



Annual Sector Report 2008

A report reflecting voluntary and community sector perspectives on the Compact in 2008

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Compact Voice is an independent body representing the voluntary and community sector on taking forward the Compact.

Contact us:

Compact Voice

Regents Wharf
8 All Saints Street
London
N1 9RL

www.compactvoice.org.uk

Tel: 0207 713 6161

Email: compact@compactvoice.org.uk

Compact Voice runs three networks to discuss Compact issues, concerns and priorities as well as exchange information, experiences and best practice.

Join the National Network at <http://compact.ning.com/>

To join the Local Network contact paul.barasi@compactvoice.org.uk

Join the Friends of Compact Voice Network at <http://friendslcv.ning.com/>

Compact Advocacy

The Compact Advocacy Programme provides practical support to voluntary and community organisations in cases where statutory bodies have not followed the principles agreed in the Compact.

Contact the Compact Advocacy Programme:

Tel: 0207 520 2460

Email: compact@ncvo-vol.org.uk

www.ncvo-vol.org.uk/compactadvocacy

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1. Introduction

This report highlights Compact issues and challenges from the perspective of the sector at local and national level. The themes and priorities that it presents are a synthesis of Compact Voice's ongoing dialogue with the sector over the past year. It offers a range of sector views and experiences drawing on primary research and consultation undertaken by Compact Voice. This report is also informed by evidence from the Compact Advocacy Programme (CAP)

It is based on findings from:

- Compact Voice's consultation on the future of the Compact
- Research into views on the Compact from harder to reach groups, commissioned by Compact Voice
- an independent focus group exercise commissioned by Compact Voice
- an overview from Local and National Compact Voice work
- an annual report by the Compact Advocacy Programme
- quarterly meetings of the Compact Voice board
- regular meetings and continued dialogue with the sector throughout the year.

Many of the themes and priorities highlighted in this report are not new. Indeed, the need for greater Compact awareness, usage and implementation has been identified as a priority by Compact Voice over successive years. Nevertheless, this report charts improvements in the relationship as well as focusing on areas of specific concern that have come to light over the past twelve months. It begins by looking at overarching themes, moving onto specific successes and challenges over the past year.

2. Overarching themes

In the current economic climate, the voluntary and community sector is facing a likely fall in revenue and increased costs. It is also likely to experience increasing demand for services as the communities which it serves undergo greater hardship. It is against this backdrop that the Compact enters its second decade and its relevance in ensuring greater trust, understanding and collaborative working between the sector and government has never been more important. The role of the Compact in managing the shifting economic and policy landscape remains central.

2.1 Awareness and implementation

Awareness of the Compact on both sides of the relationship is low and Compact compliance is patchy with wilful disregard for its requirements in places. A gap persists between the relationship outlined in the Compact and organisations' experiences. This lack of implementation has led to a growing cynicism within the sector towards the Compact. Despite this frustration, the

Compact's potential is still recognised and a desire exists to see that potential fulfilled through ensuring that the Compact becomes embedded in practice.

Failure of statutory bodies to sufficiently understand the sector can lead to a lack of trust. This in turn impacts on all aspects of the relationship and presents a barrier to partnership working. However, it is through partnership working that understanding and trust can be built and the Compact has a central role in helping that process.

Both sectors need significant support if they are to have the knowledge and skills to use the Compact effectively. Strengthening the Compact by giving the Commission for the Compact powers to investigate breaches is seen as a key way of giving the Compact the "teeth" it is lacking. However enforcing compliance will only be effective if done in conjunction with a large-scale programme of training, advice and awareness.

The possibilities for embedding the Compact in the Local Area Agreement, Comprehensive Area Assessment, IDeA's Beacon Scheme for local authorities, overview and scrutiny committees, the work of Government Offices and the National Audit Office's work with national government bodies, for example, should also be fully explored.

"There is a lack of awareness among funders that a Compact even exists or, when they do know about it, they don't want to stick with it; they agree with it in theory but then insist on paying in arrears, scrutinising all expenditure, asking for a detailed copy of budgets."
(Focus group participant – May 2008)

2.2 Independence

Independence is crucial to the sector and integral to all aspects of the sector's relationship with government. Whilst most sector organisations have a strong sense of their own independence, Compact Voice has identified concern among organisations that their independence faces numerous threats. These threats centre on overlapping issues of funding and commissioning of services; real and perceived fears of criticising government funders and interference in organisations' freedom to determine and manage their affairs. The substance of these threats correspond directly to provisions and codes set out in the Compact and therefore it provides an important framework for managing the inevitable tensions that arise between the sector and government around independence.

Whilst it is important for statutory bodies to have a greater understanding and appreciation of sector independence, it is also incumbent upon voluntary and community organisations to take responsibility for asserting their own independence. Through good governance, building skills, and developing organisational competence organisations can gain the confidence to challenge and to stay true to their values and their core mission.

“The Compact has to work because otherwise we’re going to be in serious difficulties. Local authorities will put their arms around the voluntary sector and scoop it in closer and closer and end up controlling the sector. The sector has a responsibility to itself to make sure that it retains its independence and integrity. I think the Compact is a mechanism to do that.”

(Focus group participant – June 2008)

2.3 Local Compact issues

There is a divide between areas which implement their Local Compact and those where it is left on the shelf. Many areas are still spending most of their time drafting codes rather than getting on and implementing them. It is becoming more common for partners to recognise the need to resource their Local Compacts to make them successful. However, this recognition has not yet led to proper resourcing in many areas.

There is a need to link the national and Local Compact documents together more closely and also to encourage learning from good practice. Especially noteworthy is Haringey’s development of a Compact-proofing tool just two years after publishing their Compact and ahead of government. Local partners have to discover links for themselves in the absence of government guidance, which has a tendency to bypass the Compact in many cases where it is directly relevant. Three-year funding is still patchy and there is also a significant shift from grants to contracts with many public bodies believing this is in line with government policy. There is, however, an opportunity to use an update to the national Compact to ensure key policies are also reflected in Local Compacts. There is also a need for greater clarity on how local architecture is integrated in practice, such as the fit between Neighbourhood Charters and Local Compacts.

3. Successes and challenges

3.1 Positive developments

Over the past year there has been a marked improvement in the relationship between the sector and government in a number of significant areas. Indeed, the Compact Advocacy programme has found that in most cases handled there have been some improvements in the relationship between the two sectors.

- a) There has been an increase in the number of councils willing to work collaboratively with the sector. This has knock-on benefits as councils are often a lead partner amongst local public bodies.
- b) There is evidence that twelve-week consultations are becoming the norm, although there are still occasions when the sector is not consulted or does not feel the consultation is sufficiently meaningful.
- c) There has been an increase in the number of Compact disputes that have been resolved by the organisations themselves and through face-to-face meetings rather than using a more antagonistic approach. 92% of local advocacy enquiries are resolved in this way which helps to preserve key relationships locally. Formal local disputes procedures have largely been absent in these cases, however, and there is a need for more support for Local Compacts wishing to develop effective structures in this respect. Nationally the Advocacy programme has also helped to achieve quick resolutions to cases by using support from sympathetic figures in government such as the Office of the Third Sector and Third Sector Liaison Officers in government departments. Overall, resolving cases in this way has led to learning by public bodies and better practice.
- d) Among government departments there have been significant improvements including better awareness and more work to ensure that all basic Compact requirements are fulfilled. There is nonetheless room for improvement and a particular need to ensure that good practice cascades to non-departmental public bodies (NDPBs) and the local level. There is a need for research into good practice and legal duties regarding how departments run their NDPBs. Funding reform (ie 3-year funding) is happening at a much slower rate locally than nationally.
- e) The Compact has ensured communication between the voluntary sector and statutory agencies happen. Even if they fail to reach agreement more communication generally leads to greater understanding. Where there are shared perspectives between partners, this common purpose can then be transformed into solid achievements.

The Department of Health's funding and investment review of their section 64 funding has resulted in meaningful consultation the value of which has been enhanced by the relationship building that has

resulted. The consultation has gone from being a one off event into an ongoing conversation.

(Compact Voice evidence)

- f) At local level the sector's relationship with public bodies has continued to improve strongly in most areas (as evidenced in polls conducted by Local Compact areas). The most significant change in the past year is that local groups and council officers are more often "on the same wavelength". An important learning point is that the sector should praise Compact compliance by public bodies to cement good relationships and avoid only giving criticism. Innovation in Local Compact implementation has continued throughout the year and is more frequently shared through increased networking.

3.2 Need for improvement

Despite these positive developments there remain significant areas where there is urgent need for improvement.

a) Consultation:

Whilst indications show an improvement in levels of twelve-week consultations there are still occasions when the voluntary sector is not consulted or does not feel consultation is meaningful. This links closely with concerns about not being involved in 'programme design'. Compact commitments are also supported by public law principles on how and when consultations should take place.

A £2million pot for HIV prevention for gay men in London was re-tendered in a Compact-compliant way after concerns were raised. Issues included lack of service user involvement, a short consultation on major changes to the service and feedback from the consultation which misrepresented the views given. A one-year funding rollover was secured from all PCTs while the new consultation and tender process took place and CAP worked with groups and commissioners to ensure that the services which were commissioned were much more reflective of effective interventions and the needs of service users. After some similar concerns, a £1.5million pot for sexual health services in South London will now be piloting and running a Partnership Board with strong involvement from the voluntary sector and service users to help ensure their views are fully incorporated into the next commissioning round.

(Evidence from CAP)

b) Full-cost recovery

There is evidence that many funders are still reluctant to pay for overheads as well as project costs, meaning that voluntary sector organisations are unable to recover their full costs when delivering a service. This has been exacerbated by tighter statutory budgets. Despite the move to commissioning where organisations simply state their price in competition, some commissioners still demand details of overhead fees.

Many voluntary organisations are being asked to make efficiency savings or to accept a low or zero-percent uplift despite their costs rising in line with inflation. Lower funding can result in lower outputs since the Compact commitment on full-cost recovery and Charity Commission's guidance prohibits the use of charitable funds to subsidise public services. Indeed, the Gershon review specifically mentions the importance of full-cost recovery and ensuring savings do not impact negatively on delivery. Forcing organisations to abide by government efficiency targets also suggests a misunderstanding of roles and runs counter to the Compact commitment on independence.

A national disability organisation noted a pattern whereby social care organisations always negotiated a fee uplift with local authorities based on some combination of retail price index and average earnings index. This year they have increasingly come across local authorities who are seeking to impose a zero percent fee uplift even though inflation is increasing. There is sometimes an expectation that if an organisation wants to be part of a strategic partnership, they have to accept zero percent inflationary uplifts.

(National Compact Voice evidence)

"We've raised the Compact on full cost recovery issues and found that statutory bodies, either their legal departments or their audit departments, can't agree how to apply it."

(Focus group participant)

c) Funding cuts and changes

Lack of three months' notice or reasons for funding being cut is one of the main reasons organisations approach the Advocacy programme for support. There are sometimes serious concerns about the decision-making process when ending funding, particularly when it is suspended with little communication. Problems also arise where changes to funding policies have not been managed in a Compact-compliant way. Curtailment of funding can force organisations to close and may result in the loss of well established networks and links to particular communities.

Public bodies are often under pressure to make budget cuts and to act quickly. However the Compact commitment to give three months' notice is to ensure organisations have time to make alternative plans and can fulfil their duties as employers. Cutting sector funding may also have a greater impact on services during times of recession when need is greater.

A BME organisation working on HIV and sexual health issues that had received funding from the same London PCT for 10 consecutive years was seeking clarity from the PCT on their next year's funding arrangements. Despite their efforts, they were not told until June that their funding had been terminated in April that same year. No reasons were given. Using the Compact, public law principles of legitimate expectation as well as the need for a race equality impact assessment the group successfully got the PCT to agree to fund the full, Compact-

compliant notice period from April to August. The PCT also gave further details on the assessment process used when funding was terminated and entered into dialogue with the organisation about how they could work together in future.

(CAP evidence)

d) Over-burdensome monitoring:

Over-burdensome monitoring is a concerning development, particularly with European funding and third-party monitoring agencies. Although statutory bodies must be sure that public funds are used appropriately, disproportionate monitoring can take valuable time away from delivery and may put full-cost recovery and the focus on outcomes at risk.

“We sat down a year ago or so and listed all the organisations that were monitoring us. We got to 26. Our project workers used to spend most of their working week supporting young people in a hands on manner. Now I would say they spend most of their working week filling in returns, outcomes, monitoring forms which are 40 pages long.”

(Focus group participant – May 2008)

e) Managing risk

Risk management has also emerged as a growing issue, in part due to the move to contracts and commissioning. Contract terms sometimes impose disproportionate risk on the voluntary organisation, often through unrealistic targets. In some cases a small failure to deliver can result in the organisation being forced to pay back all the money received for a project or projects be stopped at short notice. Although organisations should be able to freely negotiate their contracts, many relate experiences of being told that they must sign an agreement or risk losing funding.

A charity running a council funded centre for people who are visually impaired had a contract clause stating that the council would contribute to redundancy costs on a sliding scale from 90 percent in the first year to 50 percent in the fifth. However, the council was refusing to pay the 50 percent redundancy costs as the original five year contract had expired. Although both parties had agreed to extend the work past the end of the contract, the charity was being forced to bear all the financial risk at the end of the project. After writing to the council and securing some media interest in the case, the council agreed to pay the organisation the 50 percent in redundancy costs. A meeting was also held with the Compact Board and council representatives to agree practical steps they can take to improve Compact working across the county.

(CAP evidence)

f) Applications

Concerns about application processes are becoming more common and many of these concerns relate to commissioning. The main problems centre around short timelines, failure to advertise widely and openly, delays in funding decisions and cancellation of entire schemes after organisations have spent time and resources applying. Issues often revolve around public law principles where public bodies cannot evidence a fair and unbiased decision-making process. According to the Compact, application or tender processes must be clear and accessible, ask for relevant information, give enough time for organisations to respond and provide reasons when a bid is rejected. If these principles were followed, it is likely that more organisations would be able to bid and diverse markets could help ensure better services for users.

g) EU funding and procurement law

Applying for and delivering European funding is highly bureaucratic while the financial monitoring involved is extremely burdensome. There is also substantial confusion around what EU procurement rules are and when they apply. Many organisations are told by public bodies that they have to move from grants to contracts as the amount exceeds EU procurement thresholds, which demonstrates a misunderstanding of EU rules. There have also been instances where public bodies have told voluntary sector stakeholders that they cannot discuss funding specifications with them as it will breach EU rules. Some have specifically said that EU rules inhibit them from adhering to Compact guidelines.

This issue links to the Compact commitments on 'programme design' that refer specifically to the early stages of planning when a new service is mooted or major changes to an existing service proposed. The expertise and experience of organisations are often overlooked by commissioners and other officers within public bodies. In some cases, this has been due to very strict interpretations of 'competitive neutrality'. However, other commissioners were able to find ways to involve people at an early stage without compromising their duties of fairness to all potential providers.

3.3 Conclusion

It is clear that over the past year the Compact has continued to improve relations between government and the sector. Its standards are being more widely adhered to, for example in consultation and policy appraisal. Funding processes have been improved and resources for building sector capacity are more available. There have been numerous wins from Local Compacts.

Despite the fact that things are moving in the right direction, a consensus remains that the distance travelled is far from sufficient. The Compact has yet to be properly embedded into practice and there is little consistency as to its application, both across government departments and local authority areas. Awareness of the Compact remains relatively low and there is continuing evidence that even when the Compact is known, it is sometimes deliberately ignored.

The current economic downturn is likely to bring the sector's challenges into sharper relief. The Compact remains the best framework through which these challenges can be met but to be effective it must be promoted and used.

4. Recommendations

Awareness and implementation

- A large-scale programme of training, advice and resources for implementation and awareness in both sectors.
- All government policy should be 'Compact-proofed' to ensure that it complies with, and makes meaningful reference to, national or Local Compacts;

Independence

- Greater understanding and appreciation of practical ways for government to ensure voluntary sector independence.
- Voluntary and community organisations taking responsibility for asserting their own independence.

Local Compacts

- An analysis of the possibilities for embedding the Compact in the Local Area Agreement, Comprehensive Area Assessment, IDeA's Beacon Scheme for local authorities, overview and scrutiny committees, the work of Government Offices as well as the National Audit Office's work with national government bodies, for example.
- Exploration of the possibilities for dedicated resources for Local Compact implementation

Consultation

- Improved consultation processes which make clear what decisions have already been taken and what questions are being asked as well as providing accurate feedback and ensuring responses are taken into account in final decisions.

Full-cost recovery

- Further guidance from government on this issue, including clarification that voluntary organisations are not required to make efficiency savings.
- Support to help voluntary organisations better assess their full costs and ensure these are included in funding bids.

Funding cuts and changes

- Statutory bodies to follow Compact guidelines when they end or decrease funding and voluntary organisations encouraged to challenge poor practice in this area. Three months' notice should be standard and measured like 3-year funding.

Over-burdensome monitoring

- Over-burdensome monitoring needs to be challenged and the Compact used to encourage public bodies to reduce monitoring, standardise monitoring forms and encourage the recognition of more creative reporting measures. Publication of good practice examples is needed.

Managing risk

- Improved guidance for statutory bodies, including legal, audit and finance departments, as well as non-departmental public bodies.
- Free or cheap private law advice to ensure voluntary organisations have the skills and knowledge needed to resolve ongoing problems around contract terms and commissioning.

Applications

- Eliminate short timescales and delays in decision-making. Application or tender processes should also be clear and accessible, make clear any scoring criteria and provide reasons when a bid is rejected

EU funding and procurement law

- Clarity on how the Compact applies to EU funding
- Promotion of the fact that the procurement law threshold does not apply to grants.
- Legal advice which clarifies the balance between competitive neutrality and scope for involving the voluntary sector in programme design.

Annex 1. Local Compact Voice overview 2008

Local Compact Voice represents the local sector on taking the Compact forward. It has drawn up and shared information, innovation and issues from its 550 members (up from 318 in 2007) and all cities, large towns, London boroughs and counties are represented. There have been 14 email briefing bulletins issued. An online forum started in February (173 members) with members initiating and contributing to debates. Friends of Local Compact Voice, a parallel forum for people from local public bodies, started in April and has 63 members. The 2008 events visiting programme has covered 25 events attended by 1,450 people at which presentations were made and 251 Local Compact Champions recruited.

For the first time, a Local Compacts Annual Conference was held in March and the local pack for the campaign "It's Our Shout" was well used in the build up to Sector Independence Day on 4th July, with local sectors tending to accept that they need to take responsibility for their own independence. Many areas also took up the local targets for Compact Week for recruiting champions, boosting awareness and making an additional link with a policy process. This report has therefore been able to draw on this input from local areas right across England.

Annex 2. National Compact Voice overview 2008

National Compact Voice represents national sector organisations on taking the Compact forward. National organisations include all organisations that work at a national level but does not preclude organisations that work at local as *well as* national level. Indeed many of the issues raised by national organisations involve issues experienced at local level.

National Compact Voice has drawn on information from the 230 members of its network launched in November 2007. It has also drawn on the experience of the Compact Voice board who meet quarterly reflecting sector views and providing strategic leadership.

In May and June five focus groups were conducted on the Compact and independence involving 47 voluntary and community sector employees from national organisations. The findings of these focus groups were discussed at an Independence Day findings workshop in July 2008.

Annex 3. Compact Advocacy Programme overview 2008

The Compact Advocacy Programme actively supports and campaigns on behalf of voluntary and community organisations in cases where they feel the Compact has not been followed. There are two strands to the programme, local and national, which relate to the type of public bodies involved in the cases. As well as giving advice and support to individual organisations about the Compact and how they can use it in their work, the programme also takes on cases and actively works to reach solutions that are Compact-compliant and satisfactory to both parties.

In almost every case that the programme has handled, there have been improvements in the relationship between the two sectors, whether or not all objectives which the organisations have set are achieved. In cases with local public bodies, voluntary organisations are generally keen to preserve good relationships with their statutory partners and approximately 85% of organisations receive advice from Compact Advocacy and then go on to handle any issues themselves. Of the remaining 15%, approximately half the cases are resolved through meetings aimed at bridging any misunderstandings and finding solutions that are acceptable to both parties. Unfortunately, the remaining 7.5% problems are more intractable and statutory bodies often reject allegations of poor practice or are less willing to work with the organisation to find a way forward. In some cases a formal complaints procedure must be used in order to obtain a response and these cases are concerning in terms of the public bodies' desire to set things right and maintain relationships. All cases are evaluated when they finish and evaluation forms completed by client organisations consistently show high levels of satisfaction with the support received. The success of the programme in achieving positive change using the Compact shows that it can have 'teeth' when it is used but more training and resources would help organisations to do more of this work themselves in future.

The data below should not be seen as statistically significant. It is representative of the cases handled by the programme rather than representative of the whole sector's experience.

Overall caseload

97 cases and enquiries about local statutory bodies (67%)

47 cases and enquiries about national statutory bodies (33%)

Top Compact issues

21% Consultation: not consulting the sector on issues that are likely to affect it

19% Full-cost recovery: organisations' unable to recover full overhead costs

18% Ending funding: lack of three months' notice or reasons why

18% Independence: not respecting organisations' right to manage their own affairs or to challenge government despite any funding relationship

18% Managing risk: balance of risk is disproportionate on voluntary sector, usually related to unrealistic targets or contract issues

16% Applications: lack of clear, accessible and proportionate processes with timely notification of decisions giving reasons why

15% Monitoring: disproportionate or not focused on outcomes

12% Programme design: not involving the voluntary sector in the early stages of designing or changing programmes of work

NB: Most cases and enquiries involve more than one Compact issue.