that it’s the wrong tool for what needs to happen”. Wittenberg claimed that the Compact will only work as part of a range of measures designed to improve cross-sector relations.⁵⁶

The National Coalition for Independent Action, meanwhile, believes that it is the responsibility of civil society to protect independence. As Nick Seddon puts it on the Coalition’s website, the group believes that “Charities should look to citizens and communities for their money and mandate, tell ministers to take it or leave it and call

⁵³ Hayton, K. and GEN Consulting (2003), *Scottish Compact Baseline Review*

⁵⁴ Seddon, N. (2008), “Comment: Who is in charge of independence?”, *Third Sector*

⁵⁵ Deakin, N. (2005), “Civil society and civil renewal”, in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

⁵⁶ Plummer, J. (2008), “News analysis: The Compact at the crossroads”, in *Third Sector*

their own tune.”⁵⁷ Andy Benson, the Coalition’s convenor, explains that “the role of the Coalition is to provide a focus for organising amongst the many thousands of people in the sector who do not like what is happening and are prepared to do something to get a better result.”⁵⁸

Others advocate that individual organisations should take action themselves to safeguard their independence. Research undertaken by Community Links on how third sector organisations preserve their values found that interviewees placed the onus firmly on the sector itself rather than on the external environment:

“Values can be influenced if organisations compromise their independence. Organisations have to work hard to protect the freedoms they need to deliver their values: freedom to set values and priorities on their own experience and vision, freedom to deliver the stated purpose of the organisation, freedom to negotiate robustly with funders and freedom to engage in public debate. Again, interviewees were resolute that organisations themselves are responsible for this.”⁵⁹

Similarly, Nicholas Deakin believes in the capacity of organisations themselves to look after their independence:

“Most chief executives and trustee boards are aware of the issues around accepting government funding and can take the necessary steps to avoid overdependence and ensure that their values and mission are not compromised. On policy development, the record since 1997 suggests that those who have participated in task forces and reviews have used the opportunities to good effect without compromising their freedom to criticise.”⁶⁰

The kind of “necessary steps to avoid overdependence” to which Deakin refers are an everyday reality for third sector organisations. In a study of 135 voluntary organisations, Knight and Robson identified a number of what they termed “coping mechanisms for retaining independence”.⁶¹ These included:

- Receiving core funding to pay for general operating costs to guard against fluctuations in project funding;
- Continually repackaging core programmes to meet the criteria of new funding programmes;
- Cultivating a large number of funders so that, should one pull out, the organisation will not fold;

⁵⁷ <http://www.independentaction.net/incharge>

⁵⁸ <http://www.independentaction.net/publicservices>

⁵⁹ Blake, G., Robinson, D., and Smerdon, M. (2006), *Living Values: A report encouraging boldness in third sector organisations*

⁶⁰ Deakin, N. (2005), “Civil society and civil renewal”, in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

⁶¹ Knight, B. and Robson, S. (2007), *The Value and Independence of the Voluntary Sector*

- Developing a 'cash cow', in the shape of a good project that consistently brings in money;
- Following the 'shamrock organisation' approach, with a professional core, a contractual fringe, and a flexible labour force;
- Using partners who deliver work under franchise to the centre so that workflows can vary and payments out can be reduced if necessary; and
- Paying staff less than they would receive in other sectors.

Interestingly, none of the organisations in Knight and Robson's study said that they received any support from the Compact. The role of the Compact in safeguarding the independence of the third sector needs to be considered alongside alternatives such as the coping mechanisms outlined above, the mobilisation of the sector and wider civil society, and other measures designed to improve cross-sector relations.

Effectiveness of the Compact

So far, this literature review has focussed mainly on the hypothetical role of the Compact in safeguarding the independence of the third sector. There is also evidence in the literature about the effectiveness of the Compact in practice. The general picture is of an intervention which has had some impact at the national level but which has failed to make significant inroads at the local level. Jane Lewis, for example, argues that:

"better terms and conditions have been secured for voluntary organisations providing services, and that large and umbrella organisations now have more impact on the implementation of central government policy. However, the more equal partnership required for a policy-shaping role in the sense of agenda-setting is likely to remain elusive, while at the local level there are tensions between the idea of voluntary organisations as agents of 'civil renewal' and as service providers."⁶²

As Lewis points out, the principles of independence and partnership enshrined in the Compact have manifested themselves in the impact that the third sector has on central government policy. Until 31 March 2008, there were a number of bodies reporting to Office of the Third Sector that existed to advise Ministers about aspects of their third sector policy:

- the Voluntary and Community Sector Advisory Group, which advised on voluntary and community sector policy and practice;
- the Futurebuilders Advisory Panel, which advised Ministers on the progress of the Futurebuilders programme and acted as a "critical friend" to the programme;
- the Infrastructure National Partnership which advised not only Ministers but also other government bodies and Capacitybuilders on the strategy and implementation of the government's ChangeUp capacity building programme, run by Capacitybuilders; and,
- the third sector review advisory group.

⁶² Lewis, J. (2005), "New Labour's Approach to the Voluntary Sector: Independence and the Meaning of Partnership", in *Social Policy and Society*

These advisory groups contributed towards the development of programmes such as Capacitybuilders and Futurebuilders as well as the third sector review. However, as set out in the final report of the third sector review, the Office of the Third Sector is now rationalising its advisory structures by creating a single, streamlined advisory body. The new advisory body will be established as an advisory non-departmental public body (NDPB) with up to 12 individual members and one chair, placed on the body as a public appointment.⁶³ Its primary purpose will be to provide advice to Ministers and the OTS in overseeing the implementation of the third sector review commitments and priorities. Members of the advisory body will also be able to present ideas about future priorities, issues and policies which might affect the sector.

At the same time, the Office of the Third Sector funds a number of key strategic partners at national and regional level to ensure that the views of the sector can make an impact on the development of government policy toward the sector. As set out in the interim report of the third sector review, this funding is for a minimum of three years and enables the government to develop a more proactive joint approach to the needs and values of the sector. In 2007-08, this programme allocated over £14 million to third sector organisations and the government has committed to continue the strategic partner programme into the 2007 CSR years (2008-2011).

Furthermore, individual departments are taking steps to ensure compliance and the Office of the Third Sector has announced that it will champion and provide support to government departments wishing to provide strategic, long-term funding to third sector organisations to provide a consistent voice in public policy making, alongside the development or updating of departmental third sector strategies.

However, even the government itself admits that these principles have not fully permeated down into local levels. The third sector review recognised this when it highlighted the different experiences of national and local implementation of the Compact:

“Over the last few years, the Government has put particular effort into improving partnerships at a national level. For example, the Compact has been developed most effectively at national level, many Government Departments have developed important forums for considering policy, national programmes such as Capacitybuilders and Futurebuilders have been established and the regulatory environment has been strengthened. Over the next ten years, the focus needs to be more on local partnerships. Some progress has already been made... However, as central Government devolves more decision making to the local level, it is important that new measures focus on the local.”⁶⁴

⁶³ According to the OTS website, recruitment for the chair and members is now closed. An announcement on the membership will be made shortly.
http://www.cabinetoffice.gov.uk/third_sector/third_sector_review/New_advisory_body.aspx

⁶⁴ Cabinet Office and HM Treasury (2007), *The future role of the third sector in social and economic regeneration: final report*

As we have seen, very nearly all local authority areas are either covered by a published Local Compact or are in the process of developing one. Local authorities also take part in the local consortia set up under the ChangeUp scheme, and IDeA, the improvement and development agency for local government, has been closely involved with the development of third sector policy. Moreover, in 2006, HM Treasury worked with a small number of 'pathfinder' local authorities to improve their understanding of the local third sector and to identify opportunities for closer working.

Nevertheless, it is widely believed that Local Compacts have led to few changes on the ground. In a survey of 460 Councillors in England and Wales in December 2007, nfpSynergy asked whether or not respondents agreed with the statement "The local government compact has made a big difference to our relationship with charities." The results demonstrate the limited impact of the Local Compacts, with only 4% of respondents strongly agreeing, 21% agreeing, 9% disagreeing, 5% strongly disagreeing, 31% neither, and a worrying 30% selecting "Don't know".⁶⁵

This analysis is borne out by an NAO evaluation in June 2007 of the effects of Local Area Agreements on third sector funding. It found that "LAAs and the third sector public services agenda have been developed essentially in parallel, by different parts of central government, with few, weak links between the two... The result of this disconnect is that LAA texts include only limited references to the third sector and there are as yet no visible changes in local patterns of service provision or in local public bodies' funding practices towards the third sector."⁶⁶

There is also a recognition that implementation of the Compact, and compliance with its codes, has been patchy at all levels – not just the local level. In an interview with *The Guardian* in 2004, Deakin gave the Compact 7 out of 10 for what it had done to build a better, two-way relationship.⁶⁷ A year later, only 15% of respondents to a survey in *Third Sector* magazine thought that the Compact had made any significant difference.⁶⁸ By this time, the NCVO-run Compact Advocacy Programme was dealing with 30 breaches each year but admitted that it could do little to prevent non-compliance if a case came to it at short notice.⁶⁹

Responding to these concerns, the Home Office set out in 2005 what it saw as the key challenges to the effective implementation of the original Compact in a consultation document called *Strengthening Partnerships: Next Steps for Compact*.⁷⁰ The challenges it identified included:

- Difficulties in understanding what exactly needs to be implemented and whether or not current practices adhere to the Compact;
- Reluctance of third sector organisations to make a challenge to a public body, possible because of a perception that this might jeopardise future funding;
- The length (140 pages in total) and generality of the Compact and its codes;

⁶⁵ Saxton, J. (2008), *Local Authorities Monitor: Councillors survey report*

⁶⁶ National Audit Office (2007), *Local Area Agreements and the third sector: public service delivery*

⁶⁷ Brindle, D. (2004), "Change agent", in *The Guardian*

⁶⁸ Das-Gupta, I. (2005), *Working with Government: Second Among Equals*

⁶⁹ Benjamin, A. (2005), "Compact gets a makeover", in *The Guardian*

⁷⁰ Home Office (2005), *Strengthening Partnerships: Next Steps for Compact*

- The lack of a mechanism to recognise implementation or highlight non-implementation; and
- The absence of a direct penalty for non-implementation.

One of its key recommendations was the creation of a figurehead for the Compact and an organisation devoted to overseeing the relationship between public and voluntary sectors, to take the Compact forward. In response to this, the first Commissioner for the Compact was appointed in August 2006 and the Commission for the Compact was established in April 2007 as an independent NDPB responsible for overseeing the Compact and its Codes of Good Practice. Furthermore, much of *Strengthening Partnerships: Next Steps for the Compact* was absorbed into the Commission for the Compact's first Business Plan and the joint Compact Action Plan between the Commission for the Compact, Compact Voice, Office of the Third Sector and the Local Government Association.

Current policy context

Public service delivery

Recent years have seen commitment from Government to broaden the partnership working between the third sector and the statutory sector which was enshrined within the Compact. In 2006, the interim report of the Cabinet Office and HM Treasury's joint review of the future role of the third sector in social and economic regeneration set out the different aspects that this embraced:

"The government wants to ensure that the third sector is at the heart of reforms to improve public services as *contractors* delivering services, as *campaigners* for change, as *advisers* influencing the design of services and as *innovators* from which the public sector can learn."⁷¹

A year later, the final report of the third sector review, which helped to inform the Comprehensive Spending Review 2007, built on this to set out a framework for "a growing partnership" with the sector over the next ten years. Introducing the report, new Prime Minister Gordon Brown explained that "it is not the Government's role to define the purposes of individual organisations or set a vision for the sector as a whole. That comes from the sector itself. However, the Government and the third sector work in partnership to improve society, sustain the environment and establish new forms of enterprise."⁷²

The review proposed a framework for partnership between the sector and Government focussing on four major areas: enabling greater voice and campaigning, strengthening communities, transforming public services, and encouraging social enterprise.

⁷¹ Cabinet Office and HM Treasury (2006), *The Future Role of the Third Sector in Social and Economic Regeneration: Interim Report* (italics added)

⁷² Cabinet Office and HM Treasury (2007), *The future role of the third sector: final report*

On the one hand, the third sector review contained measures to maintain progress on policies and programmes from previous cross cutting reviews. For example, the Government committed to continuing to strengthen the implementation of the Compact, further support for organisations involved in the delivery of public services, and investment in capacity building.

On the other hand, the third sector review heralded “a much wider interest in working with the sector” and signalled some important developments in the Government’s approach. In addition to a series of specific measures, such as greater support for grant funding of small organisations, a new skills strategy and a new drive to improve research on the third sector, there were three cross-cutting themes in how the Government wanted to develop its partnership with the sector:

- working with a fuller range of organisations and supporting a wider range of activities by the sector, particularly community action and campaigning;
- a greater emphasis on investing in the long term sustainability of the third sector’s work; and
- a greater focus on local partnership working.

The final report of the third sector review sets out a series of measures to build the partnership with the third sector. The key announcements included:

- a new focus on enabling the third sector’s role in campaigning and voice activity, including investment in innovative consultation approaches and better using the Compact to protect the right of organisations to campaign;
- better mechanisms to drive best practice in funding the third sector, including in the expectation that when Government Departments and their agencies receive their 2008-11 budgets, they will pass on that three year funding to third sector organisations that they fund, as the norm; and
- continued focus on the Compact as a means to build the relationship between the third sector and all levels of Government.

Meanwhile, this partnership agenda will be carried out at the local level by Local Area Agreements and Comprehensive Area Assessments:

Local Area Agreements

At a local level, Local Area Agreements (LAAs) are becoming the main vehicle for the public service delivery agenda. While LAAs are not the only means by which central government affects the third sector public service agenda at local level, their influence is increasing. From April 2008, LAAs drive the pattern of all local public spending and are the means for commissioning services from a range of public, private and third sector providers. In this context, it will be more important than ever for the third sector to work in partnership with local authorities through the Local Strategic Partnerships (LSPs) that determine the Local Area Agreements.

The mechanisms for future local partnerships to focus on the third sector include the new over the new National Indicators 6 and 7 within the PSA Delivery Agreement 21. These aim respectively to “Build more cohesive, active and empowered communities” (NI 6) and

create an “Environment for a thriving third sector” (NI 7). The Government intends to assess performance against the latter target using a new perceptions-based survey of third sector organisations. The survey will ask third sector organisations “...how do the local statutory bodies in your area influence your organisation’s success?” with responses scored according to the proportion of third sector organisations who answer ‘positive’ or ‘very positive’ to this question, on a five point scale.⁷³

The first survey, however, will not be conducted until later this year. This has led to concern in the third sector that local authorities might not choose NI7 as a performance indicator for their 2008 LAA due to the lack of clarity over how it would be measured and the absence of baseline data against which to benchmark performance.⁷⁴

Comprehensive Area Assessments

The Audit Commission is developing proposals for Comprehensive Area Assessment (CAAs), a new assessment framework for local authority areas that will judge the effectiveness of local partnership working, including the involvement of the third sector. However, as the Commission for the Compact has pointed out, nowhere in the original proposals is the Compact specifically referenced. The Commission for the Compact argues that “Where inspection is deemed necessary, the Compact should be both part of the diagnostic tools for identifying problems, and part of the tools for fixing that problem”.⁷⁵ It remains to be seen how far these suggestions will be incorporated into the final CAA process.

Community empowerment

Alongside the increasing devolution of power to local authorities and their partners, there has been a recent flurry of activity around the devolution of power one stage further – to local communities. For example, the Local government White Paper 2006 (‘Strong and Prosperous Communities’) not only set out a vision of local authorities as place shapers and conveners of partner organisations in the locality but also explained how a redistribution of power from central to local government and from local government to local communities would be enabled.

The following year, the Local Government, Public Involvement in Health Bill 2007 included a new statutory duty for local authorities to involve local people in local decision-making and in the planning of local services. These developments point to a growing commitment on the part of the Government to bring about greater devolution and empower communities.

⁷³ Office of the Third Sector (2008), *Briefing for Local Strategic Partnerships NI 7: ‘Environment for a thriving third sector’*

⁷⁴ Carpenter, J. (2008), “Voluntary groups fear cash bypass”, in *Regeneration & Renewal*, 1st February 2008

⁷⁵ Commission for the Compact (2008), *Joint inspectorate consultation on Comprehensive Area Assessment: A response from the Commission for the Compact*

The Government has termed this movement 'community empowerment', which it defines as "the giving of confidence, skills, and power to communities to shape and influence what public bodies do for or with them."⁷⁶ In October 2007, Communities and Local Government published its Action Plan for Community Empowerment: Building on Success. The action plan, produced in partnership with the Local Government Association, contained over 20 actions towards giving residents and communities a greater say in the facilities and services in their local areas.

An independent third sector is seen as central to the community empowerment agenda:

"Local third sector groups may play an important role in helping to reach specific groups and may have an important advocacy role representing the most marginalised or vulnerable. Over the next ten years the Government wants to put the third sector at the heart of work to build strong, active and connected communities, with local government acting as the most important driver in building this relationship."⁷⁷

This new emphasis on local authorities' strategic role as a partner for an empowered third sector is reflected in the list of 198 national indicators from which local authorities now need to select up to a maximum of 35 to be used in their revised Local Area Agreements. The set includes one (NI 7) which measures the progress made in an "environment for a thriving third sector" and one which aims to measure "how far people are able to influence decisions in their locality" (NI 4).

Community asset transfer

Closely linked to the broader community empowerment agenda is the issue of asset transfer from local authorities to the third sector, which has undoubtedly risen in importance over the past two years as a means of achieving key policy objectives. Community asset transfer must be seen as part of the wider policy shift towards developing an independent third sector which has greater financial sustainability and which can act as a partner to the public and private sector in delivering services and meeting local needs.

For example, community anchor organisations – a key partner in the asset transfer agenda – cherish their independence as a central tenet. The Community Alliance describes community anchors as "Independent, community led, multi-purpose, there for the long-term, drive community renewal and use physical assets."⁷⁸ In its framework for community capacity building, Firm Foundations (2004), the Government added its support to the aim of developing community anchor organisations.

The most influential piece of work driving this agenda in recent years has been the Quirk Review, 'Making Assets Work' (2007). This important review emphasised the transfer of

⁷⁶ Communities and Local Government (2007), *An Action Plan for Community Empowerment: Building on Success*

⁷⁷ Communities and Local Government (2007), *An Action Plan for Community Empowerment*

⁷⁸ See <http://www.comm-alliance.org>

assets as a means to greater community empowerment rather than an end in itself. It also found that, while many local authorities were engaged in asset management planning (a national 'beacon' round, highlighting good practice in this area was promoted by CLG in partnership with the Improvement and Development Agency in 2004), very few had linked this to asset transfer to the third sector. Furthermore, while there had been a considerable amount of guidance and advice for local authorities aimed at improving the quality of Asset Management Plans, none of this referred to the potential for using local authority land and property assets to achieve community empowerment objectives through community management and ownership.

However, since the publication of the Quirk Review this has begun to change with an increasing number of local authorities setting individual transfers within a strategic approach. The Framework for Local Authority Asset Management Planning published by CLG in February 2008 now includes reference to community asset transfer and indicates how central Government guidance is now effectively bringing the community empowerment and asset management agendas together.

The fact that the Quirk Review was followed one week later by the Government's response ('Opening the Transfer Window'), which endorsed all recommendations and agreed to a series of actions to implement the review, indicates strong central Government endorsement of this agenda. Communities and Local Government are currently supporting a 'demonstration programme' involving 20 local authority areas to move forward on asset transfer in 2007/8 and a further 60 authorities between April 2008-March 2010. Furthermore, The Future Role of the Third Sector in Social and Economic Regeneration (2007) announced a commitment by the Government to at least £10 million of new investment in community anchor organisations and community asset and enterprise development, building on the £30 million Community Assets Fund announced in the 2006 Pre-Budget Report.

More recently, the Government's Community Empowerment Action Plan 2007 includes actions relating to the transfer of assets and a programme of support for community anchors, including the availability of further funding to support the development of anchors in order to invest in "the long term sustainability of the third sector". The action plan also announced that in winter 2007/08 there would be asset transfer workshops for local authorities and community organisations and that in spring 2008 there would be publication of guidance on local authority asset management and a risk management toolkit.

This commitment to community asset transfer is being followed up from April 2008 in the last year of Comprehensive Performance Assessment (CPA) of local authorities. Between April 2008 and March 2009 the key lines of enquiry (KLoEs) in the 'use of resources' block will include reference to 'promoting partnerships with the third sector on the shared use of assets'. It is widely recognised that community asset transfer can enable third sector organisations to strengthen their place in local communities – not only through increased capacity but also through greater independence and the opportunity to run a financially sustainable asset.

International picture

United Kingdom

At the same time as the Compact was being developed in England, there were similar initiatives being pursued in other countries. Closest to home, there were parallel changes elsewhere in the United Kingdom, some of which predated English activity.

In Scotland, for example, local government reorganisation saw the publication of a Positive Partnership statement by the Convention of Scottish Local Authorities (CoSLA) and the Scottish Council for Voluntary Organisations (SCVO) in 1995. This outlined a number of undertakings that the new Councils and voluntary organisations would commit themselves to.⁷⁹ Following the Deakin Commission in England, the Commission on the Future of the Voluntary Sector in Scotland (CFVSS) produced its report *Head and Heart* in 1997. Chaired by Arnold Kemp, the CFVSS was conducted independently of its English equivalent and was a direct acknowledgement of, and response to, the significant differences (fiscal, legislative, regulatory, economic, political, and organisational) that characterise and distinguish the Scottish voluntary sector from its English counterpart.

Following on from the work of the CFVSS, and influenced by developments in England, a Scottish Compact was published in 1998 and soon accompanied by Good Practice Guides.⁸⁰ Burt and Taylor explain the significance of the Scottish Compact on the debate about the independence of the Scottish third sector:

“Crucially, the Scottish Compact does not commit the voluntary sector to a ‘partnership’ with government. It acknowledges the fundamentally important roles that voluntary organisations can play as service providers working in ‘partnership’ with government on the one hand, and as independent (and potentially critical) participants in the democratic polity on the other hand. Furthermore, the Scottish Compact recognises that from time to time voluntary organisations may need to ‘bite the hand that feeds them’ – and, moreover, that it is not only acceptable, but vital in a healthy democracy that they do so. (The report of the Charity Law Review Commission reflects and lends added weight to this viewpoint.)”⁸¹

In the same year (1998), the Compact between Government and the Voluntary and Community Sector in Northern Ireland – Building Real Partnerships was published. This set out the respective roles of both sectors, which were seen as complementary, interdependent and mutually supportive. As Kearney and Williamson have pointed out, “In some regards, it went further than the other Compacts in the UK, for example, in

⁷⁹ CoSLA and SCVO (1995), *Positive Partnership*

⁸⁰ The Scottish Office (1998) *The Scottish Compact. The principles underpinning the relationship between Government and the voluntary sector in Scotland*

⁸¹ Burt, E., and Taylor, J., (2001), “Scotland – Parliaments and Politics”, in Plowden, W. et al, *Next steps in voluntary action - an analysis of five years of developments in the voluntary sector in England, Northern Ireland, Scotland and Wales*

jointly recognising that advocacy and campaigning on behalf of individuals, groups and causes is a distinctive characteristic of the sector and in supporting the community development process."⁸² The other distinguishing feature of the Compact process in Northern Ireland was that – unlike in England, Wales and Scotland – an independent review of the future of the voluntary sector was not carried out but instead the sector undertook a self-reflective Millennium Debate, facilitated by the Northern Ireland Council for Voluntary Action (NICVA).

Europe and beyond

Further afield, comparisons can be made at a European level. In a study of the third sector in Europe, Anheier has posited that "the highest growth rates for the third sector are in those countries with policies that put in place some sort of working partnership between government and non-profit organisations". Alongside the Compact in the UK, Anheier cites the European examples of the principle of subsidiarity in Germany and the system of 'verzuilling' in the Netherlands.⁸³

Elsewhere in the world, similar developments have taken place. Anheier mentions the concept of third party government in the US.⁸⁴ In Canada, the Voluntary Sector Roundtable was created in 1995 to bring together a cross section of the sector to work towards enhancing and strengthening the relationship with government. This culminated in the launching of an Accord in late 2001.⁸⁵ Lyons and Passey have compared the UK to Australia and argued that a more proactive approach should be taken in Australia, citing the Compact and the broader third sector "policy explosion" of the New Labour Government as absolutely central to the growth of the UK third sector in this period.⁸⁶

And finally, Deakin has pointed out that questions of independence and accountability stretch beyond the northern hemisphere:

"In particular, the notion that civil society can be summoned up as an alternative vehicle for implementation of policy objectives has become part of the standard package of beliefs shared by governments and international agencies administering programmes in the South. The question of who sets the goals which civil society is expected to implement is highly problematic: national governments and international agencies often have very different notions about priorities. This in turn raises awkward questions about the accountability of civil society organisations and international NGOs."⁸⁷

⁸² Kearney, J. R., and Williamson, A. P. (2001), "Northern Ireland – The Delayed Devolution", in Plowden, W. et al, *ibid*

⁸³ H. K. Anheier (2004), "The Third Sector in Europe: Five Theses", in A. Zimmer and C. Stecker (eds.), *Strategy Mix for Nonprofit Organisations: Vehicles for Social and Labour Market Integration*

⁸⁴ H. K. Anheier (2004), *ibid*

⁸⁵ Voluntary Sector Canada (2002) *Joint Accord Table, Voluntary Sector Initiative*

⁸⁶ M. Lyons and A. Passey (2006), "Need Public Policy Ignore the Third Sector? Government Policy in Australia and the United Kingdom", in *Australian Journal of Public Administration*, Vol. 63, Issue 3, pp. 90-102

⁸⁷ Deakin, N. (2005), "Civil society and civil renewal", in Robb, C (ed.), *Voluntary Action: meeting the challenges of the 21st century*

Conclusions

The literature review reminds us that the Compact is a relative latecomer into the debate about the relationship between the third sector and government. It also reminds us that views of the voluntary sector and its role have changed since 1945, ranging from the view that the voluntary sector would largely wither away as a provider of services once universal state provision was in place, to one where a thriving and independent sector is an important counter-balance to the state, both in terms of advocating policy and in terms of delivering services which give choice to disadvantaged consumers and reflect aspirations in a way that public provision cannot.

Since 1997 we have, however, inhabited a world in which government has deliberately sought to support solutions in the social policy field which have not been based on a view of 'private is good and public is bad' or vice versa. In short, they have looked for solutions that work, rather than from which sector they originate. The implication of this has been to open up areas of delivery much more to the voluntary and community sector and a significant part of the sector (especially at the national level) has responded positively to these opportunities. This general policy direction is unlikely to change under a new government.

The literature review makes it clear that this state of affairs raises a number of important issues concerning independence for the third sector and those who fund it, as well as challenging all partners to identify how the Compact has improved matters. All parties agree that the independence of the sector is a crucial part of its ethos and that this independence has value for both the sector and government itself.

What emerges from the review is a number of strands of thought, ranging from those who believe independence is inevitably compromised by dependence on government funding to those who believe that interdependence between government and the third sector can be structured in such a way as to ensure the sector can still claim genuine independence of thought and action.

It is here that the role of the Compact becomes crucial in ensuring that independence is retained as one of the key features that give the voluntary sector its added value. Again, what emerges from the review is a range of opinions, from those who believe that a voluntary arrangement lacks sufficient teeth to be effective, through those who believe a voluntary arrangement is the best way of 'buying in' support from officials, to those who argue that the Compact will lead to the subversion of the sector's independence and that independence can best be maintained and exercised outside of any such arrangement, especially through seeking non-governmental sources of funding.

The evidence from the literature review is that the impact and effectiveness of the Compact on independence is neither as dire nor as desirable as either side would suggest. The evidence indicates that although knowledge at the national level is adequate and both the sector and government have made steps in formulating clear principles, understanding and implementation at the local level is patchy at best and, in particular, knowledge of the Compact is poor amongst elected councillors.

Finally, though the UK is not the only country to have gone down the path of trying to systematise relations in this way – Germany, the Netherlands, Canada and Australia have similar arrangements – the review suggests that none of these are significantly in advance of the UK position.

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