



**Submission to the Commission for the
Compact consultation on the refreshed
national Compact on relations between the
Government and the Third Sector in England**

October 2009

1. An Introduction to Sitra

SITRA is a voluntary agency and registered charity with over 25 years experience of offering practitioners a range of affordable policy, training, consultancy, information, conference and capacity building services on issues connected with the provision of supported housing and care.

Our membership comprises almost 800 practitioner organisations in the field of housing with care and support. The membership elects the committee. Members are drawn from both providers and commissioners, and from the statutory, voluntary and private sectors. We operate throughout England, and have offices in London, Bristol, Newcastle and Birmingham.

Around 35% of our members are Registered Social Landlords, 49% managing agents (i.e. support providers not registered with the Tenant Services Authority) and 13% local authorities or other statutory bodies.

We are recognised, funded and consulted by government departments and other bodies as representatives of providers of supported housing. We work with them on issues of national strategic significance for the sector. For example we have been working with CLG on developing the transition programme which supports organisations through the changes resulting from the removal of the Supporting People ring fence, and with the Department of Health on taking forward the personalisation of housing related support services.

We are a non-profit organisation which was established by supported housing providers in order to offer cost-effective technical support and representation. As such, we aim to offer a quality service at a lower charging rate than that levied by commercial consultancies which choose to build a profit element into their charges.

We welcome the opportunity to respond to the Commission for the Compact on the 'refreshed' or revised version of the Compact.

2. Responses to the questions

1. Scope of the sector

- Is the Compact relevant and applicable to the wide range of organisations that make up the third sector? If not, who is excluded and what would need to change in the refreshed Compact to secure their engagement?
- What further steps need to be taken to ensure that the Compact is adopted and implemented by organisations in the public sector beyond central government, including organisations in the NHS, specifically Primary Care Trusts, who will already be party to Local Compacts?

Whilst the Compact is relevant and applicable to a wide range of services that make up the third sector, Sitra is concerned that the language used and obligations on the organisation may be onerous for smaller organisations.

In order for the government¹ to encourage a diverse and thriving third sector there needs to be special attention to the needs of smaller organisations that are often reliant on volunteers for both infrastructure and delivery activities. It might be helpful providing clarification on some of the terms used in the document.

2. The independence of the third sector

- Does the Compact go far enough in safeguarding the independence of the third sector? If not, what changes would be required?

The independence of the third sector is vulnerable in environment of competitive tendering. The national Compact supports the independence of the third sector but only if all its principles are adhered to including full cost recovery. Sitra's anecdotal evidence is that this is the area local government struggles with and challenges third sector providers being able to deliver quality and sustainable services. Our anecdotal evidence is local government commissioners' focus on achieving savings is such that reference to full cost recovery and regard to third sector organisation's viability is not taken into account. Third sector providers are also often concerned that their independence and campaigning role is compromised by the unequal relationship between the government as paymaster and their status of service deliverer. We do however believe that the refreshed Compact recognises the value of and contributes to ensuring the independence of the sector.

3. Accountability of the third sector

- Does the Compact go far enough in making the third sector accountable? If not, what changes would be required?

Sitra believes that the Compact ensures that the third sector is accountable, our concern is that the commitments for smaller and more local providers may be too onerous (see scope of the sector). We would like to suggest that under 4.1 third sector organisations should involve service users when preparing responses to consultations.

4. The relationship between the national and Local Compacts

- Do you think the national Compact provides an effective framework for Local Compact negotiations? If not, what changes would be required?
- How might the link between the national Compact and Local Compacts be strengthened?

Sitra recognises that the national Compact informs the Local Compacts which have significant importance as the majority of services delivered by the third sector are delivered locally.

Sitra is currently undertaking a CLG funded project on local strategic engagement by providers of housing related support. We are, as part of this project, conducting research part of which is asking Local Strategic Partnerships, local authorities and

¹ By government we mean national and local unless specifically referred to.

providers whether there is a Compact (or Compact principles) in place for the delivery of these services by third sector organisations.

Our current first-hand and anecdotal evidence is that the Compact and/or its principles are not being adopted in all national and local government contractual or grant arrangements with the third sector.

In some local authorities it is our understanding that the Compact is only perceived to apply to small local voluntary organisations, not to the breath of third sector organisations and the local authority's arrangements with them to deliver services.

Sitra is very interested in the results of the research the Commission for the Compact is commissioning on whether the Compact has a direct or indirect (positive or otherwise) on outcomes achieved.

We understand at one time the government were considering the appropriateness of the Commissioner having some level of statutory powers. We would welcome recourse to the Commissioner where local or national Compact principles are not being addressed.

We believe that providers are reluctant to utilise the avenue of administrative law although the requirements are included in the Compact due to issues of cost and damage to ongoing relationships. An application to the Commissioner of the Compact regarding local adherence to its principles might be seen as less adversarial.

5. Prime/subcontractor relationship

- How can the subcontracting commitment be strengthened to ensure that the Compact applies to the entire supply chain?

We believe that Compact principles should be part of all contacts between government and providers of services and all subsequent sub contracts. Once this becomes part of the contract terms this give recourse under contract law if the principles of the Compact are not being addressed.

6. Consultation

- What are the circumstances in which a 12-week consultation would be unnecessary or undesirable? In these circumstances, what action should the Compact require to ensure consultation is meaningful and effective?

Sitra envisages that the circumstances in which a 12 week consultation would be unnecessary or undesirable are rare. The only circumstances would be a sudden and unexpected change in the economic, social and/or environmental circumstances in the country or locality that necessitated a speedy response by government.

It would be helpful for both national and local government to outline the specific circumstances where a shorter consultation period may be necessary in the Compact and that the rationale for this should be transparent.

It might also be necessary to include the obligation that government has arrangements and structures in place to manage meaningful and open consultation when time frames are reduced, for example, government will consult with second-tier organisations like Sitra which can garner members' views at short notice.

It would be useful if the refreshed Compact outlined in the commitments for the third sector, what is expected if the timeframe has been shortened or a recognition that they may not be able to comply with their commitments in these circumstances.

7. Europe

- Do you agree that a specific commitment on European funding should be included in the Compact?
- Are there other ways in which the Compact can address concerns about the distribution of European funding to third sector organisations?
- Should the Compact go further than this, so that it covers working with the European Union more generally, beyond the distribution of funding?

Sitra welcomes the publication on the Compact and Procurement Law published in July 2009 in clarifying the position between the Compact principles and European Procurement Law however are not qualified to comment on European funding. We would however like this opportunity to highlight that in some cases local authorities still do not demonstrate an understanding of the Compact principles in relation to European procurement legislation. The use of complex and onerous competitive tendering procedures intended for Part A services when commissioning small scale Part B services creates barriers to smaller VCS organisations retaining or winning contracts for services.

8. Personalised/independent budgeting

- How and where might a refreshed Compact make reference to the relationships between holders of personal budgets and those from whom they buy services or facilities?

Given that the Compact is designed to operate between the government and third sector Sitra believes that it would be very difficult to ensure that arrangements between an individual with a personal budget and those providing services are Compact compliant.

Where an individual has a service broker it may be useful to think about which principles of the Compact the broker could apply that promote a good relationship and are not too onerous. It is important that the Compact should not put third sector providers in a less favourable position than private providers.

Sitra would like the refreshed Compact to address Commissioning arrangements that allow for personal budgets to be applied after a contract has been awarded. These contracts are initially awarded to third sector providers to deliver certain services however are eroded by the inclusion of a clause allowing service users to 'opt out' and acquire services from elsewhere.

We would like the Compact to promote transparent arrangements where there is a fixed level of services with the ability to allow flexibility of an additional amount allowing a percentage of service users to elect to receive services from elsewhere. This gives the third sector provider some security to allow them to employ the resources required to deliver the service.

If there is full move to personal budgets then it is difficult to see how the Compact will apply as the relationship will be between government and the individual with a separate relationship between the individual and who they choose to purchase their services from.

9. Content and length

- Are there parts of this document that could be worded more economically so as to shorten the document? Please identify.
- Are there passages in the document that are not required? Please identify.

Sitra believes that the content and the length of the Compact are appropriate to its purpose beyond the suggestions contained in our response.

10. Equalities strands

- Does the Compact provide enough focus on the individual equalities strands and the needs of these groups? If not, how should this be addressed?
- If your organisation falls under an equality strand, please let us know the impact of the revised Compact on your organisation/beneficiaries

Sitra as an organisation does not fall under an equality strand, but would like to reiterate our earlier point about language.

11. Monitoring and analysis of funding arrangements

- What further monitoring, analysis or funding arrangements could help ensure the promotion of equality and tackling discrimination?

Sitra, as outlined earlier, is looking at the use of the Compact in the planning, governance and commissioning of housing related support services as part of the CLG funded work on local strategic engagement.

We would like to see the Commission monitoring the use of the Compact across the length and breadth of relationships with the third sector both across national government departments and local government arrangements.

We would like the Commission to ensure that the Compact is being used fairly and equitably in all relationships. We are concerned that the Compact is only being used for a certain section of the third sector.

12. Further comments

- Is there anything missing from the Compact that you would like to see included, or do you have any other comments on the consultation document?

Sitra endorses the use of the Compact and its principles to promote a thriving third sector and allow for a better partnership between government and the third sector. Our main concern is its use in all arrangements between central and local government and the third sector and adherence to all its principles.

The refreshed Compact comes at a pertinent time for the housing related support sector. As the ring fence has been lifted from the 'Supporting People' grant and the monies will be part of the Area Based Grant from April 2011 we recognise that local authority commissioning arrangements for support services will be changing.

We are pleased that the Compact Commission action plan 08/09 included embedding Compact principles in Local Strategic Partnerships, Local Area Agreements and Sustainable Community strategies.

We believe that there is still work to be done capacity building local area structures that are responsible for commissioning services from the depth and breadth of third sector organisations who can effectively deliver these services, to ensure these processes are Compact compliant.

We also believe that there is little awareness of the Compact amongst providers of housing related support and in the absence of its principles third sector organisations encounter obstacles when entering into arrangements with local government, where providers are perceived as immature negotiating partners.

In conclusion, we are supportive of the work of the Compact Commission and the principles of the refreshed Compact but want to ensure that it is used and all its principles are adhered to in all government arrangements with the third sector. If you have any questions regarding our response please contact Sue Baxter, Policy Officer, at sueb@sitra.org, or on 020 7793 4711.