

THE CAMBRIDGESHIRE COMPACT

The FUNDING & COMMISSIONING Code of Good Practice

Produced by the Cambridgeshire Compact Development Group – a joint group of Cambridgeshire Local Authorities and lead Voluntary and Third Sector Development Agencies.

Consultation Document

Consultation period running from 1 November 2008 to 30 January 2009

'A vibrant, diverse and independent third sector is a vital part of a fair and enterprising society. It can help communities to be more cohesive and inclusive, and help individuals to have more say over issues that affect them'.

NI7 Briefing Note for Local Strategic Partnerships, Office of the Third Sector, February 2008

1. THE FUNDING AND COMMISSIONING CODE

- 1.1 The Funding and Commissioning Code aims to clarify how the Local Authorities and the third/voluntary sector can work together to enable clearer and more effective funding relationships. The Code does this through:
- Establishing a framework of best practice for financial relationships between Local Authorities and the third/voluntary Sector in Cambridgeshire
 - Setting out undertakings for both sides to clearly define expectations
 - Reflecting our joint commitment to enable a 'thriving third sector in Cambridgeshire'.¹
- 1.2 The Code is aimed at commissioners in Local Authorities involved in funding the voluntary and community Sector in Cambridgeshire and is consistent with their duty to achieve value for money and comply with European Union Procurement law.
- 1.3 In the Voluntary and Community Sector, it is aimed at organisations wishing to obtain resources, grants, or contracts to sell products or services to the Local Authorities². Most Local Authorities in Cambridgeshire are continuing to provide small or short-term grants schemes for voluntary groups. However, for strategic grants or service delivery, there has been a move towards more formal commissioning, including competitive procurement processes.
- 1.4 The Code underpins the original undertakings within the Cambridgeshire Compact published in February 2007. The Agreement aims to build third sector capacity and sustainability by working towards longer-term agreements and joint funding arrangements.
- 1.5 The Code has been produced by the Cambridgeshire Compact Development Group and is supported by the Countywide Procurement Officers Group.
- 1.6 Progress on how we are jointly performing in achieving the undertakings will be monitored and reported on by the Cambridgeshire Compact Development Group and via the Compact website at <http://www.cambridgeshire.gov.uk/council/depts/ecsoffice/learning/compact>.
- 1.7 Items underlined in this document are explained in the **Glossary** attached.

¹ NI7 of the National Performance Indicator for Local Authorities and Partnerships

² *Some funds are held by local authorities, which are grants provided by other bodies to distribute on their behalf. In these instances the local authorities will ensure that, where they are able, processes are consistent with the undertakings set out in this Code. However, there may be occasions when constraints are placed upon the local authorities and the mechanisms they apply in such fund administration.*

2. GUIDING PRINCIPLES

2.1. This code is founded on the key principles set out in the Cambridgeshire Compact, which states that the partners wish to see a funding environment that is characterised by:

- **Stability** Working towards a sustainable financial environment which enables long-term planning
- **Consistency, Co-ordination and Fairness** A standard, honest, proportionate and transparent approach across all sectors
- **Independence** Recognition of the third sector's rights to self-determination and campaigning
- **Accountability** The need for value for money and efficient use of public funds
- **A Focus on Outcomes and Needs** Recognising the benefits of placing individuals and communities at the centre of services and ensuring we are meeting outcomes for them
- **Timeliness** Allowing time for planning, decision-making and action so they have real effect
- **Funding Diversity** Recognising the strength of building mixed income-generation strategies
- **Discussion and Dialogue** Helping to understand each other's needs and building trust to identify and overcome problems before they impact on the delivery of outcomes.

2.2. **In support of these principles the third sector undertakes to**

- Recognise it is legitimate for the statutory sector to require public recognition of their funding in appropriate circumstances
- Recognise that public accountability inevitably requires honest and transparent reporting
- Be aware of and plan for the risks for which they are responsible, in particular the risks associated with the delivery of outputs and outcomes, and advise funders and partners of potential difficulties
- Be prepared to adopt quality assurance principles in management, governance and service delivery
- Be prepared to open up practices, processes and records to funders and partners and to be responsive to their support and advice
- Monitor feedback from people using the services, including compliments and complaints
- Recognise that there are competing demands for public spending and that there may be more organisations applying than money available

- Seek to avoid funding dependency and pursue funding diversity
- Recognise that funding may end if outcomes are not delivered or if agreed processes are not followed.

2.3. In support of these principles the statutory sector undertakes to:

- Work towards implementing three-year funding arrangements when these represent best value
- When asked, provide feedback on failed applications
- Recognise the cost of monitoring and encourage applicants to include this in funding bids
- Raise any concerns about or risks to delivery and outcomes as soon as the concern comes to light
- Require information only that is needed or will be used to assess performance whilst reserving the right of access in the event of suspected fraud or impropriety.

2.4. Together, the third sector and the statutory sector undertake to:

- Respect confidentiality within the bounds of legal requirements
- Recognise the need for full cost recovery
- Recognise the need for a reserves policy
- Agree measurable outcomes to be reported on and develop proportionate reporting formats
- Establish how the outcomes of the service/project can best be sustained and contribute to the long-term capability of voluntary and community organisations
- Take account of good practice and strive for continuous improvement
- Ensure that main point of contact details are provided and that good communications are maintained.

2.5 Dealing with disputes

Early resolution of complaints should be sought as close to the source as possible. Any disputes in relation to individual funding relationships or to the application of this framework should initially be made to the commissioner concerned. If unresolved, the issue should be escalated through the relevant local complaints system, management structure or partnership as appropriate. If the complaint or dispute is not resolved through these processes, or if it has widespread implications for the third sector or for local policy or practice, the issue should be raised through the Compact Resolution Process.

3. GRANT FUNDING CODE

3.1. With regard to grants not subject to contract, the Compact Code signatories agree to the undertakings set out below.

3.2 The third sector undertake to:

- Fully consider the terms set out in the offer letter or agreement and ensure these can be met
- Use the grant only for the purpose stated and within the timescale agreed
- Work towards identifying unit costs wherever possible
- Provide information on what was achieved with the grant
- Recognise that the grant (in whole or in proportional part) may be withdrawn or may be reclaimed if the recipient fails to adhere to the grant conditions or fails to deliver the agreed objectives or fails to provide adequate reporting or to submit invoices on time.

3.3. The statutory sector undertake to:

- Publish details about each grant scheme, including timetables, what the scheme is trying to achieve, what information is needed, how long it will take, what the process is and whom to contact for more information
- Ensure that application forms are easy to read and understand, with guidance notes, and available in alternative formats
- Make grant offers in writing including payment arrangements, any conditions that need to be met, any restrictions on the use of the funds and reporting arrangements
- Provide 12 weeks' notice of the end of a funding arrangement (if not specified in the offer letter or agreement)
- Fully justify any action taken to withdraw or reclaim grant monies.

3.4. Together third sector and statutory sector undertake to:

- Ensure that any under-utilisation of a grant or underspend is identified as early as possible and that arrangements are made for its use before the end of the financial year.

4. The COMMISSIONING AND PROCUREMENT CODE

4.1. The commissioning cycle is more formal and can broadly be distilled into four key processes:

- **Planning**
- **Procuring**
- **Monitoring and Reporting**
- **Concluding**

4.2. Planning

The planning stage of the commissioning cycle combines the:

- Identification of needs
- Prioritisation of needs
- Development of commissioning intentions.

The local third sector should have a number of roles throughout these processes:

- As representatives at a strategic level
- As providers and potential providers of the service
- As advocates on behalf of certain user groups where appropriate.

The third sector undertake to:

- Contribute constructively to the design of services and focus their contribution on the needs of end users
- Respect confidentiality and be clear about who they represent and how they came to their views.

The statutory sector undertake to:

- Consult potential provider organisations, including those from the third sector, within the bounds of legal constraints and requirements, with regard to the design, priorities, services and projects. Clear distinctions need to be maintained at all times between the consultative stage and the design of service specifications.

Consultation could include:

- a) Inviting potential provider organisations to discussions at least 12 weeks prior to contract advertisement
 - b) Where, necessary setting up strategic groups to consider issues
 - c) Considering whether certain user groups would benefit from advocacy support to engage in the service design process
- Recognise that contributing to the design process takes time and resources
 - Be open about its needs, priorities and targets and the driving force behind them and be willing to change them in the light of compelling evidence

- Consider where it may be appropriate to commission local third sector organisations to conduct local mapping exercises and/or research amongst the communities/user groups with which they have contact.

Together the third sector and statutory sector undertake to:

- Identify how risks can be passed to the statutory authority or a voluntary and community organisation best able to deal with them
- Develop optimum size of contracts – ensuring that sizes are appropriate to help secure a diverse supply base and to encourage organizations of all sizes to compete
- Identify how possible conflicts of interest arising from consultation and intentions to tender can be prevented.

4.3. Procuring (The application and tender process)

A well managed application and tender process means that applications from those organisations best able to deliver will succeed.

Commissioners need to determine the most appropriate mode of procurement, complying with the commissioning agency's financial procedures and also with appropriate principles of the EC Treaty. The overriding principle must be towards equality of treatment, non-discrimination and transparency³.

Initially there may be a pre-tender qualification (PQQ) process to establish a select list. To assist the Commissioner in their risk assessment obligations, interested organisations will need to provide information on their processes, policies and relevance for the general area of work.

The third sector undertake to:

- Ensure their eligibility when applying, that their suggested work meets the aims of the contract specification and that they understand the requirements
- Recognise and respect that the final decision on whether to award the contract rests with the commissioner.

The statutory sector undertake to:

- Give reasonable notice of procurement contract opportunities to comply with Public Contract Regulations 2006
- Publish the criteria against which applications and tenders will be assessed and make decisions in accordance with those criteria
- Seek to develop a joint county-wide PQQ process where feasible
- Promote opportunities widely and consider proactive approaches to encourage organisations to bid. This is particularly important for third sector organisations who may not have engaged in the commissioning process before
- Provide the environment to stimulate the market for third sector providers e.g. through commissioning third sector infrastructure agencies to provide training for capacity building in commissioning skills within the sector

³ Refer to the 'Information and Contacts' section of this Code for further information on thresholds and regulations.

- Provide sufficient time for organisations to respond, particularly to larger pieces of work or those involving joint working
- Provide timely notification of decisions and give adequate notice in advance of the expected date of the commencement of the contract. If possible, this should be at least 12 weeks for new services or projects
- Ensure that third sector organisations are not required to provide additional information and assurances to those required from providers from other sectors.

4.4. Terms of Delivery

Effective terms of delivery will give clear expectations of what is to be delivered and by when, so that organisations can plan and deliver effectively and so that the best possible outputs and outcomes are achieved. This approach will also ensure that risks are recognised and placed with the public sector body or third sector organisation best able to manage them.

The third sector undertake to:

- Agree terms of delivery at the outset.

The statutory sector undertake to:

- Explain and agree terms of delivery (such as success and performance criteria) with the organisation before the contract is entered into
- Agree a simple process for controlling any changes to the agreement, including the actions that will be taken if the organisation is failing to deliver, and include these in plain English as part of the contract
- Ensure that conditions are directly related to the intended outcomes of the project.

4.5 Payment Terms

Services should be funded in the most effective way so that the best possible long-term outcomes are achieved. Payment terms should allow the organisation to plan and develop for the future and create positive incentives to perform.

The third sector undertake to:

- Agree with the commissioning body a clear understanding about payment terms.

The statutory sector undertake to:

- Consider the timing of payments to create the right incentives for delivery
- Where feasible, consider making payments in advance of expenditure rather than in arrears, taking into account the impact this may have on the organisation and the service
- Subject to contract terms, make payments within 30 days when correctly invoiced.

4.6. Monitoring and Reporting

Effective monitoring focuses on outcomes, is proportionate and not burdensome, and ensures transparency about the use of funds and what they have achieved. Effective agreed monitoring, with good management information, will ensure that changes or problems are identified and addressed at an early stage.

The third sector undertake to:

- Keep documentation to allow monitoring by funders' internal and external auditors, and allow right of access, as agreed
- Provide monitoring information as specified in the terms of delivery.

The statutory sector undertake to:

- Develop standardised reporting requirements across the county for those organisations that receive funding from more than one funding agency, and set up joint commissioning arrangements where appropriate
- Agree with the third sector organisation the level and type of monitoring that will be required, including action to be taken if delivery targets are not met, before signing the contract.

4.7. Concluding a Financial Relationship

The Code seeks to achieve a well managed process for the conclusion of a financial relationship. This includes when the contract finishes; if funding ends earlier than the intended closure because delivery targets are not met; or if funding ends as a result of a review of strategic or development funding. Detail of how termination of contract due to mismanagement or negligence will be dealt with will be set out in individual contracts. A well managed process will:

- Minimise the negative impact on service users
- Focus on the long term stability of the third sector organisation
- Ensure a continuing constructive relationship
- Ensure effective arrangements are made for a seamless hand-over to the Council or any other successor organisation.

The third sector undertake to:

- Recognise that funding may end as priorities change, subject to the terms of existing agreements and contracts
- Plan in good time for different situations to reduce any potential negative impact on both users and the organisation
- Adhere to their duties as good employers (for example, by giving required redundancy periods).

The statutory sector undertake to:

- Give at least 12 weeks' notice with respect of decisions to terminate contract conditions (unless there are serious breaches of the contract by the third sector body) if the contract is terminated before the end of the period the contract covers, in order to allow voluntary and community organisations to fulfil their duties as good employers and prepare alternative plans

- Give the reasons for the end of the funding agreement or contract and allow the provider organisation to respond to proposals to change or end an arrangement
- Recognise and allow for additional costs to satisfactorily, ie legally and contractually, conclude a project if funding is cut before the planned end date.

4.8 Statutory Requirements

As Public Authorities, the statutory sector are subject to a number of statutory duties, including those relating to discrimination, human rights and the freedom of information. These statutory duties and obligation may be of relevance in funding and commissioning arrangements and so may need to be considered as part of this Code.

The third sector undertake to:

- Recognise statutory duties and obligations and ensure that work is compliant with such, so not causing an Authority to breach those requirements
- Assist, where appropriate, the statutory sector in complying with those requirements.

The statutory sector undertake to:

- Notify the third sector organisations where assistance is required or where they become aware that there are concerns.

5. ASSET TRANSFER CODE

5.1. Transfer of Assets

- 5.2. There are many circumstances in which assets may be transferred from public agencies to the third sector. The Quirk Review has re-focused the emphasis on asset transfer and, at present, the identification of what constitutes best practice has yet to emerge from this new focus.
- 5.3. However, a request to consider transfer of assets should be supported by a comprehensive and robust business case that fully addresses these considerations. It is expected that the organisation requesting the transfer will undertake the necessary investigations and supply full financial details within their proposals.
- 5.4. Local authorities are recommended to have developed processes by which requests for Asset Transfer can be progressed and assessed. More information regarding Cambridgeshire County Council's approach to such requests can be found on the web site. It should be noted that this process may be revised as a result of expected guidance from central government due in September 2008.

6. CONTACTS AND INFORMATION

ADVICE AND ASSISTANCE IN CAMBRIDGESHIRE

It is the intention to provide a full advisory service via the **Cambridgeshire Compact Website** which can be found at
<http://www.cambridgeshire.gov.uk/council/depts/ecsoffice/learning/compact>

Lead Compact Organisations - Third Sector

Cambridgeshire ACRE

Support, advice and projects supporting rural communities
<http://www.cambsacre.org.uk/>

01353 860850

Cambridge Council for Voluntary Service, also covering South Cambridgeshire

<http://www.cambridgecvsv.org/>

01223 464696

Voluntary & Community Action East Cambridgeshire

<http://www.vcaec.org.uk/>

01353 666556

Hunts Forum

<http://www.huntsforum.org.uk/>

01480 420601

Fenland Council for Voluntary Service

<http://www.fenlandcvsv.co.uk/>

01354 659772

Cambridgeshire Community Foundation

Grants to local VCS groups

<http://www.cambscf.org.uk/>

01223 421588

The Social Enterprise People Advice and support with regard to commissioning and general social enterprise development

<http://www.thesocialenterprisepeople.co.uk/>

01223 360977

Young Lives Support for organisations working with children, families and young people

<http://www.young-lives.org.uk>

01480 494333

Guidance, Employment & Training (GET) Group

Also co-ordinating VCS Learning Consortia

Email: timc@getgroup.org.uk

01223 691111

Local Authority Contacts

Cambridgeshire County Council

The County Council has a range of commissioners. To be signposted to the correct officer please contact sandie.smith@cambridgeshire.gov.uk
01223 715471

Cambridge City Council

Elaine Shortt
elaine.shortt@cambridge.gov.uk
01223 457968

South Cambs District Council

Grants

Susannah Harris
susannah.harris@scambs.gov.uk

Commissioning

Sean Missin
Sean.missin@scambs.gov.uk

East Cambridgeshire District Council **Suzanne Goff**
suzanne.goff@eastcambs.gov.uk

Fenland District Council

Grants

Hetty Thornton
hthornton@fenland.gov.uk

Commissioning

Guy Robinson
grobinson@fenland.gov.uk

Huntingdonshire District Council Dan.Smith@huntsdc.gov.uk

Other Information

ACEVO Contracting Good Practice Briefings

Follow these links or visit <https://www.acevo.org.uk>

- Tendering and Bidding Briefing: Give your tender a winning chance
- Impact Briefing: Putting impact at the heart of the tendering process
- Negotiation Briefing: Effective negotiating to secure better outcomes
- VAT Briefing: VAT made simple when working in partnership

Full cost recovery: a guide and toolkit on cost allocation'
ACEVO 2004 publication
www.acevo.org.uk/main/publications.php?content=pubcatalog

The National Finance Hub also has detailed advice on all aspects of funding and finance.

<http://www.financehub.org.uk/default.aspa>

HM Treasury Guidance to funders and purchasers can be found at

<http://www.hm-treasury.gov.uk./media/9/4/guidncefunders1505061v1.pdf>

Good Grant Making, Association of Charitable Foundations, 1997
www.acf.uk/public_print/trusts_guidelines.htm

EU Commissioning Regulations

The definition of Part A and Part B services for commissioning purposes are covered by the Public Contracts Regulations 2006 Schedule 3.

<http://www.opsi.gov.uk/si/si2006/20060005.htm#sch3>

Selling services to government

<http://www.supply2.gov.uk/>

IDeA National Programme for Third Sector Commissioning

<http://www.idea.gov.uk/idk/core/page.do?pagelId=6583598>

Cambridgeshire Supporting People, includes link to national web site (kweb)

http://www.cambridgeshire.gov.uk/social/supportingpeople/?wbc_purpose=http%3a%2f%2fwww.intel.com%3f%22%3e%3c%22%3e%3c

7. GLOSSARY

Asset Transfer

Local communities' ability to acquire land and buildings, either at market value or possibly at a discount, in order to deliver services that meet local need. It is seen as one way in which local authorities, in particular, can support the development of social economy organisations, and thereby meet their wider strategies for renewal and improved delivery of local services.

BEST VALUE

Best value is "the optimum combination of whole life costs and benefits to meet the customer's requirement." Best value is about more than cost. Best value is about continuously improving services. Improvements should be significant and measurable and must reflect the long-term well-being of the community as well as short-term objectives.

BME

Black and minority ethnic.

Commissioning

Defined as the 'authority to perform a task or certain duties' (OED). In this context it is the process of specifying, securing and monitoring services to meet people's needs at a strategic level. This definition refers to the whole commissioning cycle and can relate equally to both funding and purchasing activities. The term 'commissioner' means the body for whom the services are being provided.

Contract

A contract is in place where a service is provided in return for payment. Every contract should define the services to be provided in the specification. This defines delivery standards to be expected and/or service levels and is often referred to as a Service Level Agreement (SLA).

Cambridgeshire Compact Development Group

A joint group of Cambridgeshire Local Authorities and lead voluntary and third sector development agencies. It includes all the County Council service areas, District Councils, the Cambridgeshire Association of Local Councils and NHS Cambridgeshire. Voluntary sector partners include all the Councils for Voluntary Service, Young Lives, Cambridgeshire ACRE, Age Concern, The Social Enterprise People, the GET Group and Cambridgeshire Voluntary Sector Infrastructure Consortium.

Compact Resolution Process

The Cambridgeshire Compact Disputes Resolution Process can be found on the Cambridgeshire Compact Website.

Infrastructure Organisation

Voluntary and community organisations that play a supporting, co-ordinating, representation, policy-making and development role for other voluntary and community organisations.

Full Cost Recovery

Full cost recovery means recovering or funding the full costs of a project or service. In addition to the costs directly associated with the project, such as staff and equipment, projects will also draw on the rest of the organisation. For example, adequate finance, human resources, management and IT systems are also integral components of any project or service.

The full cost of any project therefore includes an element of each type of overhead cost, which should be allocated on a comprehensive, robust and defensible basis. The methods used by the voluntary and community sector to allocate full costs should follow these principles:

- *The method should be simple so that the amounts can be calculated without disproportionate effort*
- *The method must be equitable where there are several funders of different services*
- *Costs should be recovered only once; where a grant has been given specifically for other costs, those should not be included in calculating amounts to be paid by other funders.*

Gift in Kind

Non-financial support to organisations provided without cost, for example staff time, use of facilities and services or donated goods.

Grants

Provided to subsidise an organisation's activities. They are normally:

Core grants - *general subsidies to be used as the recipient feels appropriate or*

Specific grants *where there are conditions attached on how the money is to be used, or may be linked to an SLA.*

Match funding

Funding that is found by groups to match, pound for pound, the size of a grant that has been offered by a funding organisation. It is often a requirement to qualify for grant approval.

Procurement

Defined as being the acquisition of goods and/or 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. ('Improving financial relationships with the Third Sector' HM Treasury May 2006)

Reserves Policy

A key financial policy requirement which ensures that an organisation has appropriate funds to sustain services during possible fluctuations in income. This policy also needs to demonstrate financial probity and that reserves are proportionate to organisational function.

Service Level Agreement

The term Service Level Agreement (SLA) has been used to describe some grant contracts that set binding conditions with detailed specifications for levels of outcome and output performance. An SLA can relate to a “supply” of a service or an administration of a grant award. (‘Improving financial relationships with the Third Sector’ HM Treasury May 2006)

Strategic Grant

Funding that is given to often well established organisations recognised to be of strategic importance and whose continued existence are considered to be beneficial.

Tender

A competitive procedure by which a bid is made to provide services at a certain price, volume and service standard.

Third Sector

The collective name for charities, voluntary, non-government, social enterprise and campaigning organisations. This may include faith groups, social enterprises, co-operatives and mutuals.

VAT - Value Added Tax

As this is a highly complex area of finance, it is essential that organisations tendering for contracts and submitting applications for grants obtain professional advice regarding their VAT position. Cambridgeshire County Council contracts contain the following standard clause:

‘.. the Council shall pay to the Contractor such Value Added Tax as may properly be chargeable by the Contractor in connection with the provision of the Service. The Contractor shall issue a tax invoice in respect thereof.’