



Unites response to the Minister for the Third Sectors call for Debate on the Future of the Compact and the Role of the Commission for the Compact, October 2008

This response is submitted by Unite the Union, the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of sectors including manufacturing, financial services, print, media, construction, local government, education, health and not for profit. Unite represents 60,000 employees in the Third Sector.

Executive Summary

- 1.1 Unite welcomes the opportunity to provide input into this debate and to provide additional oral evidence if necessary.
- 1.2 Unite provides suggestions in this document which address the three key questions in the discussion document, showing how a legally-binding / statutory Compact, rather than its current voluntary form, would benefit everyone. Improving the way in which community and voluntary organisations work together with government by allowing, through the legal system, for courts to force Government bodies to comply with Compact undertakings.

Introductory Comments

2.1 **The Compact**, established in late 1998 in England and instigated following the Deakin Commission report on the Future of the Voluntary Sector, is a *voluntary* agreement, as opposed to a statutory one which Unite is seeking, which is supposed to provide an overall framework for promoting effective partnership working between the Government (central Government bodies and a Local Compact for every top-tier local authority in England) and the voluntary and community sector. It seeks to address poor performance and outlines a statement of intent to work in partnership. It's supported by five codes of practice including, funding and procurement, community groups, Black and Minority Ethnic (BME) groups, volunteers and consultation.

2.2 **The Commission for the Compact** established in early 2007, is an independent organisation charged with the oversight of the Compact. It was established to enhance awareness of the Compact and its Codes of Practice, and purportedly to address the barriers to its adoption and implementation. Its work with stakeholders aims to move the Compact forward through enhancing awareness, sharing good practice, carrying out research and looking at key themes that affect the relationship between the statutory and voluntary sectors. Trade unions are key stakeholders.

Three Key Discussion Questions

A. What sort of agreement should the Compact be in the future?

3.1.1 The Compact should be “made statutory” because:

- Governments at all levels have had ten years to embed the Compact into their policies, procedures, departments, agencies etc. and despite this they are still not meeting their Compact undertakings fully and consistently. Unite representatives report a range of experiences of working with their local Compact. Some local authority’s adherence to the terms set out in the Compact which are seen as essential to forming good relationships with the third sector and are a pre-requisite to get the most out of the commissioning process. Other authorities seem to barely pay lip service to the Compact.
- The Government must be put under a new legal obligation to meet its undertakings as this has not been occurring voluntarily and to put this into effect the Compact would need to be converted by an Act of Parliament into a set of statutory obligations. Whilst Unite is fully supportive of regulation for the Compact, we believe that there also needs to be an ethos that the terms of the Compact encourage even better relations between the sectors and therefore the provisions under any statutory powers should be seen as a minimum. Resources, enabling the sharing of best practice within local Compacts and across Compacts should be made available. Additionally, resources should be made available to the Compact Commissioner’s department to ensure proper enforcement.

3.1.2 If the Compact were made statutory it should continue to be two-sided.

There has to be a two way obligation to the Compact relationship, however, it cannot be ignored that it is the statutory authorities that are currently the most powerful in the relationship, since they are the commissioning bodies and therefore ultimately control the commissioning processes and control the engagement of the third sector

- ***Should the Compact remain primarily about building constructive partnerships or be more explicitly about addressing the imbalance of power between sectors?*** This doesn’t have to be an either/or relationship since the partnership building functions of the Compact are absolutely essential. However, it has to be recognised that there is an inequality of power which has not been resolved in the 10 years that these relationships have been

encouraged to take things forward. Therefore there has to be legal redress to ensure that organisations and ultimately the workforce, volunteers and service users achieve/receive the best outcomes of the services under review and/or subjected to any commissioning process.

- ***If it should continue to be two-sided, should the obligations on the VCS apply to all VCS organisations? Or should individual VCS organisations be allowed to choose to opt in or out? Opting in would mean that a VCS organisation could force the Government to meet its obligations and, in return, would accept that the Government could force it to meet its own obligations.***

This is a complicated question since we would advocate that the VCS requires a strong voice in the process in order to stand up for the needs of the workforce, volunteers and service users. Without this level of input in the process, or ensuring that the authorities are fully engaging with the Office of the Third Sector to ensure all commissioning is carried out under “intelligent commissioning”, then the Compact will equally fail. However, there has to be enough resourcing available to make it possible for there to be full engagement of VCS organisations in the Compact. Unite would encourage maximum participation. In general, public monies have to be held accountable, and a statutory Compact is one way of achieving this.

- ***What would the penalties be for failure (by Government or by VCS) to meet obligations?***

Withdrawal of the freedom to devise/devolve commissioning processes, since poor commissioning leads to poor outcomes of those processes and would definitely have an impact on the workforce (through poor terms, conditions and training) and on the end users of services. Poor, successful (tender winning) contractors can result in costs to the public sector. Training should also be part of the remedy applied to organisations that are in breach of the Compact.

- ***Who would enforce those penalties?***

The Compact Commissioner.

- ***What effect would making the Compact statutory have on the overall state of Government / VCS relations, and on the capacity of VCS organisations to work effectively?***

It could only cause improvements through increased accountability. The Local Authorities should see the importance of the Compact.

- ***Would making the Compact statutory improve the quality of services, facilities and opportunities for people in England?***

Yes, definitely. Good understanding of the sector leads to intelligent commissioning processes which fully engage the best quality providers of services, determining the essential elements of any contract, resulting in the best outcomes for service users. In addition there is a realistic understanding of the employment issues associated with delivering high standards. Poor experiences of the compact have seen the “added value” that the sector brings, devaluated. It has led to contracts being awarded on the basis of cost without regard to all that the sector can bring, and this naturally has a detrimental impact on the workforce and service users – high turnover, poor employment conditions, poor training, stress and bullying due to pressures in the workforce.

- ***There is an alternative, based on the arrangements in Wales, between “making the Compact statutory” and leaving it as a voluntary agreement. In Wales, the Assembly Government is required by statute to make a scheme setting out how it proposes to promote the interests of voluntary organisations. To introduce a***

similar requirement for England would need an Act of Parliament, which could give the Government a duty to state how it proposed to promote the interests of VCS organisations (or conduct its relations with VCS organisations, or similar wording). The Act could also require an annual report to Parliament on how the Government had implemented its proposals during the year.

We would support all initiatives that drove up standards and improved the relationships, but do not believe that this should replace a statutory empowered Compact. For instance the way that services are expected to be audited will vary from funder to funder and contract to contract. This results in additional back office work and detracts from service delivery. Standard processes would reduce this bureaucracy.

- ***This would not put the Government under an enforceable legal obligation to implement each and every one of its proposals. But it would mean that the Government was acting under a requirement of Parliament and was formally accountable to Parliament each year for its performance***

There is some merit to this light touch, however, the reality is that some authorities will still seriously engage with the Compact, whilst others will continue to ignore it. Naming and shaming will only impact on some authorities and only if accompanied by a penalty system. For Compacts that fail, there needs to be mechanisms and a programme in place to assist them to improve, rather than just to penalise them. A process of 'Beacon' compacts to assist failing ones would provide one option.

B. How could the form and content of the Compact be enhanced to make it fit for the future?

- 3.2.1** *The Compact agreement and five Codes of Practice were written at different times between 1998 and 2003. Two of the Codes were revised in 2005 but otherwise the documents have not been changed since they were first published. Since 1998 there have been many developments in legislation, policy and practice, in the social and economic environment, and in the relationship between the Government and the VCS.*

These Codes do need updating. During the Office of the Third Sector's programme of training commissioners, there were many, many participants who did not know about the Codes, and certainly did not know how they should be implemented. If there was a mechanism to combine all the Codes, this would simplify the requirements, and help raise their profile.

- 3.2.2** *The Compact consists of six self-standing documents covering, together, about 135 pages. Because each of the documents was written so that it made sense on its own, some of the same background and explanatory material appears in each document. This makes the Compact, as a set of six documents, longer than it would otherwise be, and repetitive in places.*

The Compact could be enhanced through enabling the Third Sector to engage in a number of different ways, including electronically. Relationships between governments and the third sector are more developed in some areas than others, i.e. between some government departments and the sector, between some local authorities and the local community and voluntary sector. Internationally there is also good practice that should be explored. This best practice should be shared, especially in relation to the content of the Compact as well as engagement of the parties.

3.2.3 With the Compact having been established for quite some time, the scope of the compact needs reviewing. For example, we would want all considerations in relation to training the workforce, engagement with the Sector Skills Councils taken into account. Unite strongly advocates that all matters referring to pay and employment conditions should be established here to stop the spiralling down of conditions in the sector. Social Clauses should also be explored.

C. How could the Commission for the Compact change to ensure better implementation of the Compact?

3.3.1 With the compact having been in existence for a decade, both the Third Sector and the relationships between the statutory sector and the not for profit sector, have drastically changed. For example, Government have encouraged a far greater involvement of the Third Sector in the delivery of public services, hence it has more engagement in this area. The nature of services have changed and commissioning processes have changed, including the use of social clauses which can encourage contracted bodies to have a wider impact on the services that they are recruited to run. A statutory power over the relationship of the Compact with statutory authorities should assist all parties to know and work out their responsibilities and can only strengthen their relationship. Statutory powers should be viewed as an enabling framework, with an ultimate sanction, enforced by the Commission, for those that do not fully engage in the process.

Conclusion / Recommendations

4.1 A move toward making the Compact “statutory” is, we feel, essential if we are to see its real potential achieved. The status-quo, where it has no teeth, as is the case with many voluntary agreements, is unsustainable, because large sums of money are being injected into a beauracracy, without evidence of real ongoing outcomes being achieved.

4.2 A statutory framework could seriously improve the relationship between the statutory and third sectors and bring real benefit to services and ultimately added value to expenditure of public funds.

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