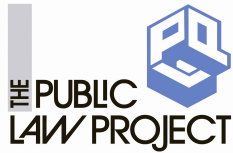


Empowering the voluntary sector

Issue 16 November 2011



Working with



Welcome to the 16th edition

As we head rapidly toward the end of our Big Lottery funding this edition will be the last of our regular newsletters, but the project will not end! In this edition we outline how the project will continue to provide training in public law and the Compact as well providing our invaluable free advice service. We will continue to share information on good news cases and important changes that affect our relationships with our public sector partners, the format for this may be slightly different.

In this edition the Compact team provide an overview of a case where a Regional Development Agency changed the application criteria for funding part way through the process. We also republish information from a recent Compact Voice newsletter focusing on good practice with the Compact in relationship between local authorities and the local voluntary and community sector.

A recent challenge made by the National Deaf Children's Society is reviewed in this edition. Although not one of our cases it is too important a case not to include. Keeping with the equalities theme we publish a blog entry made by Shantele Janes from Cheshire Halton & Warrington Race and Equality Centre that discuss the problems faced by local BME organisations in maintaining a relationship with public bodies.

The recently published statutory best value guidance is now becoming a tool for the VCS to use in both developing relationships and challenging poor practice by local authorities. Ravi Low-Ber from the Public Law Project reviews this guidance and highlights who it may be best used. As promised in the last edition in Barbara Booton's article on personalisation, we take a look at the organisational perspective on this important issue.

Joined-Up Holidays

Ingela Andersson, Compact Advocate

A little while ago the Compact Advocacy Programme was contacted by Joined-Up Holidays. They are a small organisation made up completely of volunteers, which is working towards providing a day centre for children and adults with disabilities or special needs.

The organisation had been given an “in principle” agreement from their Regional Development Agency One North East to their funding application. This would provide vital funding to make the day centre accessible and environmentally sustainable. As part of the funding agreement Joined-Up Holidays would seek match funding, which they did over a period of months. After securing match funding they went back to One North East and was then told the eligibility criteria had changed and they were no longer able to support the application. This change in criteria had occurred several months previously but the organisation had not been told. This not only put the match funding and the project itself at risk, it also meant nearly a year’s worth of fundraising and planning, all voluntary, had been wasted and the organisation was now liable for fees on a bridging loan they could no longer take out.

The Compact Advocacy Programme identified several Compact issues:

2.6 Assess the implications for the sector of new policies, legislation and guidance, aiming to reduce the bureaucratic burden, particularly on small organisations.

3.12 Apply the Compact when distributing European funding. Where conflicts arise with European regulations, discuss the potential effects and agree solutions together – the funding was from an EU pot and the new eligibility criteria came from the EU.

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.

The Compact Advocacy Programme helped Joined Up Holidays challenge One North East. They wrote to them setting out the Compact breaches and the impact this would have on the project. They asked for a meeting to discuss ways forward and this was agreed.

The Compact Advocate chaired the meeting which was attended by representatives from both the public body and the organisation, and held in the grounds of the day centre itself. One North East acknowledged its failure to communicate the change in eligibility criteria and apologised for this. Joined-Up Holidays explained the situation they were now in and what needs were most urgent. In response One North East agreed to fast track one part of the application, which would ensure that some of the work could progress. They also agreed to increase the grant in order to cover the fees for the loan that the organisation was liable for.

Although the project is still facing a delay and more funding will be needed to cover the lost grant, Joined-Up Holidays is at least able to move on. It can cover costs they have incurred and, perhaps most importantly, they and One North East have reached a mutual understanding and found a way forward that both sides are happy with.

Council U-turn on cut to deaf children's education

This article has been composed using information released by the National Deaf Children's Society

Stoke-on-Trent City Council has made a significant U-turn on plans to cut vital services for deaf children, in the face of a High Court legal challenge by the National Deaf Children's Society (NDCS). This U-turn means the council can no longer show disregard for proper legal processes. In light of this result, the charity is urging other councils to follow the law and listen to parents' concerns to protect support for the UK's 45,000 deaf children.

In response to NDCS's High Court legal challenge, Stoke City Council has signed a consent order, quashing their decision to cut another Teacher of the Deaf, which would have left just three visiting Teachers of the Deaf supporting Stoke's 200 deaf children.

Brian Gale, NDCS Director of Policy and Campaigns says: “This is a landmark decision for deaf children. NDCS used legal action as a last resort because the Council ignored the concerns of parents for almost a year. It should not be necessary to take legal action to ensure the voices of parents are heard. We are pleased that the Council is now willing to work alongside NDCS and parents in Stoke to ensure that deaf children reach their full potential.”

“This landmark case reminds councils of their legal obligation and shows the importance of consulting parents of deaf children. We’re urging councils to work with us, in partnership with parents to ensure that deaf children get the support they need to learn.

“It’s crucial that parents across the UK contact us if they experience any reduction in the service their deaf child receives. We can support them, using legal means if necessary, in ensuring that councils fulfil their duty to provide the support deaf children need to learn.”

In May 2011, NDCS launched the Save Services for Deaf Children Campaign, after investigations showed almost one in five councils across England had cut educational support for deaf children.

In August 2011, as the case was taking place, Suzanne Pitchford, mum of seven year old Sam, who is deaf, said: *“The council is just not listening, so this is the only way forward now. Sam isn’t getting any support at school at all because of the cuts. They are not taking the needs of deaf children to heart and by taking away this support they are jeopardizing our children’s futures.”*

NDCS Deputy Director of Campaigns Jo Campion said at the time: *“The council has been utterly reckless in its decision to cut support that deaf children in Stoke-on-Trent need to achieve at school. They have rushed these cuts through with no regard for the impact on the future of these deaf children and have left parents to rely on rumour to find out what exactly has been going on. The council has refused to reconsider its actions and so we have now been forced to take legal action. We want the council to be in no doubt that we will do everything in our power to protect these children.”*

To put the proposed cuts into context Stoke-on-Trent City Council had already halved the number of specialist visiting Teachers of the Deaf who provide invaluable support and advice for parents, help deaf children learn communication and language skills before they go to school and work with children and their classroom teachers throughout their education. If the council proceeded with its plans, there would be just three visiting Teachers of the Deaf left to support the city's more than 200 deaf children.

Specialist visiting Teachers of the Deaf provide invaluable support and advice for parents; help deaf children learn communication and language skills before they go to school, and work with children and their classroom teachers throughout their education. Deafness is not a learning disability yet Government figures show that 65 per cent of deaf children in England fail to get five grades A* to C at GCSE, including English and Maths. With the right support, deaf children can achieve anything other children can. Two weeks ago a profoundly deaf girl from North London achieved eight GCSEs grades A to C, including an A grade in Japanese. We know wait and see the outcome of a new full and fair decision making process regarding the cuts.

Personalisation – Coming ready or not!

Deborah Fisher, VCS Commissioning Officer, Teignbridge CVS – for the Devon Consortium

Personalisation represents a major shift in the way services are delivered. There is an increasing emphasis on individual choice and control and a trend towards personal budgets and direct payments. Although this shift has been most evident in adult social care provision, personal budgets are also being piloted in health and children and young people's services.

Personalisation can bring huge benefits for service users enabling them to live their lives the way they want to, rather than fitting into existing services. This presents an opportunity for voluntary and community sector organisations which are often more person-centred, flexible and innovative. However, it also represents a challenge – not only for the organisations which are delivering services but also for the support and

development organisations supporting groups to understand the new agenda.

Many organisations have yet to get to grips with personalisation. They have little understanding of what it might mean for their organisation and how the system of direct payments might impact on the way they do business. It is important for organisations to start to consider four key areas to ensure that they ready to adapt to the changes. Most importantly is the issue of **service user engagement**.

Organisations really need to know what their current and potential services users want in order to support them to meet their aspirations. Many voluntary and community sector organisations have got used to block contracts and offer a fixed menu of options. In a previous EVS newsletter, Barbara Booton encouraged organisations to diversity their offer and be more flexible – but this needs to be done in consultation with service users. Many groups don't have a service user engagement policy and no strategy for gathering views in a systematic way.

Secondly, organisations need to get their **staff and volunteers on board**. Organisations need to foster a culture of openness and a positive approach to quality of service, constantly evaluating services to ensure that the organisation is delivering what people want. Staff and volunteers need to actively listen to service users and to be responsive to requests for change. There needs to be an open debate about risk. There is a difficult balance between ensuring that services delivered are safely, and not limiting the ability of people to choose what they want to do by being over-cautious. This can be a real challenge for some organisations which take a very protective approach to their service users.

Organisations also need to **consider changing the way in which they charge for services**. As block contracts decline, organisations need to be confident that the services they offer are cost effective and that they understand the unit cost of each activity so that they can charge the full cost for that service or – if they want to charge less – understand what they are subsidising and by how much.

Last, but not least, is the need for organisations to **market their services**. People won't use services that they don't know exist. Many

voluntary and community sector providers are good at marketing their services to external funders – local authorities or grant making organisations. They are not so good at ensuring that individual service users understand what is offered, how it will benefit them and how much it costs. It is worth developing a simple marketing strategy to ensure you focus your efforts to the greatest effect.

Organisations wishing to work with people taking direct payments need to make sure they are in touch with the organisation offering local signposting and brokerage. Sometimes this is the local authority, a local user led organisation or another third party.

There are many challenges for organisations wanting to offer services directly to individuals. However the rewards for the individuals and the organisation can be great. And there is help on hand. Many local support and development organisations are now offering training, advice and support around adapting to personalisation and NAVCA has developed a personalisation toolkit to help organisations through the process of change.

<http://www.navca.org.uk/teams/hsc/personalisation>

'Hard to reach' communities or a failure to listen?

Shantele Janes, Cheshire Halton & Warrington Race and Equality Centre (first published as a blog on the Voice for Change web site)

The public sector must have congratulated itself for coming up with the label 'hard to reach' groups. Suddenly there was a 'reason' why they couldn't reach particular communities. It wasn't how they consulted, but more to do with an 'elusive' group of people hiding under rocks with hands over their ears.

Our former chair often said *'there's no such thing as hard to reach communities, only hard to engage organisations'*...and I have to agree.

Now, more enlightened individuals use 'seldom heard' which at least nods in the right direction, recognising organisations' failure to listen.

Cheshire, Halton and Warrington Race & Equality Centre is a charitable organisation that aims to eliminate discrimination, promotes equality of opportunity and good relations between people from different protected strands in the Cheshire sub region. We offer various services, including discrimination casework, capacity building for BME groups, equality training and consultancy.

Working with BME communities for over ten years in a predominantly white area, effective engagement and consultation is a huge issue for me. Note how I say 'effective' – of course consultations have happened, but generally these were tick box exercises with what we often call 'the usual suspects'. The lack of a developed BME sector was blamed for this approach, with consultations limited to the few community groups that existed; other communities were conveniently ignored.

We decided it was time for a new approach. We held records of numerous service users, members and volunteers, but lacked the resources to do anything with this information. In 2004 we found we had a funding surplus from a project. All the partners involved had prioritised consultation for their race equality schemes, so we suggested using the surplus to develop a panel of BME people prepared to be consulted on policies. They agreed.

We followed everything we'd heard communities say about consultation and drew up a participant's charter. We approached everyone we knew, asked them to join and told them they could dip in and out of it, giving them flexibility to be involved when possible. We wanted to value people's time, so we agreed to give vouchers to all participants.

We now have around 300 people on the panel from many communities. But, the panel isn't used enough. One of the first things to be axed with spending cuts is consultation that costs. I fear we're now moving backwards - despite having an effective mechanism for consulting BME communities, many agencies are returning to the usual suspects, who give opinions for free and tick boxes.

No longer are BME communities hard to reach, they're just too expensive to reach.

New Best Value Statutory Guidance

Ravi Low-Beer, Project lawyer, Public Law Project

Section 3 of the Local Government Act 1999 imposes a legal duty on “best value authorities” (defined in s1 of the Act to include local authorities, police, waste disposal, fire and other authorities) to “make arrangements to secure continuous improvement in the way in which [their] functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.

Section 3 also requires best value authorities (1) to consult community representatives “for the purpose of deciding how to fulfil the duty”; and (2) to have regard to guidance issued by the Secretary of State in deciding on “(a) the persons to be consulted, and (b) the form, content and timing of consultations”.

In September 2011, the Department for Communities and Local Government (DCLG) issued such guidance¹. It is short (5 paragraphs in one page), and summarising it would take more space than reproducing it. So this article reproduces extracts, and seeks to explain why the guidance is important. Here are the extracts:

2. Under the Duty of Best Value ... authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves.

3. To achieve the right balance – and before deciding how to fulfil their Best Value Duty – authorities are under a Duty to Consult representatives of a wide range of local persons; this is not optional. Authorities must consult representatives of council tax payers, those

¹ “Best Value Statutory Guidance” available at <http://www.communities.gov.uk/documents/localgovernment/pdf/1976926.pdf>. Although it is only directly applicable to best value authorities, the Government has committed central government departments to acting in accordance with paragraph 5 of the guidance.

who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services.

4. Authorities should be responsive to the benefits and needs of voluntary and community sector organisations of all sizes (honouring the commitments set out in Local Compacts) and small businesses.

5. Authorities should seek to avoid passing on disproportionate reductions - by not passing on larger reductions to the voluntary and community sector and small businesses as a whole, than they take on themselves - and in particular:

- An authority intending to reduce or end funding (where 'funding' means both grant funding and any fixed term contract) or other support to a voluntary and community organisation or small business should give at least three months' notice of the actual reduction to both the organisation involved and the public/service users.
- An authority should actively engage the organisation and service users as early as possible before making a decision on: the future of the service; any knock-on effect on assets used to provide this service; and the wider impact on the local community.
- Authorities should make provision for the organisation, service users, and wider community to put forward options on how to reshape the service or project. Local authorities should assist this by making available all appropriate information, in line with the government's transparency agenda."

Why this is important

While statutory guidance is not binding in a strict sense, best value authorities are under a public law duty to carefully consider the guidance whenever the best value duty is engaged, and to follow it unless there are good reasons not to. Failure to do these things may leave an authority vulnerable to legal challenge by way of judicial review.

Specific provisions that are of particular interest include requirements on best value authorities:

- to comply with the Compact. Breach of the Compact in a best value context is now arguably a breach of statutory guidance, with the potential legal consequences described above.
- to consider “economic, environmental and social value when reviewing service provision”. The consultation process that authorities must carry out “before deciding how to fulfil their Best Value Duty” should give VCS a voice in how the best value duty is applied in practice, including how “social value” should be measured when services are commissioned.
- to refrain from passing on to VCS and small businesses a greater proportion of cuts in funding than the authority is itself experiencing.
- to consult throughout the commissioning cycle including when considering decommissioning a service; to proactively make information available to service users, the VCS and the wider community to enable these groups “to put forward options on how to reshape the service or project”; and to engage with VCS organisation and service users early, and give at least three months’ notice of termination or reduction of funding to both.

The guidance seems designed to produce a change of culture in relations between authorities and the community (to be supplemented when the Localism Bill becomes law next year). If it is ignored or breached without good reason, there is potential for legal challenge. This alone should provide VCS organisations and their service users with some leverage to negotiate better terms.

Good practice in using the Compact

Re-published from the October 2011 Compact Voice newsletter

North Lincolnshire

(http://www.compactvoice.org.uk/sites/default/files/compact_at_work_-_nth_lincolnshire_0.pdf)

Like many other local authorities, North Lincolnshire Council has had to face up to significant cuts to their budgets (-4%) resulting from the 2010 Comprehensive Spending Review. But the council, seeing the likely cuts on the horizon, had already started talking to organisations facing funding reductions about how cuts could be managed before they learned about their exact settlement from government. After a detailed impact analysis was performed to assess the likely affect on at risk organisations, it was decided that cuts would be staggered over the next 3 years. This method helped to ensure that the Compact was fully integrated into the budget review and that relationships between the sectors were maintained. The voluntary and community sector groups themselves feel that engagement and communication between themselves and the council about the cuts helped them to be fully informed.

North Lincolnshire Council has shown commitment to its voluntary and community sector partners by working with them to ensure that where cuts to their funding have been made, they have been done so in a fair, sustainable and Compact compliant manner.

What happened?

In September 2010 North Lincolnshire Council became aware that funding cuts would have to be made from their core funding budget. The cuts will have an effect upon two voluntary and community sector support and development bodies and two service delivery groups when the current three year funding agreement ends in October 2011. Geraldine Miller, Voluntary Sector Relationship Manager from North Lincolnshire Council, went to see the 4 affected groups in September 2010 to advise them of the possibility of reductions in funding. At the time the amount of the reduction was not known. Over the next few months, the voluntary and community organisations involved were consulted at all stages and fully informed as and when information regarding the budgets cuts arose.

An impact analysis was carried out for all four of the voluntary and community organisations, to see how they could sustain their services and the impact the funding cuts will have on them and the services they provide. The budget cuts were originally finalised by the previous Council administration, however when the new administration came into power in May 2011, Geraldine pushed for a quick response and clarification of the budgets, so the Council was able to notify the affected groups as soon as possible in keeping with the Compact principle of making clear arrangements for managing changes to programmes and services

In June 2011, the four voluntary groups were notified that in total there would be £50,000 of funding cuts divided between them. This would be spread over three years: £20,000 in 2011, £20,000 in 2012 and a £10,000 reduction in the final year of funding. Geraldine Miller, Voluntary Sector Relationship Manager from North Lincolnshire County Council is quoted *"North Lincolnshire Council is committed to engaging positively with the voluntary and community sector. Compact principles are at the heart of our relationships. My role is to raise awareness, improve understanding and to facilitate good working relationships between the council and the voluntary and community sector."*

Hertfordshire

http://www.compactvoice.org.uk/sites/default/files/compact_at_work_-_hertfordshire.pdf

There are a number of ways to assess the health of a local partnership, ranging from monitoring the perceptions of partners to measuring statistical trends on the outcomes of joint working.

However, the only way you can really understand the robustness of a partnership is by seeing how it performs under stress. The relationship between the voluntary and community sector (VCS) and Hertfordshire County Council (HCC) is going through such a test.

Despite the fact that many within the VCS have felt that the HCC has been over zealous in the way it has made cuts to the sector, the sector has continued to present a reasoned and coordinated point of view in dialogue with the council. For their part, the council has given proper consideration to the information that the VCS has provided and in some

cases they have been persuaded to reverse their decision to cancel contracts.

A history of working together under a strong local Compact in Hertfordshire has left a legacy of two sectors that are capable of speaking one-another's language and is willing to hear one-another's point of view, no matter how contradictory they might be.

The relationship between the voluntary and community sector in Hertfordshire has come under considerable strain since Hertfordshire County Council reviewed its funding of the voluntary and community sector following the 2010 Comprehensive Spending Review (CSR 2010). Cuts have been made, as have mistakes, but the VCS is learning to frame its arguments and the council is beginning to listen.

Summary

Hertfordshire has a strong Compact. Indeed, last year Compact Voice recognised various aspects of the councils funding practices in awarding the area a Green Flag.

However, the partnership between the HCC and the VCS has come under stress since the CSR 2010. The council received lower than average cuts to its budgets (-1.5% compared to an average cut of 5.7%). It may have been expected, therefore, that a more collaborative and positive exchange with the VCS over managing cuts would have taken place than appears to have occurred initially.

It seems that some of the initial cuts being made to VCS organisations did not represent social value for the community. Although recipients of HCC grants/contracts were all required to complete an impact assessment form, little notice was taken of those organisations whose beneficiaries or services would be significantly affected by the required level of savings. There was a feeling amongst some VCS representatives that the council was, even in a challenging financial climate, being high-handed when making cuts to the sector. However, previous years of cross partnership effort to develop the VCS in Hertfordshire has ensured that it was sufficiently engaged and empowered to respond to the situation constructively.

For example, as well as support for VCS organisations in finding alternative funding streams, CVS St. Albans has been able to re-open a dialogue about funding decisions. Relevant Compact principles used include partnership working. CVS St. Albans has helped VCS organisations to frame their concerns about the impact that their loss of funding will have on the community. In some cases the council has taken this on board and has even decided to continue some contracts at a reduced level where they had previously decided to end it all together.

Crucially, it is not the mere fact that the council has changed its decision to cancel these contracts that is encouraging. Rather, it is the fact that they were willing not only to listen, but to seriously consider the views of their VCS partners. However not all groups have brought this to the attention of CVS St. Albans or have the capacity to make a claim. There is, despite the tensions between the sectors in Hertfordshire, a belief that the council takes into consideration the impact that funding cuts to the VCS may have, and its obligation to be Compact compliant seriously. Laura Cronshaw, Chief Executive at CVS St. Albans is quoted in the report *“The Compact framework has helped to shape the format of the Comprehensive Spending Review (CSR) ensuring sufficient notice was given and encouraging an open dialogue between the VCS and the local authority. It has also made it easier for infrastructure agencies to challenge decisions that have an unreasonable impact on vulnerable communities, although there are still cases that remain unresolved.”*

The future of the project

EVS project team

As we look to the future, we are in the midst of an external evaluation and rather than try to second guess the outcome, although it all looks very positive at present, we will publish an executive summary of the results later this year.

Although this is the last newsletter from Empowering the Voluntary Sector, NCVO will continue to run the helpline to provide you with advice on how to challenge unfair decisions by public bodies. Call us on 020 7520 6161, or email evsAdvice@ncvo-vol.org.uk if you would like to speak to us about an issue on the Compact or public law.

Training will continue to be available even though funding has ceased. Workshop can now be booked for up to 20 delegates including colleagues from public bodies. This costs just £490 (excl VAT and travel); you need to supply the venue and refreshments. This gives you the opportunity to generate additional income by inviting up to 20 people to the workshop as part of your offer to your local groups. On an average course this means each delegate could pay as little as £40 each, around the same price as we are currently charging for direct bookings!

Details of advice line & training courses

Many organisations are concerned that cuts to funding have been made disproportionately, without consultation or unfairly. The Empowering the Voluntary Sector project offers free advice to organisations who feel that a decision to cut their funding was made in a non Compact compliant way or has breached public law. Contact us on **020 7520 3161** or evsAdvice@ncvo-vol.org.uk for instant advice to your organisation, for direct support in challenging decisions or just to find out more about how we can help you.

The project is delivering workshops in the following areas from December 1 2011. Booking are being dealt with by the organisation hosting the workshop. To find out if spaces are available and the cost of the day please email terry.perkins@navca.org.uk with the workshop location in the header of your email.

Dec 1	Manchester Community Central
Dec 6	GAVCA (Gloucester)
Dec 12	High Peak CVS
Jan 11	Sandwell CVS
Jan 16	BVSC (Birmingham) - Full
Jan 17	BVSC (Birmingham) – Full
Jan 18	Community Action Derby
Jan 25	Cheshire East CVS
Feb 15	North Devon Voluntary Services
Feb 16	CVS Brent
Feb 22	Community and Social Action Plymouth

Workshops are also being planned for South Tyneside, Crawley and Warwick.

Finally, NAVCA is working with Doughty Street Chambers (public law barristers, London) and Irwin Mitchell (public law solicitors, Sheffield) to provide more support to its members and the Voluntary and Community sector as the next wave of local cuts sweeps in this winter.

This support takes the form of two identical half day briefings' on using public law to fight cuts. The sessions will be chaired by Kevin Curley, Chief Officer at NAVCA and build on our very successful public law training programme. The events form part of NAVCA's support to members in the face of local funding cuts. The event starts with drinks at 1pm for a prompt 1.30pm start

These two events entitled 'using the law to fight the local cuts' are being held in London on 7 December and Leeds on 10 January. The cost for attend a briefing is £25.

As with our one day courses in public law, the aim is to equip you with the skills to identify when a local authority or Primary Care Trust may be behaving illegally by deciding to cut without proper consultation or without regard to the impact of the cut on disadvantaged groups.

Steve Broach and Alex Rook, the two speakers at the events, have recent experience of successful challenges, forcing local councils and the NHS both to reverse cuts decisions and to consult properly. In some places proper consultation has created a 'space' for dialogue which has produced better results for the local voluntary sector.

<http://www.navca.org.uk/using-the-law-to-fight-the-local--a-workshop>