

Compact Code of Practice

Funding & Procurement

A companion document to

The Kirklees Compact

**A `framework` for working relationships between the voluntary & community,
public and private sectors within Kirklees**

Background to the Compact and Codes of Practice

The Compact is the agreement between the local public sector bodies and the local community and voluntary sector organisations. It describes a way of working that will benefit all partners. It is similar to other Compacts that have been drawn up in other areas across England and the national one that central government will work to. This code of practice supports the Compact and gives more detail in regard to funding and procurement. It is one of two that have been adopted by the Local Strategic Partnership in Kirklees.

Aims of the Code of Practice on Funding and Procurement

- The current financial relationship between the sectors does not always allow for the best possible outcomes to be achieved. This Code therefore aims to change behaviour in both the voluntary and community sector and the local public sector partners to make improvements. The Code does this through:
 - ✓ setting a framework for the financial relationship
 - ✓ setting out undertakings for both sides, based on what each side can expect from the other
- The Code is to be seen as a **standard, which** all parties are expected to work to.
- The Compact builds relations that change how partners behave, engage and work together.
- The aim of this Code is to contribute to a constructive dialogue to improve funding and procurement practice. The Code covers **how** programmes should be designed and delivered.
- It does not cover **what** is funded or **who** should be funded.
- The Code covers all types of funding relationships between the sectors including grants and awards, and procurement activity – such as contracting and commissioning.

Appendix 1 gives a more detailed definition of Grants and Procurement and explains the differences in these approaches to funding.

Who the Code is for

- The Code is for everyone in Kirklees involved in public funding of the voluntary and community sector (including its social enterprise activity), whether distributing, seeking or receiving funding. Some public bodies cross the Kirklees boundary, but other areas will have similar agreements in place. The Code covers the location of the activity not the home base of the organisation.
- In the public sector, it is aimed at those developing programmes where voluntary and community organisations help deliver activities, and also those administering those programmes, such as procurement or grant officers.
- In the voluntary and community sector, it is aimed at those applying for, or managing public sector grant funding and contracts.

Key Principles

The following principles should apply at all stages of the financial relationship.

- *Focus on outcomes – working towards improvements in services for local people.*
- *Simplicity and proportionality – processes are as simple as possible and proportionate to the size of the organisation and the amount of money involved.*
- *Consistency and co-ordination – funders and purchasers should endeavour to join up or standardise elements of the funding or procurement chain to minimise burdens on organisations and enable funding to focus on outcomes.*
- *Timeliness – allowing time for planning, decision making and action at the right time so that each has real effect.*
- *Accountability – the public needs to know how their taxes are being spent. Public sector organisations are accountable to the local council and other elected committees which represent both local taxpayers and central government for the proper use of public money.*

- *Transparency on all sides is necessary to allow informed decisions about spending priorities to be made and for both voluntary and community groups and the public sector to learn from previous work.*
- *Discussion and dialogue: this helps build trust and can identify and overcome problems before they impact on the delivery of outcomes.*
- *Empathy – understanding the needs and requirements of all parties should help avoid problems and help achieve the outcomes they both desire.*

1. Development of Grant Schemes and Procurement Processes

Local public sector organisations undertake, whenever possible, to provide an opportunity for the voluntary and community sector to contribute to design and management of funding streams. Local organisations should input on the following issues:

- Consultation with customers and community groups as to what schemes and services are needed;
- barriers to delivery (for instance, unrealistic timeframes or slower development of delivery or demand in early part of programme);
- the optimum size of grants or contracts – by ensuring that sizes are small enough to help secure a diverse supply base and to allow smaller organisations to compete;
- which aspects of the programme would benefit from voluntary and community sector involvement;
- how risks associated with any new programme can be reduced or tolerated. Much new and experimental work, be it grant funded or contracted, carries a higher level of risk - this should be managed.
- Consideration as to how we can develop voluntary and community groups to be ready to apply for grants or tender for contracts

2. Application and Tender Process

This Chapter covers the process of inviting, applying for and assessing grant applications and tender bids and the notification of subsequent decisions.

What are we trying to achieve is a well managed application and tender process that will ensure that organisations best able to achieve the aims of a programme apply. Well managed processes ensure that resources are focussed on delivering outcomes rather than on the application or tender process itself.

The Benefits

- 2.1 A well-managed application, or tender process allows the voluntary and community sector to access opportunities to deliver. If organisations have enough time to apply they will be able to make well informed and considered applications. They will also benefit from not having to spend disproportionate resources on the application processes.
- 2.2 The public sector can know that the chosen organisation is the one best able to deliver the intended outcomes and that expenditure is focussed on achieving outcomes rather than the process.

What the voluntary and community sector needs to do

- 2.3 The sector needs to be aware of opportunities and should seek to understand the timescales and decision making process. When applying, **voluntary and community organisations undertake to ensure that they are eligible**; that their suggested work meets the aims of the programme; and that they understand the requirements.
- 2.4 The sector recognises that there are competing demands for public spending and that there may be more applicants than money available. The sector recognises that the final decision is the funder's. **Voluntary and community organisations undertake to have clear lines of accountability, especially with joint bids.** The sector will properly allocate costs so that full cost recovery can be achieved

see Appendix 3- this covers the issue of “ full cost recovery”.

What the public sector needs to do

- 2.5 Public sector bodies should promote opportunities widely and consider proactive approaches to encourage voluntary and community organisations to apply for grants or become “suppliers”. A pro-active approach may be particularly important for organisations who may not have applied for funding in the past, or tendered to provide services.

See Appendix 2 for advice on how to make contracts more attractive to the voluntary sector

- 2.6 Adequate time is needed to respond, particularly for larger pieces of work or those involving joint working (for instance consortium bids).
- 2.7 Information and forms should be clear and accessible and include all relevant information and contact details so that an informed decision about whether to apply can be made. The process should be proportionate to the amount of money available. Public sector agencies should consider the use of standard questions and seek to co-ordinate forms across their sections where possible.

2.8 The local public sector undertake to only ask for information on application forms that will genuinely be used to help decide who will receive funding or be awarded the contract.

2.9 Assessment needs to recognise **it is legitimate for providers to include the relevant element of overhead costs in their estimates for providing a given service.** With procurement, voluntary and community organisations cannot be given preferential treatment but are entitled to determine their own price in competition. Contracts should be awarded on the basis of the real value of the proposal, but the public sector will not have to accept bids unless they also represent value for money. The public sector should only seek information about management fees and overheads as they would from any other potential provider.

2.10 Applicants should be kept informed of the process. Notification of decisions needs to be timely and give adequate and agreed notice in advance of the expected date of setting up provision. Smaller organisations or those newer to delivery may need longer notice.

2.11 Feedback on the reasons for decisions should be provided to any organisation to assist them in learning more about how they should apply in the future.

3. Agreeing Terms of Delivery

This chapter is about agreeing outputs, outcomes and the appropriate description of activity in funding agreements.

We are trying to achieve is a clear way of explaining the nature of the conditions of the grant or terms of the contract. This should help ensure that the best possible outcomes achieved.

The Benefits

3.1 Effective terms of delivery give clear expectations of what is to be delivered and by when, so organisations can plan and deliver effectively. The sector benefits from having clear terms of delivery that are appropriate, and allows the outputs or outcomes to be achieved. Specific clarity is needed in regard to the extent to which any flexibility is allowed with in the contract.

3.2 Effective terms of delivery ensure that the best possible outcomes and outputs are achieved for the sum given. Effective terms of delivery also contribute towards the development of a constructive working relationship with the funded organisation.

What the voluntary and community sector needs to do

3.3 Voluntary and community organisations should seek to agree terms of delivery at the outset and be aware of the areas of work for which they have responsibility. There is the also a need for clarity as to the risks associated with the delivery of outputs or outcomes. Where risks are identified these are to be assessed and managed. Example of some common risks would include problems with

recruitment and retention of staff, funding/resource shortages and failure to secure match funding as expected.

- 3.4 The sector recognises it is legitimate for grant funders to ask for public recognition of their funding by funding organisations in appropriate circumstances.

What public sector needs to do

- 3.5 The public sector undertakes to explain and agree terms of delivery with the provider before the contract or funding agreement is entered into. This should include the actions that will be taken if the supplier is failing to deliver. Services should be sensitive to the impact which changes in contract requirements can have on providers. They should ensure that there is a simple and pre-agreed change control process and that account is taken of provider comments on the changes required.
- 3.6 The public sector undertakes to discuss the issues of risks with projects or activities up-front and agree reasonable measures to work within sensible limits, whilst not stopping innovative work.
- 3.7 Intended outcomes should be kept in mind and conditions must relate to achieving these outcomes. The public sector recognises that the terms of delivery should be broadly consistent across agencies and proportionate to the size of grant or contract.

4. Agreeing Payment Terms

This chapter is about the arrangements for the payment of grants or for work under contract.

We are trying to achieve payment terms that allow the service to be funded in the most effective way so that the best possible long-term outcomes for service users are achieved.

The Benefits

- 4.1 The voluntary and community sector benefits by being able to deliver the best possible service for beneficiaries on a stable and secure basis. This allows them to plan for the future and develop in a sustainable way so that they can improve their delivery of services over time.
- 4.2 The public sector benefits from payment terms that enable organisations to develop sustainably which helps ensure a continued diversity of potential suppliers and helps foster constructive working relationships. Sensible payment terms help the stability of voluntary and community organisations and create positive incentives to perform.

What the voluntary and community sector needs to do

- 4.5 The voluntary and community sector undertakes to have good systems in place to manage finances and funded projects and account for them. Voluntary and community organisations should agree a clear understanding about payment terms, including the treatment of underspends in grants.

What the public sector needs to do to achieve this

- 4.6 The public sector will consider the timing of payments to create the right incentives for delivery. **The local public sector undertakes that payments to voluntary and community organisations can and should (where appropriate and necessary) be made in advance of expenditure, rather than in arrears, in order to achieve better value for money.** In the case of large grants or contracts these would be made monthly or quarterly in advance. In some cases organisations receiving very large contracts would have to make a business case to have funds released in advance. Payments for purchase of major capital assets would normally be made in arrears unless a strong business case was made for advance payment.
- 4.7 **The local public sector undertakes to implement longer-term financial arrangements when these represent good value for money and help sustain project development.** Central Government has now introduced three-year indicative allocations for Local Authorities and other public sector bodies - the rationale for three-year settlements applies equally for voluntary and community organisations. Most Public Sector budgets are not fully agreed till near the end of the financial year making guarantees difficult but where possible indicative figures should be given for projects requiring funding for more than 12 months.
- 4.8 Funding for new pilot projects, or research, will normally only be for one year, or for a specific period. No further funding can be expected until the project demonstrates its impact and the need for it to be continued or extended.
- 4.9 Public sector agencies should make payments on time (in line with the Late Payment of Commercial Debts Act, which covers contracts).
- 4.10 Terms of payment should be clear from the outset. The public sector should also agree a clear understanding with the provider about the treatment of underspends in grants.
- 4.11 When funding streams are coming to an end or a new process for procuring new contracts is set up funded organisations should be informed at the first opportunity so they can plan accordingly.

5. Agreeing Monitoring and Reporting

This chapter is about ensuring that the provider is delivering agreed outputs and contributing toward meeting intended outcome within a process that allows resources to be focussed on frontline delivery.

We trying to achieve effective monitoring that focuses on outcomes; is proportionate and not burdensome; ensures transparency about the use of funds and what they achieve.

The Benefits

- 5.1 The voluntary and community sector benefits from a focus on outcomes rather than spending time on unnecessary reporting. Good management information enables the provider to respond to changes or problems and to build a trusting relationship with the funder or purchaser.
- 5.2 The public sector benefits from assurance that it is getting value for money from its expenditure. There are further benefits from a good relationship with the provider. A good relationship and effective agreed monitoring will help ensure early sharing of information if there are changes or problems. Monitoring and reporting also provides information that is useful for the planning and development of public policy, drawing on evidence from existing or past programmes.

What the voluntary and community sector needs to do

- 5.3 **The voluntary and community sector undertakes to be honest and transparent in reporting.** The sector recognises that public accountability inevitably requires some level of reporting.

What public sector needs to do to achieve this

- 5.4 **The local public sector undertakes to be proportionate (to size of funding, size of provider and perceived risk) in monitoring requirements and to focus on outcomes.**
- 5.5 Public sector agencies will consider joining up or standardising monitoring requirements so that those providers in receipt of funding from a number of sources are not overburdened. Where an organisation is funded by more than one public sector body for providing similar services, monitoring by a single lead agency should be considered. Monitoring should only include information that is needed or will be used to assess performance. Before the grant agreement or contract is signed, departments and agencies should discuss with the provider the information that will be required. Discussion will also help in agreeing monitoring of outcomes. Local agencies should also consider what to do if there is likely to be a failure to meet delivery targets and how intended outcomes might alternatively be met.

6. Grant and Contract Management

This chapter is about managing the progress of funded projects and organisations in general. Often money will need to be re-profiled, or agreed timetables changed, in order to deliver services in the most appropriate manner.

We are trying to achieve an honest culture, which enables funders and providers to be clear and transparent as to how the project is progressing.

The Benefits

6.1 Regular communication and openness will improve both project delivery and the relationship between funder and funded. **Problems are best addressed early.**

6.2. **It is important that as soon as it is realised that changes are needed, a revised plan is agreed with both funder and provider. This ensures that the project benefits are maximised.**

What the voluntary and community sector needs to do to achieve this

6.3 Voluntary and community organisations will give early notification of budget problems, for example if there are likely to be an underspend, or failure to secure match funding as predicted.

6.4 Funded organisations will be honest about progress against targets or deadlines. As soon as they are aware there is likely to be problem they will discuss the issue openly with the public sector body that has funded the work.

What the public sector needs to do to achieve this

6.5 The public sector will be willing to have regular communication, and meetings if needed, with funded organisations to discuss progress with the project or work funded.

6.6 If the provider is not meeting targets, funders should first discuss with the provider what action could be taken to improve delivery (for instance the possibility of a revised action plan). However, should performance not improve and the effective use of public funding be at risk, it is legitimate for funding to be withdrawn or the contract terminated early.

6.7 Local agencies should consider how the original outcomes might alternatively be met. If for legitimate reasons the project changes direction, funders should take a balanced view in relation to project outcomes and value for money

7. Concluding a Funding Relationship

This chapter is about managing the conclusion of a financial relationship. It includes where the term of the grant or contract finishes; where funding terminates earlier than the intended closure where delivery targets are not met; or where funding ends as a consequence of a review of strategic or development funding.

We are trying to achieve a well managed process which minimises negative impact to service users, the provider organisation's long-term stability and the relationship between funder and funded.

The Benefits

- 7.1 A well managed process minimises the impact of the conclusion of a financial relationship and enables organisations to prepare contingency plans and identify potential alternative income. This will enable needs to continue to be met and ensure that the duties of good employers towards staff can be met (for instance adequate redundancy periods). A well managed process will also support the long-term stability and sustainability of organisations.
- 7.2 The public sector benefits from minimising any potential impact to service users. There are also benefits from maintaining good working relations with providers so that they can continue to have a constructive relationship beyond the particulars of the grant or contract. The long-term stability of the sector benefits the public sector in that voluntary and community organisations can continue to make an effective contribution to the achievement of public policy objectives

What the voluntary and community sector needs to do to achieve this

- 7.3 The voluntary and community sector recognises that funding may end as priorities change or if outcomes are not delivered. **The sector undertakes to plan in good time for different scenarios to minimise any potential negative impact on both service users and the organisations.**
- 7.4 Normally the period of the grant or contract will be stated clearly within the contractual papers. Funded organisations should assume that all funding is coming to an end until such times as new funding has been secured, and plan accordingly.

What the public sector needs to do to achieve this

- 7.5 **The public sector undertakes to give adequate notice of the end of grants or contracts.** This should be a minimum of three months. This helps organisations fulfil their duties as good employers and prepare alternative plans. Notices will give the reasons for end the funding agreement or contract and allow the provider organisation to respond to proposals to change or end an arrangement.

Appendix 1

Copy of Home Office Document

Distinguishing between Grants and Procurement

Procurement is defined as being the acquisition of goods and services from third party suppliers under legally binding contractual terms where all the conditions necessary to form a legally binding contract have been met. Such acquisitions are for the direct benefit of the contracting authority, necessary for the delivery of the services it provides or for the running of its own business. In addition, the EC procurement directives provide specific definitions for supplies, services and works contracts covered by them.

Voluntary and Community Organisations (VCOs) may receive grants from a variety of sources, including Government departments and other public bodies, to enable them to carry out their work. The grants may be general grants, to assist with the expenses of developing and running a VCO (often called "grant in aid") or specific grants to enable it to carry out a particular project or service. The grant giver is not contracting for a service which forms part of its own business. It is offering financial support to a VCO in an area of work, designed and proposed by the VCO, which it wishes to sponsor. The work to be carried out by the VCO would be deemed to add value to a public body's overall aims or objectives. For example, to reduce the fear of crime in a community, grants may be awarded for improved local lighting schemes.

The terms of the grant are likely to require the VCO to use the money only for a particular project or service, and might require the VCO to pay back the grant, or part of it, in such circumstances. But the VCO might have no other specific legal obligations to the public body that made the grant to it, and retains considerable freedom in the way in which it carries out the work. Frequently a grant awarded for a project or service will cover only part of the cost and will need to be "matched" by other funding. Thus, a Government department may be one of several public or private bodies contributing funds to the same project.

Over the last decade, it has become commonplace for grants to be awarded following competitive bids for funding. Also grant giving bodies often now require some form of written grant agreement, detailing roles and responsibilities of both parties. These may be non-legally binding agreements (often referred to as grant agreements or service level agreements) or in some cases, legally binding grants contracts. During the life of the grant, there may be more "hands on" management of progress than was the case in the past, as grant givers come under greater pressure to justify the proper disposal of public funds.

Increasing use of competition and written agreements in the award of grants has led to some confusion with public procurement contracts. It is important to distinguish between procurement and grants and consequently to apply the appropriate procedures. Expert advice should be sought in cases of doubt.

It should be stressed that the following guidance applies only to the procurement of services from the VCS and not to the provision of grants.

Appendix 2

A copy of a Home Office Document

Think smart, think voluntary sector!

Why?

It is Government policy to encourage more participation by voluntary and community organisations (VCOs) in the procurement of high quality services. This sector can bring more competition to the market place and can offer better value for money through:

- Specialist knowledge and experience
- Innovation
- Flexibility and responsiveness to change
- Access to communities and specific client groups.

What barriers do VCOs perceive?

Here are just a few

- Lack of recognition of VCO's capabilities and specialist expertise
- Difficult for VCOs to find out about contract opportunities
- Trend towards large scale, national or regional frameworks excludes VCOs
- Insufficient warning/time to respond to tenders
- Expense of complex pre qualification and bidding procedures
- Lack of understanding of EC procurement regulations
- Contract difficulties e.g. risk apportionment, liability and indemnity payment terms.

How can we help?

A great deal can be done **before**, **during** and **after** the procurement phase to stimulate VCO participation whilst remaining within the Government's policy of value for money, equal treatment for all suppliers and compliance with procurement rules.

Stage 1

Before procurement even begins

Talk to the market regularly. Understand the players within it and their capabilities. Encourage VCOs, especially smaller ones, to become suppliers. Meet the buyer event/seminars are valuable. Forum them on a particular market segment and invite both private sector and VCOs, large and small. This provides an opportunity for VCOs to form alliances and develop sub-contracting opportunities.

Early supplier involvement (ESI)

When first formulating policy and programmes, consider the impact on the market and the possible role of VCOs. Consult informally to get a market perspective on viability and to help shape your procurement strategy. However, always make it clear that this consultation will give no advantage in formal competition.

Deciding your procurement strategy

- Large-scale contracts do not necessarily offer better VFM. Consider whether the requirement should be split into smaller packages.
- For larger requirements, where relevant inform major contractors that involvement of VCOs would be welcomed. Where considered essential to service delivery, ask tenderers to demonstrate in their bids how they will involve VCOs.
- Consider longer term contracts and partnerships where this would represent VFM. The continuity and secured cash flow offered by longer term contracts is especially valuable to smaller VCOs.

Stage 2

From the start of procurement through to the award of contract

Advertising

Use media which VCOs can readily access; send copies of adverts to VCOs whom you think may have an interest; maximise use of appropriate websites.

Pre-qualification

Keep the process proportionate and relevant to the requirement. Don't insist on a long "track record" of delivery to the public sector, or you may deter a new but capable VCO.

Specification

Should as far as possible be output/outcome based leaving scope for innovation and VFM solutions. Aim for a clear and concise specification avoiding jargon. Market input to specification can be useful but ensure this does not skew procurement towards a particular supplier.

Contract Terms

Be open to difficulties which VCOs can face with cash flow. Advance start up payments may be appropriate, with frequent milestones, as opposed to payment on completion.

More information can be found in Government Accounting on HM Treasury website www.hm-treasury.gov.uk

Risk and Indemnity

Make sure the risk is allocated to those best placed to deal with it, and that VCOs will not be excluded by unnecessarily demanding contract terms, especially indemnity and insurance requirements. Seek expert advice if at all unsure.

Sub contracting and consortia bids

Allowing for these in the contract can help small VCOs gain business. Where appropriate you can signal to suppliers that you would welcome VCOs being used in the supply chain.

Stage 3

Post Procurement

Contract management

Do not burden VCOs with onerous reporting requirements and frequent contract meetings; use exception reporting; focus on measuring a few key outcomes rather than process. If changes to specification are needed, be sensitive to the impact. Try not to escalate problems and cause additional costs for both sides.

Review existing contracts: with prime contractors to see if there is scope to improve service delivery and VFM by more engagement with VCOs.

Feedback and improvement: give constructive, honest and detailed feedback to enable VCOs to improve their proposals. Consider training seminars targeted at helping VCOs to improve their bids.

Where can I find help or more information?

More detailed guidance entitled “think smart.....think voluntary sector! – Good Practice Guidance on Procurement of Services from the Voluntary and Community Sector” has been developed for use by all Government departments and NDPBs. The guidance can be found on the websites of the Office of Government Commerce (www.ogc.gov.uk) and the Home Office Active Communities Directorate (www.homeoffice.gov.uk/comrace/active/funding/index.html).

Appendix 3

Copy of Home Office Document

Funding the full cost of work

The purpose of this appendix is to set out the principles for full cost recovery for voluntary and community organisations, in line with the conclusions of HM Treasury's cross-cutting review of the role of voluntary and community organisations in public service delivery. This review concluded that it is legitimate for these organisations to include the relevant element of overheads in their cost estimates for providing services and outputs.

All organisations in the public, private and voluntary and community sectors have indirect overhead as well as direct costs associated with the delivery of goods and services. To operate efficiently and effectively, voluntary and community organisations must be able to understand all their costs including indirect and support costs. No activity can be undertaken without the need for support functions, and funding bodies have an interest in ensuring that organisations are able to manage and administer activities properly.

The key reason for the lack of 'core funding' within the voluntary and community sector is that debate has historically and typically been based on a false principle that 'core' costs are somehow unrelated to an organisation's 'real work'. Many funders have traditionally paid only for the marginal costs of the services they are seeking. But if funders follow this practice, necessary overhead costs cannot be met, or are met from donations and other sources of income which were not intended for this purpose.

It is important therefore that funders agree to meet the full cost of services, including the overheads that relate to the activities they have commissioned. HM Treasury and the Home Office will be issuing a revised version of Guidance to Funders to help public sector funders identify relevant overhead costs and encourage efficiency by voluntary and community organisations.

The methodology chosen by voluntary and community organisations to allocate relevant overhead costs should follow these principles:

- The method should be simple. Both funders and service providers should be able to calculate the amounts without disproportionate resource;
- The method should be equitable between providers where there are several funders of different services; and
- The costs should be recovered only once. So where for example a funder provides a grant specifically for core costs, those costs should not be taken into account when calculating the amounts due from other funders.

Many voluntary and community organisations use an arbitrary fixed percentage core cost add-on to the direct costs of the service. Whilst this has the appeal of simplicity and, and is appropriate in some circumstances, there can be some risks. Arbitrary fixed percentages can be driven by what the funded organisation thinks it can 'get away with' and can lead to true costs being underestimated. If voluntary and community organisations clearly calculate and allocate their direct and overhead costs to projects, these problems can be avoided.