



Response to the draft Best Value Guidance

Introduction

Compact Voice welcomes the opportunity to respond to the draft statutory guidance on best value, issued by the Department for Communities and Local government.

Our response will consider the proposed text, discuss the context in which it has been introduced, and suggest alternative wording which we believe will more effectively achieve the goal of providing greater clarity and support for the relationships between the voluntary and community sector, and public sector bodies.

About the Compact

The Compact is the agreement between government and the voluntary and community sector (referred to collectively within the text of the Compact as civil society organisations) which sets out key principles and establishes a way of working that improves their relationship for mutual advantage. It considers areas such as involvement in policy design and consultation, funding arrangements (including grants and contracts), promoting equality, ensuring better involvement in delivering services, and strengthening independence.

It is also accompanied by an Accountability and Transparency Guide, which outlines steps to take at national and local level if these principles are not followed, including dispute resolution, internal complaints procedures and ombudsmen functions.

Initially launched in 1998, it is in its third incarnation, with the latest version published in December 2010 to reflect policy developments resulting from the change in government, initiatives such as the Big Society, and other legislative developments. Every government department is signed up to the Compact, and its implementation across government is overseen by the Office for Civil Society who are based within the Cabinet Office.

As well as the national Compact, most areas in England also have a local Compact, which interprets the principles set out in the Compact to reflect local need. As well as Local Authorities, many other public bodies have signed up to their local Compacts including police, fire and health organisations.

Following local Compacts has enabled local communities to benefit from greater involvement in policy design, improved reach and understanding, better commissioning and procurement, and better support for the vital role of voluntary and community sector organisations.

About Compact Voice

Compact Voice represents the voluntary and community sector on the Compact. We are co-signatories on the national Compact, and negotiated its content on behalf of the sector, based on its views.

We have a membership of 2500 and our board contains all the main infrastructure organisations in the voluntary and community sector as well as others. A full list of our board members is available on our website.

We provide training, support, advice and information about better partnership working to both sectors both nationally and locally, representing the voluntary and community sector's interests and views to government, and championing the Compact.

Summary of response

Our submission to the consultation makes the following points:

- The recognition the draft guidance gives to local Compacts is important and welcome, as is the emphasis on reasonable principles which help govern the relationship between the public and voluntary and community sectors.
- The principles of the national Compact provide sufficient guidance and clarity both to inform local decision making and eliminate the need for additional guidance.
- Using the Compact can help mitigate some of the tensions between imposing specific ways of working onto a wider agenda of local determination.
- Clarity needs to be provided about how this guidance can be used to challenge recent decisions made which do not follow the principles it enforces.
- Some aspects will be lost by repealing the Duty to Involve; it is important that changes to the duty to involve do not undermine the principles of meaningful engagement established in both local and national Compacts.
- Alternative text should be issued for this guidance which reflects the principles of the national Compact.

Context

At the NCVO annual conference in March, Eric Pickles announced a series of principles which he considered to be reasonable expectations the voluntary and community sector should have when dealing with local authorities, stating that these expectations could be given statutory force if they weren't being honoured.

This consultation is in response to the Department for Communities and Local Government's draft 'Best Value Guidance', which sets out how these reasonable expectations should be delivered.

The guidance restates the Secretary of State's 'reasonableness principles', and makes welcome reference to recognising and honouring commitments established in local Compacts.

After Mr Pickles' speech, Simon Blake, chair of Compact Voice issued a statement which emphasised that the reasonableness principles which had been described (and which have been subsequently repeated in the draft guidance) closely match those found in the national Compact, recently renewed and supported across Government.

In his statement, Simon Blake said:

"While we welcome any measures which seek to help provide greater protection for the voluntary and community sector during these difficult times, we are concerned that the Secretary of State is missing a vital opportunity to stand behind the Compact.

"Strengthening and embedding the expectation that Compact principles should be followed locally would mitigate the need for additional guidance from the Secretary of State or his Department, and we encourage him to declare this support. Many in the voluntary and community sector champion the Compact in their operations, and will be dismayed that his speech seemed to recognise the vital role that Compact principles have without clearly indicating an expectation that they should be followed."

It is to be commended that the guidance issued does indeed recognise the vital importance of local Compacts, and we remain confident that those areas which follow local Compacts will

be able to deliver on the expectations that the Secretary of State and his department have promoted.

However, Compact Voice does not believe that the draft guidance goes far enough to recognise and support the vital role that the Compact has in helping to both establish and manage better and more equal partnerships between the statutory and the voluntary and community sectors.

When launching this consultation, Eric Pickles stated:

"I'm not asking councils to do anything that I wouldn't do myself, so all central government departments are also signing up to these fair new standards."

We welcome the commitment to following these principles across government, reasserting their importance locally, and providing clarity about how they should be used. However, much in the draft guidance should not be considered new, and is broadly the same as principles established in the Compact. Issuing separate guidance which makes broadly the same points as contained in the national Compact is potentially confusing.

Localism and national guidance

We understand that some of the fundamental principles of localism may appear threatened if national guidelines are imposed and limit what can be decided at local level. Indeed, following the Secretary of State's speech, some commented that statutory measures could represent 'limits to localism'.

It is therefore understandable that a Government with such a strong emphasis on localism and decentralisation might resist the idea of imposing guidance which could be seen to limit this agenda. In the recently published report from the Communities and Local Government Committee's inquiry into localism, when referring to this consultation it states:

"We note the Government's intention to publish statutory guidance to local authorities not to pass on 'disproportionate' funding reductions to the third sector. However, this is another instance of two types of localism coming into conflict: local government must be given the flexibility to manage its resources according to local decisions, even in instances where those decisions might threaten the development of a 'Big Society' along the lines envisaged by the Government."

The Compact is a mechanism through which these tensions can not only be addressed, but can be eliminated. The Compact has an important contribution to make both to the Big Society and the localism agendas, and effective implementation of the mutually agreed principles it contains can help reconcile some of the concerns identified above.

In our submission to the select committee inquiry mentioned above, we wrote that "by establishing a set of agreed principles at national level, and enabling local interpretation, adaptation and implementation, the Compact can arguably be seen as an illustration of the decentralisation agenda advocated so strongly by this government."

The national Compact has recently been renewed, and a variety of views and opinions from both sectors informed the content of the final draft of the document. In reference to local Compacts, the text states that: "Local areas are encouraged to follow the principles in this document. These will play an important role in ensuring empowered and sustainable communities."

The Compact has been interpreted and designed locally in a variety of different ways, based on local need. We are currently witnessing a number of local Compacts being updated to reflect changes contained in the national document.

However, the national document has itself been drafted based on the views, needs and interests of both sectors who are signatories to it, and it should be emphasised that these

principles - supported and implemented across government – are not additional burdens but a way to improve relationships and partnerships working for the benefit of communities. The principles of the Compact should be considered the start of a relationship, rather than outlining what happens should that relationship breakdown.

Recognising that these principles have been developed jointly, based on mutual aims, it seems counter-productive to introduce guidance which says much the same thing without making explicit reference to existing text.

As long as there is a need to provide guidance to local authorities about the best ways to interact with the voluntary and community sector, that guidance should be explicitly based upon the mutually agreed principles of the national Compact, and how those principles are interpreted locally to meet local need.

Enforceability and accountability

While it is recognised that the Compact can form the basis of a relationship from its outset, it is important to recognise that there are occasions where relationships falter. The very need for this guidance recognises that there are certain actions which should not be considered acceptable when working in collaboration or partnership.

The renewed Compact was published with an associated accountability and transparency guide, which identified a number of steps to help organisations and groups - both locally and nationally - to challenge where things have gone wrong.

The draft guidance offers no such clarity, and again it is important that these principles, despite being described as light-touch, are taken seriously, with mechanisms of redress embedded clearly into them.

Again, with existing mechanisms already in existence, the guidance should not be seen to supersede or replace what is already there, and there is a genuine danger that local partnerships will be damaged if the enforceability of partnership principles is not taken seriously.

Many have called for stronger mechanisms of enforceability for the Compact, and linking its principles to legislation - while still encouraging scope for local interpretation based on local need - will be of mutual benefit to all parties.

It is unclear how the reasonableness principles described in this draft guidance will be enforced. In particular, the rationale provided for the shorter consultation period implies that the guidance it proposes can be used in relation to 'near-term local budgetary decisions'. However, no further explanation is provided about what this might mean, what enforcement mechanisms will be introduced to ensure compliance with the guidance, and the scope and scale of how this guidance can be used in relation to recent decisions made which don't follow the recommendations they propose.

We have examples of where the local overview and scrutiny function use their local Compact as a measure against which the council's funding and partnership activities with the voluntary and community sector are considered. This process can help to ensure that non-executive members gain an understanding of the needs of voluntary and community sector organisations resulting in better local partnerships. Guidance should specifically recognise that these – and other existing mechanisms – can play an active role in holding the council accountable for its commitments in the Compact. It is important that this is further clarified.

Meaningful consultation

It is unfortunate that this consultation has been launched with a timescale which falls short of the expected twelve week period described by the Compact – and other sources – as best practice. While the Compact does allow for shorter time periods in exceptional circumstances, such instances should result in "clear explanations and rationale for shorter time-frames".

Compact Voice recently published a draft document (Annex 1) outlining what is considered to be 'meaningful' engagement, to ensure the widest possible contribution to a consultation to improve policy making. It also states that information should be made public about how the points it contains are being addressed.

The principles are supported by HM Government's 'Code of Practice on Consultation', published in 2008.

The introduction to this consultation states that the consultation period is shortened because of "the need to balance swift action in light of near-term local budgetary decisions with sufficient time for all interested parties to respond".

However, neither the document - nor any supporting materials published to accompany the consultation - provide information about how wider views are being sought, or what steps are being undertaken to mitigate the shorter time frames.

We recommend that a document is published which outlines how the 'meaningful' criteria proposed by Compact Voice in its draft document are being met to mitigate the shorter consultation time-frame.

Repealing the duty to involve

We are concerned that this guidance is described as 'minimal and light touch' while at the same time replacing a specific duty held by many as being an important mechanism to ensure greater engagement in service and policy design and delivery.

As stated above, the national Compact outlines mutually agreed principles of consultation. We believe that anything which repeals the duty to involve should continue to clearly and unambiguously commit public sector bodies to engaging and consulting with relevant stakeholders before making decisions which will affect them.

Suggested alternative text

The draft guidance has a number of areas which could be strengthened and clarified. Based on the issues identified above, Compact Voice believes that the welcome intention to reassert agreed principles could be further strengthened in the following ways:

- Explicitly state where principles proposed in the guidance are based on those agreed in the national Compact, separating and distinguishing those which are newly introduced in this guidance.
- Avoid replication by not introducing new guidance which repeats principles recently established and agreed elsewhere. If replication does occur, the original should be referenced.
- Support and recognise the role of local Compacts as a key mechanism for improved partnerships, and how they relate to the agreed principles of the national Compact
- Clearly separate the need to avoid passing on disproportionate cuts to the sector with the need to follow agreed principles if changing or ending funding relationships – the current text confuses these points, and clarity is lost for the sake of brevity. Both points are important.
- Provide clarity about how government departments will follow these principles, making reference to the commitments to deliver them established in the national Compact.

These points should be considered as a minimum in order to provide effective clarity and support for the voluntary and community sector both locally and nationally. We propose that the draft document be amended to include the below, which would also successfully include the above points:

“Authorities should recognise the value and contribution of the voluntary and community sector, including the benefits of working alongside local groups and organisations when designing and delivering local services or policies. They should avoid passing on disproportionate cuts to them.

There is an expectation that local Compacts should be adhered to when working in partnership with the voluntary and community sector. The principles contained in local Compacts will be mutually agreed by local signatories to them, and should reflect the principles established in the national Compact, which include:

- 4.2 Assess the impact on beneficiaries, service users and volunteers before deciding to reduce or end funding. Assess the need to re-allocate funds to another organisation serving the same group.
- 4.3 Where there are restrictions or changes to future resources, discuss with CSOs the potential implications as early as possible, give organisations the opportunity to respond, and consider the response fully, respecting sector expertise, before making a final decision.
- 4.4 Give a minimum of three months notice in writing when changing or ending a funding relationship or other support, apart from in exceptional circumstances, and provide a clear rationale for why the decision has been taken.

Other undertakings in the national Compact reflect mutually agreed practice to establish and deliver better partnerships, and should be considered by both sectors when working both nationally and locally. Government departments have committed to delivering these principles through their adherence to the national Compact, with specific activities about meeting these aims included in their business plans from 2012 onwards.”

If you have any questions or would like to discuss this submission further, please do not hesitate to contact me using the details below.

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