

Commissioning Guidance

February 2009



What is the Compact?

The Compact is a voluntary agreement between the government and the third sector in England. It recognises shared values, principles and commitments and sets out guidelines for how both parties should work together to ensure that better outcomes are delivered for local people. Central government signed up to the Compact collectively so it applies to all central government bodies.

From 1998, Local Authorities were encouraged by the Government to agree Local Compacts for partnership working with third sector organisations in their areas. All top-tier authorities now have Local Compacts. These reflect the principles of the national Compact but vary from area to area, to reflect local issues and partnership arrangements.

The Compact Code of Good Practice on Funding and Procurement identifies principles and undertakings that underpin the financial relationship between public sector and third sector organisations. As a result, financial relationships are constructed in such a way that allows outcomes to be maximised.

For more information, please visit:
www.thecompact.org.uk

Publication date: February 2009
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Commissioning Guidance



This is the first in a series of Compact implementation guidance, produced by the Commission for the Compact.

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Introduction to commissioning

This guidance is for commissioners in national and local public sector bodies. It is designed to help commissioners. It identifies relevant Compact principles and demonstrates where and how they can be applied to commissioning. It also highlights those Compact principles relevant for third sector organisations¹ involved in commissioning.

Following and implementing this guidance will mean that commissioning reflects Compact principles. Working in this way creates an environment where the distinctive benefits that independent third sector organisations often bring to public service design and delivery can be harnessed. A third sector whose independence is acknowledged and supported can help commissioners to deliver better outcomes for individuals and communities.

This approach also facilitates better working relationships between commissioners and third sector organisations. Mutual understanding, trust and respect is developed, which creates a strong foundation for listening to and working with third sector organisations.

Commissioning is increasingly being used to identify and determine which services are required and how they will be delivered. Commissioners are seeking to collaborate in the design of services to achieve the best outcomes and benefits for service users. This has created a broader role for third sector organisations, acting as service providers, but also as vehicles for reflecting the needs of service users.

For the purposes of this document, commissioning is defined as:

The cycle of assessing the needs of people in an area, designing and then securing appropriate service

*Partnership in Public Services
(Cabinet Office, 2006, page 4)*

Many commissioning models exist. This guide does not endorse one particular model; rather, it recognises that four stages are common to commissioning.

¹ The Government defines the third sector as “non-governmental organisations that are value driven and which principally reinvest their surpluses to further social, environmental or cultural objectives. It includes voluntary and community organisations, charities, social enterprises, cooperatives and mutuals”
http://www.cabinetoffice.gov.uk/the_third_sector.aspx

The four stages to commissioning

The four stages and the actions involved are identified in the following table.

Key stage	What does this involve?
Analysis	<ul style="list-style-type: none">• Understanding and evidencing the needs of service users.• Identifying unmet needs.• Understanding and mapping who delivers services.• Identifying gaps in service provision and considering how these gaps can be addressed.• Being clear and defining outcomes to be delivered.
Planning	<ul style="list-style-type: none">• Consideration of how to fund those services required to meet outcomes.• Developing the approach required to secure the outcomes.
Sourcing	<ul style="list-style-type: none">• Securing the most appropriate provider(s) to deliver the outcomes.
Monitoring and Review	<ul style="list-style-type: none">• Assessing performance against original objectives and identifying changes to inform future commissioning and outcomes.• Capturing feedback from service users.• Monitoring and review of performance.

Although the current Compact Funding and Procurement Code does not contain the term “commissioning”, its principles are still relevant to the stages and actions outlined above. Whilst the Compact is an agreement between the public and third sectors, its principles are based on best practice and are equally relevant when working with organisations from the public and private sectors.

The principles in this guidance are also relevant and applicable to commissioning that involves sub contracting, for example, through a prime contractor model. It is important that commissioners ensure organisations acting on behalf of the commissioning body apply the principles in this guidance when sub contracting with third sector providers.



Why is effective analysis important?

Effective analysis is important as it creates a solid basis for commissioning. This stage provides a robust understanding of the needs of service users, highlights where resources should be directed and defines those outcomes that need to be delivered. Identifying the most diverse range of potential providers increases the opportunity to find the most appropriate provider to deliver a responsive, effective and outcome focussed service. The success of service delivery and outcomes for service users is dependent on how this stage is managed and the time dedicated to it.

What does effective analysis look like?

Effective analysis involves timely, transparent and accessible engagement with services users, communities of interest and organisations acting as advocates for service users and as service providers. This includes engaging with organisations from the third sector, both large and small. Commissioners will have a clear and informed understanding of the market, how this relates to commissioning objectives, and understand the strengths and weaknesses of service providers and gaps within the market in meeting needs. The outcomes that need to be delivered will be clear from this stage. Commissioners will also have a clear understanding of the impact of funding decisions on local supply and service provision.



How the Compact can help?

Compact principles can be applied in the following ways to help achieve effective analysis:

- Engage with a wide range of relevant third sector organisations. This includes organisations that act as advocates for service users and also as service providers. Commissioners should consider working with their local infrastructure organisations² or relevant local networks for access to third sector organisations.
- Consider how you engage with third sector organisations as they vary in size. Smaller organisations often lack time, resources and dedicated staff for responding to consultations or engaging in development work.
- Allowing an appropriate length of time for engagement and being clear on what is involved, will also improve the results of this stage. Consideration should be given to providing early warning of involvement. This will allow individual organisations, representative bodies, partnerships or networks time to prepare, resource effectively and respond. It is vital to think about how dialogue is made accessible to, and inclusive of, wider third sector organisations, for example, faith groups.
- From this stage, be clear about the outcomes that need to be delivered. Having a clear view and the ability to clearly articulate outcomes is vital as it forms the basis for effective sourcing and monitoring.
- Effective analysis often identifies services that no longer meet the required outcomes. Where services need to be decommissioned, commissioners should provide a minimum of three months' notice for the end of grants or contracts and the reasons why the decision was taken.

² Local Infrastructure Organisation (LIO) provide their members with a range of services and development support, and are the voice of the local third sector. Every rural and urban area has a LIO and each is part of a network that is in touch with over 164,000 local third sector groups and organisations across the country.
<http://www.navca.org.uk/about/whatisanlio.htm>





Why is effective planning important?

Effective planning is important as it allows commissioners to secure the most appropriate provider to deliver those outcomes identified at the analysis stage. The approach taken by a commissioner to fund a service is dependent on the outcomes identified and the objectives of the commissioning body. For example, a grant funded approach, rather than a competitive procurement approach, may be the most appropriate option when looking to build supplier capacity or create a diverse market. An effective planning process allows commissioners to manage the risk of service delivery failure, by creating the right conditions for providers to focus on delivering outcomes.

What does effective planning look like?

Robust consideration should be given on how services will be secured and the impact of the chosen approach on the supplier market. Each stage (funding options, specification, pre-qualification, invitation to tender and tender evaluation) should be fair, proportionate, transparent, well communicated, clear, accessible, and appropriately supported. Processes should not create unnecessary bureaucratic barriers that disadvantage potentially competent providers from applying.



How the Compact can help?

Compact principles can be applied in the following ways to help achieve effective planning:

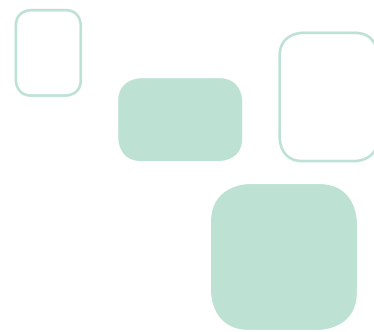
- Consider which approach is the most appropriate to secure the required outcomes. This will be dependent on information generated at the analysis stage and through continued dialogue with third sector organisations. It is important to consider the role grants can play in meeting outcomes. For example, a highly specialised service may be required - in this case a grant may be more appropriate than a competitive sourcing process.
- Where a gap has been identified between current service provision and required outcomes, commissioners may want to consider investing in the capacity of providers to develop their ability to deliver outcomes.
- In order to identify barriers to achieving outcomes, continue to engage with relevant third sector organisations in shaping and designing the tender process.
- When developing specifications, it is important to discuss with relevant third sector organisations the terms on which services will be delivered.
- In particular, keep a clear focus on outcomes. Being over prescriptive and disproportionate with risk may act as a barrier for third sector providers in deciding whether to submit a bid.
- Discuss with third sector organisations those risks involved with service delivery and look to place responsibility with the organisation that is best able to manage them. This will help to minimise the risk of outcomes not being achieved.
- Also at this stage, discuss and be clear with third sector organisations how the service delivery will be monitored and managed. In order to attract the widest range of potential providers, it is vital that commissioners develop monitoring arrangements in line with the Compact principles identified at Stage 4 of this document.
- Give consideration to the timing of payments. Where necessary, making provision for payments in advance of expenditure, rather than in arrears, can also attract a wider range of third sector service providers by reducing barriers to delivery. Payments should be made on time.
- Depending on the outcomes required, commissioners should look to award contracts over the longer term. In most cases, it represents value for money and creates the right environment for achieving outcomes, to fund contracts over three years.
- Ensure that specification documents are clear, accessible and clearly link to the required outcomes. This will help potential providers decide whether they have the capacity, skills, experience and resources to deliver and therefore help to reduce the potential risk of service delivery failure.



How the Compact can help?

(continued)

- To encourage a wide range of providers to submit tenders, build in sufficient response timescales for each stage of the tender process. This is important for providers with limited resources, as it allows them to develop and complete robust tender documentation.
- Partnership, consortium working or a prime contractor model for service delivery may be considered the most appropriate approach to delivering outcomes. If so, in the tender process commissioners should take account of the time it takes for organisations to form appropriate partnerships, develop accountable working arrangements and submit bids.
- Providers are also likely to respond where tender documents are clear, accessible and proportionate to the value of the contract. Small value contracts with excessive bureaucratic burdens can act as a barrier when submitting bids. Only ask for information on tender documents that is relevant in deciding who will be awarded a contract.
- When sourcing competitively, look to promote tender opportunities widely. Commissioners should consider speaking with local infrastructure organisations to promote tenders. This will encourage a wider range of third sector providers to consider submitting bids.
- Ensure potential applicants are kept informed and understand how the process will be managed. This may include an overview of the objectives to be achieved, each stage in the procurement process, timetables and deadlines and criteria for the tender. A contact person for enquiries should be nominated; this will help develop relationships with providers.
- A number of the principles in this stage are also relevant when grants are the most suitable option for service delivery, for example, being proportionate in administrative requirements and application processes in relation to grant size, and consideration of payment in advance.







Why is effective sourcing important?

Choosing the most appropriate provider to deliver the required outcomes is vital; it will mean that individuals and local communities receive the most appropriate services and enjoy the greatest impact.

What does effective sourcing look like?

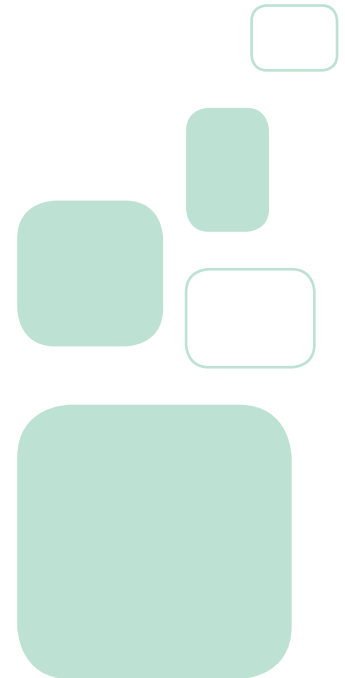
The application of the principles outlined in the planning section help to create the right environment to source the most appropriate provider to deliver outcomes. The decision making process as to who delivers services should be open, transparent and awarded on the basis of value for money.



How the Compact can help?

Compact principles can be applied in the following ways to help achieve effective sourcing:

- Be clear, transparent and communicate effectively how bids will be scored and assessed.
- When assessing tenders, recognise it is legitimate for third sector providers to include the relevant element of overhead costs in their estimates for providing services. However, purchasers should avoid seeking information about management fees and overheads.
- Contracts should be awarded on the basis of value for money; this includes a consideration of quality and outcomes.
- Once a contract has been awarded, provide feedback to those unsuccessful organisations. This will help develop future tender writing skills for smaller third sector providers.





Why is effective monitoring and review important?

Effective monitoring, based on outcomes, serves two purposes. Firstly, it allows funders to obtain assurances that services are delivering value for money and making a positive impact on the required outcomes. Secondly, it provides information for both commissioners and providers to consider whether changes are required to improve future service delivery. Proportionate reporting also allows third sector providers to focus resources on service delivery rather than bureaucracy. Clear communication with third sector providers in relation to service monitoring requirements allows them to adequately prepare.

What does effective monitoring look like?

Despite the need for accountability, monitoring should not be unnecessarily bureaucratic. The process of monitoring performance should be transparent, proportionate to the value of the contract, and focus on outcomes. Where appropriate, service users should be involved in monitoring and reviewing service delivery.



How the Compact can help?

Compact principles can be applied in the following ways to help achieve effective monitoring and review:

- Commissioners should focus on outcomes when developing monitoring requirements. This allows providers to focus on the specifics of staffing, delivery and using their expertise to deliver services.
- Develop monitoring forms and arrangements that are proportionate with the value of funding, size and level of perceived risk associated with the provider in receipt of funding. Finding the right balance allows providers to focus on delivery. Excessive monitoring burdens can also affect a provider's price for service delivery; monitoring has a resource cost associated to it.
- Only include information that is required or will be used to assess performance against outcomes or value for money in monitoring forms.
- Explore ways in which monitoring arrangements can be joined up, or standardised with other departments' approaches.
- Give consideration to involving service users in obtaining feedback on performance.
- Where delivery is not meeting agreed targets, commissioners should communicate and consider with the provider how intended outcomes might be met in other ways.
- Where monitoring highlights that a change in commissioning priorities is required or at the end of a contract or grant, a minimum of three months' notice of termination should be provided.



The role of third sector organisations, the Compact and commissioning

Whilst this guidance is primarily aimed at Commissioners, the Compact Funding and Procurement Code also contains undertakings for third sector organisations when working with public sector bodies.

The following principles are therefore relevant to commissioning for third sector organisations. Working in this way will ensure that value is added to the commissioning process.

- When engaged in planning, third sector organisations should contribute constructively to the design of programmes and focus their contribution on the needs of service users.
- Third sector organisations should also be clear about whom they represent and be accountable for representing their views. In the design of commissioning processes, confidentiality should also be respected.
- When discussing terms of delivery, consider those risks associated with delivering outcomes. Communicate these clearly to commissioners so they can be addressed.



- Third sector providers should seek to understand timescales and the decision making process. Where there is a lack of clarity, contact the commissioning body.
- Consideration should be given to the level of work involved in meeting outcomes. Organisations should be clear on how their work will meet outcomes and that delivery fully meets commissioning requirements.
- When developing bids, understand the direct and indirect costs associated with the delivery of the service.
- When developing joint bids, ensure management functions and accountability for delivery between partners is clear.
- Third sector providers should seek to have good systems in place to manage and account for funding and be transparent in reporting.



Further Information

This publication is available on the Compact website at:
www.thecompact.org.uk

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