

What you need to know: Premises, the Compact, and Public Law

This article looks at an area of great significance for many organisations – accommodation and premises – and highlights some of the important legal and Compact principles which every organisation who may be in council premises should be aware of.

The Compact

The national Compact sets out general principles which underpin the relationship between government and the voluntary and community sector. The spirit of this partnership agreement has been taken on and interpreted at a local level leading to Compacts being agreed in nearly all areas.

All local Compacts are individually agreed and so will have different wording and may have different principles according to the priorities of that area. Common to nearly all local Compacts are undertakings by public bodies to:

- consult the voluntary and community sector on issues likely to affect it
- engage any organisation early on to discuss future service delivery
- give a minimum of three months' notice where funding, or other support, is going to be withdrawn.

If your organisation rents or uses council owned premises, then **these principles are all relevant!** If the council is changing the use of a building that you use (a village hall where you run youth groups twice a week for example) then this should only happen after consultation, dialogue with you and other organisations that use the building, and appropriate notice.

Local Compact in action: LB Islington

Islington is one local authority which has specifically included the issue of premises in its Compact. They have agreed with the voluntary sector to consult all relevant stakeholders about proposed changes to buildings, their use and the arrangements for managing them.

The statutory sector has undertaken to:

Establish leases for each of the properties that it owns and that are occupied by the third sector to clarify responsibilities for management and maintenance and facilitate organisations to access external funding.

The Third sector has undertaken to:

Fulfil, including in terms of the provisions of any lease, responsibilities for reasonable running and upkeep of buildings and make available a sufficient proportion of overall resources to meet these responsibilities.

Do you know what your Local Compact says?

Legal duties of public bodies

All public bodies (including town/city/county councils) have a legal duty to make decisions that are fair and reasonable. This includes appropriately consulting with organisations and service users, as well as properly assessing the impact of their decisions in accordance with the Public Sector Equality Duty.

Remember, public law focuses on the decision-making process of a council's decision, for example deciding whether it was fair, open and transparent.

Public law v private law: if you have a rental agreement/tenancy for a council owned property, this would be governed by standard private law principles. Sometimes a council may say that because of this they don't need to consult on decisions, or that the Compact and public law isn't relevant – *in most cases it is!*

Case study:

The Parent Assistance Network (PAN) is a voluntary and community sector organisation running community-based projects around parenting, healthcare, and education. The centre that PAN runs is used by an almost entirely female client based, largely from black and minority ethnic communities.

PAN had a grant agreement with the county council, part of which allowed PAN to use council-owned premises which PAN had been using, rent-free, for over 10 years. The council wanted to redevelop the building where PAN were based and served a two-month notice on them to vacate the site. Before receiving this notice PAN had not been approached to participate in any consultation and there was no evidence of an Equalities Impact Assessment having been completed.

The county council agreed a Compact, updated in 2008, which includes principles to:

- consult voluntary sector organisations on decisions which directly affect them and their service users
- make clear agreements that set out responsibilities of owners and occupiers of premises on issues such as repair and maintenance

The lack of consultation with PAN and their service users, and no obvious assessment of the impact of the proposed eviction on service users, meant the decision is likely to have been unlawful. PAN approached Compact Advocacy who raised their concerns with the Public Law Project.

Following letters and correspondence between the Public Law Project and the county council setting out the concerns around the decision, the county council agreed to:

- 1) provide alternative accommodation to PAN (at no cost) while the site was being redeveloped;
- 2) carry out a consultation with PAN, other groups that used the building, and service users about the future use of the building; and
- 3) conduct an Equality Impact Assessment with regard to the impact on service users.

(This is a real case study though the name of the organisation has been made anonymous).

What to do if you experience any difficulties with council-owned premises:

- make sure you know what your local Compact says
- have a look at your rental agreement (what does it say about notice periods?)
- think about your service users – has the impact on them of any decisions the council has taken been considered?
- has there been any consultation with you or other groups?
- was the decision made in an open, fair and transparent way?
- **Get help!** The Compact Advocacy Programme works in partnership with the Public Law Project to give advice and advocate on Compact issues and Public Law. Contact us on evsAdvice@ncvo-vol.org.uk or 020 7520 3161