

## Gloucestershire Compact

# Commissioning

## Code of Practice

### 1. Who is this Code of Practice for?

- Voluntary and Community Sector Groups
- Commissioners

### 2. What is the Gloucestershire Compact?

The Gloucestershire Compact is an agreement between local public sector bodies and the voluntary and community sector to support and improve partnership working between the sectors. It is underpinned by Codes of Practice, based on the national Codes, which cover the following areas:

- Advancing Equalities
- Community Groups
- Consultation
- Mediation
- Multi-sector Partnerships
- Volunteering

The Gloucestershire Compact and its Codes contain specific undertakings for each sector, as well as a series of joint undertakings, which aim to make a positive impact on partnership working in the county. In this context, the term “undertaking” commits partners to work towards the principle or action in question.

### 3. What is the aim of this code?

This document sets out the Compact Commissioning Code for Gloucestershire. The code is for both Voluntary and Community Sector (VCS) organisations and commissioners to aspire to achieve. It represents Gloucestershire's understanding of what good practice in VCS commissioning looks like and is a clear statement of action and intent. It updates and replaces the Compact Funding and Procurement Code for Gloucestershire.

The code is based on research locally and nationally and on a process of engagement involving both VCS organisations and commissioners across the county. One of the key messages from that engagement is that good commissioning is all about effective relationships. The Compact Commissioning Code sets out standards to work towards and is the starting point for better understanding and a more open, transparent and trusting relationship between the VCS and commissioners.

There is an additional publication to the code – Good Commissioning: A Guide for Gloucestershire – which gives more a more detailed explanation of how commissioning works in Gloucestershire. It can be downloaded at <http://www.gloshub.org.uk/compact/commissioning> and hard copies are available from GAVCA and the County Council.

### 4. What is commissioning?

Good commissioning is dependent upon a dialogue between decision makers, service providers, service users, and communities to arrive at the best solutions. However, there are capacity and resource limitations for all parties and a key principle is that commissioning processes should be proportional and not onerous.

Commissioning is the whole process of deciding what services are needed and how best to use the resources available to achieve positive outcomes for local people. Commissioning is not only about public agencies buying new services using contracts and grants, it is also about reconfiguring existing services and exploring new ways for commissioners, deliverers and service users to collaborate to achieve better outcomes.

## **The Principles**

The principles below set out the good practice that both commissioners and the VCS are committing to work towards. They are expressed as 'we will' statements to emphasise the need for commissioners and the VCS to work together to continue develop good commissioning in Gloucestershire.

## **STAGE 1: ANALYSIS**

### **Introduction**

Effective needs analysis is the foundation for good commissioning. It provides a clear understanding of the current and future needs of service users, highlights where resources should be directed and defines the outcomes that need to be delivered. It involves:

- Defining clear outcomes
- Identifying unmet needs
- Identifying gaps in service provision
- Identifying the need for reconfiguring or de-commissioning services

#### **1.1 We will work together to ensure effective needs analysis sets out what information already exists, what information is needed and what the gaps are**

##### **Commissioners undertake to**

- 1.1.1 Be clear about the parameters for needs analysis and what its purpose is.
- 1.1.2 Make the information they already have about needs widely available, where this does not compromise confidentiality.
- 1.1.3 Breakdown data by target group and geographical area, in order to address pockets of need across the county.

##### **VCS organisations undertake to**

- 1.1.4 Contribute knowledge about emerging and unmet needs and views on gaps in both information and service provision.
- 1.1.5 Participate in strategic planning processes, both within the VCS and with public sector partners e.g. contribute to VCS strategic meetings.

#### **1.2 We will work together to ensure effective and proactive consultation to determine the current and future needs and aspirations of people and communities**

##### **Commissioners undertake to**

- 1.2.1 Consider commissioning consultation work as part of the needs analysis process, recognising that the VCS is a conduit for reaching diverse, marginalised and excluded communities and people.
- 1.2.2 Ensure that effective, targeted consultation is prioritised to address equalities issues.
- 1.2.3 Give enough time for consultation, in line with Compact commitments, and listen with an open mind to what is being said.

**1.2.4** Work to develop systems that ensure the most effective use of consultation processes to prevent 'consultation fatigue' – including combining processes and ensuring that reporting back to targeted consultees takes place.

**VCS organisations undertake to**

**1.2.5** Contribute constructively to the design and implementation of consultation and needs assessment processes to help ensure they engage relevant communities.

**1.2.6** Facilitate access to marginalised and excluded groups e.g. disabled people, rural communities.

**1.2.7** Be clear about whose views they are representing during consultation processes – their organisation's or service users' views.

**1.2.8** Develop information management and analysis skills.

**1.3 We will develop a common knowledge base, as a shared resource for commissioning, to include both quantitative and qualitative data. This will be an ongoing activity**

**Commissioners undertake to**

**1.3.1** Be proactive in seeking information about needs from a wide range of VCS organisations, valuing their role as advocates for service users and communities and as providers of services.

**1.3.2** Look at national research and good practice, particularly for niche or new services.

**1.3.3** Disseminate the information gathered during needs analysis to relevant VCS organisations, including VCS local support and development organisations, so they can use it to inform their planning and services.

**VCS organisations undertake to**

**1.3.4** Develop more systematic approaches to gathering and presenting evidence, particularly qualitative data, to commissioners e.g. case studies instead of anecdotal information.

**1.3.5** Be proactive in advocating both the holistic and unmet needs of the communities they work in and with.

**1.4 We will work together to define and publish clear outcomes that stem from the needs analysis process**

**Commissioners undertake to**

**1.4.1** Involve relevant VCS organisations in defining outcomes e.g. invite interested VCS organisations to a workshop session to shape service outcomes.

**1.4.2** Invest in developing their own capacity to undertake outcomes-based commissioning through training and other developmental activities.

**VCS organisations undertake to**

**1.4.3** Contribute to defining outcomes as advocates for service users and based on their experience as service providers.

**1.4.4** Develop their own capacity to participate in outcomes-based commissioning through training and other developmental activities.

## STAGE 2: SERVICE PLANNING

### Introduction

Effective planning considers different ways of addressing the needs identified in the analysis stage. It is about shaping and designing the best solution to achieve the agreed outcomes. It includes looking at how needs can be addressed effectively, efficiently, equitably and in a sustainable way, to ensure optimal use of available resources.

It is important that VCS organisations are involved in this stage. They have valuable expertise about what works, based on their experience of advocacy for service users and delivering services. They should contribute to shaping service specifications to ensure that they are realistic and achievable. This does not create a conflict of interest as long as the process is open, transparent and in the public domain. Planning involves:

- Designing services to meet agreed outcomes
- Developing the market
- Considering the best way to commission/fund services
- Producing the service specification

Good commissioning involves deciding what is being commissioned before deciding how best to commission it. There are a number of options for sourcing providers – formal procurement processes are only one approach.

### **2.1 We will work together to co-design effective services that meet the agreed outcomes and are responsive to local needs**

#### **Commissioners undertake to**

- 2.1.1 Where appropriate, involve current and potential service users and VCS organisations in planning services and identifying solutions from the beginning.
- 2.1.2 Work with VCS organisations that represent people from the equalities strands to design services that will be appropriate for them.
- 2.1.3 Be open to new solutions that are not based on current services.
- 2.1.4 Be clear about available resources so that solutions are realistic and achievable.
- 2.1.5 In the design process, focus on the outcomes of the service not the mechanism for delivery.
- 2.1.6 Take account of localised needs in designing/commissioning county-wide services.
- 2.1.7 Identify good practice elsewhere and learn from what is working in other areas e.g. inviting all potential providers to visit services in other areas.

#### **VCS organisations undertake to**

- 2.1.8 Where appropriate, involve current and potential service users in planning services and identifying solutions.
- 2.1.9 Contribute innovative and creative ideas about how best to address the identified needs, as appropriate, and be open to new solutions.
- 2.1.10 Contribute knowledge and experience of what works at a local level.
- 2.1.11 Work with other providers and potential providers to design solutions and avoid duplication.
- 2.1.12 Draw on regional and national networks to identify best practice solutions.

### **2.2 We will work together to develop the market to ensure there are appropriate potential providers**

#### **Commissioners undertake to**

- 2.2.1** Be proactive in getting to know the market and the range of potential VCS providers.
- 2.2.2** Develop the capacity of VCS providers e.g. through supporting partnering arrangements.
- 2.2.3** Where possible, offer the VCS access to support 'in kind' e.g. access to training and development opportunities, staff secondment and access to premises.
- 2.2.4** Where possible, invest in effective support and development for the VCS, including support to engage in commissioning e.g. effective directories of VCS providers.
- 2.2.5** Develop systems to enable information about need to be translated into market intelligence that VCS providers can respond to.
- 2.2.6** Support capacity building to enable the VCS to work in partnership where appropriate.

#### **VCS organisations undertake to**

- 2.2.7** Work with commissioners to plan new services if they fit with the agreed purpose and aims of their organisation.
- 2.2.8** Be realistic about their capacity to deliver public services and engage in commissioning.
- 2.2.9** Participate in capacity building activities e.g. partnering with other relevant agencies to develop relevant skills, knowledge and abilities.
- 2.2.10** Be open to opportunities to work in partnership with other relevant VCOs.
- 2.2.11** When developing partnerships, ensure management functions and accountability for delivery between partners is clear.

### **2.3 Commissioners will engage in dialogue with the VCS and other sector partners about the best sourcing method for achieving the agreed outcomes**

#### **They undertake to**

- 2.3.1** Consider the most appropriate funding mechanism i.e. grant or contract, to secure the required outcomes, checking it is 'fit for purpose' and is likely to attract those organisations best placed to deliver the outcomes.
- 2.3.2** Consider retaining the use of grants where it is not possible to tender for a service, for instance, if testing has shown there is not a viable market of potential providers.
- 2.3.3** Ensure processes minimise bureaucracy for potential VCS providers.

### **2.4 Commissioners will seek to develop effective service specifications**

#### **They undertake to**

- 2.4.1** Where appropriate involve relevant VCS organisations and partnerships in informing (but not preparing) service specifications.
- 2.4.2** Make sure specifications are clear in terms of outcomes but avoid being prescriptive on how activities/services should be delivered to achieve these outcomes.
- 2.4.3** Retain responsibility for writing the service specification without the involvement of VCS or potential provider organisations who may have a conflict of interest.
- 2.4.4** Consider wording the specification to emphasise relevant specialist knowledge and local community links where this is a very important part of the service.
- 2.4.5** Ensure specifications clearly identify any equalities issues for the service.

## STAGE 3: DELIVERY / PROCUREMENT

### Introduction

Funding and investment decisions should be based on work done during the planning stage and the funding process chosen will depend on what is being commissioned. Procurement is one approach but internal sourcing and service reconfiguration may also be appropriate solutions. Effective procurement seeks to secure the best provider(s) to achieve the desired outcomes. The two main approaches to funding VCS services are: Contracts or Grants.

The decision about whether to use a grant or a contract will be determined by the decision making processes of commissioning organisations. (See the National Audit Office's [Successful Commissioning Toolkit](#) for more information).

N.B. There is often a lack of clarity in the labelling of funding arrangements and in distinguishing between grants and contracts, including misunderstanding around the term "service level agreement". Such an agreement should function either as a contract, or as a grant. In practice a "service level agreement" is often a contract specification document.

### Procurement

Procurement of contracts for services must follow EU procurement rules and general EU Treaty principles, including free movement and non-discrimination, fairness, transparency and proportionality.

#### **3.1 We will work together to ensure clear public sector funding arrangements to deliver better outcomes**

##### **Commissioners undertake to**

- 3.1.1** Be clear about the type and terms of any funding relationship i.e. grant or contract, loan.
- 3.1.2** Map out the whole procurement process, including key dates and requirements, at the beginning to help VCS organisations decide whether and when to participate.
- 3.1.3** Ensure that the VCS is not disadvantaged and that the process is equally accessible to all sectors.
- 3.1.4** Be consistent across sectors when requesting cost breakdowns from organisations.
- 3.1.5** Ensure that relevant prime and sub contractors are aware of the Compact.
- 3.1.6** Work towards developing effective arrangements for co-operation and joint funding between public sector partners.

##### **Acknowledge the characteristics of the VCS**

- 3.1.7** Respect the voluntary and community sector's independence and its right to campaign within the law and guidelines set by the Charity Commission, irrespective of any funding relationship that might exist.
- 3.1.8** Understand the level of reserves a voluntary or community organisation can legitimately hold when being funded solely by the public sector, drawing on Charity Commission recommendations.
- 3.1.9** Work towards jointly agreeing a definition and understanding of 'full cost recovery' and how this is applied in commissioning the VCS.

##### **VCS organisations undertake to**

- 3.1.10** Commit to the highest standards in the use and administration of public funds.

- 3.1.11** Ensure effective and proportionate systems for the management, control, propriety and audit of finances in order to be accountable for spending public money.
- 3.1.12** Comply with all relevant and mandatory accounting frameworks and financial regulations.
- 3.1.13** Work towards agreeing a definition of 'full cost recovery' that is widely used and understood by VCS organisations.

## **3.2 We will work together to make effective use of funding**

### **Commissioners undertake to**

- 3.2.1** Support the provision of funding advice for the voluntary and community sector, whilst recognising that the public bodies may not have the resources to directly fund such provision.
- 3.2.2** Work towards a period of 3 months between notification of a new funding opportunity and the deadline for receiving applications, where this is within the control of the public sector body.
- 3.2.3** Provide clear objectives and eligibility criteria for all funding and ensure application requirements are proportionate to the size and scope of funding.

### **The application process**

- 3.2.4** Provide acknowledgement of applications, details of who is dealing with the application and the date when decisions will be made.
- 3.2.5** Update applicants of any likely delays in processing applications.
- 3.2.6** Inform applicants of the decision and the reasons for it, and provide an opportunity to discuss this decision and its implications.
- 3.2.7** When funding is awarded, provide formal confirmation of what will be paid, when and any conditions.

### **VCS organisations undertake to**

- 3.2.8** Comply with the conditions of any funding received.
- 3.2.9** Acknowledge public sector funders on publicity unless asked not to do so.
- 3.2.10** Recognise that funding may end if the recipient is no longer achieving and evidencing the required outcomes or if the commissioning needs change.

## **3.3 We will work together to develop effective procurement processes and mechanisms, based on good practice**

### **Commissioners undertake to**

- 3.3.1** Work towards advertising all tendering opportunities in a single website where VCS organisations can sign up to receive email alerts to notify them about new tendering opportunities.
- 3.3.2** Be clear what the minimum requirements are for tendering in both open and two stage processes so that VCOs that do not waste their time bidding inappropriately.
- 3.3.3** Where possible, seek standardisation across Pre Qualification Questionnaires (PQQ) used by all public sector agencies.
- 3.3.4** Ensure, where this is within their control, that there are reasonable timescales and enough working days between different stages of the procurement process. They will publish the timetable at the start of the process and strive to adhere to it.

**3.3.5** Recognise that funding innovative projects involves a degree of risk and requires robust performance management.

#### **The tendering process**

**3.3.6** Ensure that procurement documentation includes a glossary of terms and a clear process for getting further information.

**3.3.7** Ensure that tender scoring is made explicit and has a balance between cost and quality.

**3.3.8** Allow flexibility in tender submissions for providers to express their payment preferences e.g. VCS providers may ask for some payment up front.

**3.3.9** Take into account differentiation between preparation/set up and delivery phases.

**3.3.10** Build in monitoring requirements up front as these can be costly.

**3.3.11** Provide timely feedback to all VCS organisations that bid, whether they are successful or not, and disseminate the learning from this feedback with the wider VCS.

#### **VCS organisations undertake to**

**3.3.12** Accept competition and consider collaboration with other VCOs, in order to deliver the best quality services.

**3.3.13** Be realistic and open about their capacity and not be over ambitious or expect special treatment.

**3.3.14** Share the learning from feedback about tenders with the wider VCS.

**3.3.15** When developing bids, understand the direct and indirect costs associated with delivery of the service.

**3.3.16** Consider possible Transfer of Undertakings (Protection of Employment) (TUPE) obligations.

#### **3.4 We will work together to implement effective de-commissioning of services that are not meeting identified needs and outcomes**

#### **Commissioners undertake to**

**3.4.1** Discuss the implications of any likely funding cuts or changes to local and national funding priorities and programmes with the VCS at as early a stage as possible.

**3.4.2** Give as much notice as possible if an existing funding relationship is to terminate, providing a minimum of 3 months' notice of an intention to reduce or withdraw funding, where this is within the control of the public sector body, and give reasons for the decision.

**3.4.3** Discuss with any VCOs who have contracts and are not meeting their performance management requirements what action can be taken to improve. Should the performance not improve as a result of these discussions, or should the effective use of public funding be at risk, funding may be terminated early.

#### **VCS organisations undertake to**

**3.4.4** Plan in good time and in partnership with commissioners, for different situations to reduce any potential negative impact on service users, the organisation and commissioning partner(s).

**3.4.5** Recognise that any funding arrangement is for a specified period and may not be available beyond the end of this period.

**3.4.6** Discuss any poor performance with commissioners and make every effort to improve under-performing services.

## STAGE 4: MONITORING AND REVIEW

### Introduction

Effective monitoring and review of outcomes serves two purposes. Monitoring is about the services commissioned - it ensures value for money and that outcomes are being met. Monitoring should be transparent, proportionate to the value of the funding involved, and focus clearly on the required outcomes. A partnership approach, based on dialogue about changing circumstances and flexibility often works well.

Review is about the whole commissioning process and provides information to inform and improve future service delivery. In effect it is asking - did our approach to sourcing and procurement deliver on the plan we put in place to meet the needs we identified? Service users should be involved in monitoring and reviewing service delivery.

#### **4.1 We will work together to ensure effective and proportionate monitoring of funding arrangements**

##### **Commissioners undertake to**

- 4.1.1** Focus on evidencing outcomes when developing monitoring requirements.
- 4.1.2** Ensure monitoring requirements only ask for information that is needed and are proportionate to the level of funding and risks associated with the service, recognising that monitoring has resource costs to both the provider and funder, and excessive monitoring may detract from a focus on service delivery.
- 4.1.3** Ensure monitoring measures the right thing and encourage active dialogue with VCS providers about the ongoing monitoring process and better ways of working.
- 4.1.4** Introduce standardised joint reporting procedures in cases where VCS services are jointly commissioned.
- 4.1.5** Ensure the views of service users, including marginalised and excluded groups, informs monitoring.
- 4.1.6** Where appropriate, ensure that monitoring includes identifying the impact of services on marginalised and excluded groups.
- 4.1.7** Ensure user satisfaction, including assessment of compliments and complaints, is included in monitoring requirements.
- 4.1.8** Be clear that if outcomes have been delivered for the agreed contract price, VCS organisations can use any surplus produced by cost savings or efficiencies in line with full cost recovery principles.

##### **VCS organisations undertake to**

- 4.1.9** Ensure that robust monitoring systems are in place from the start of service delivery to evidence the required outcomes / outputs stipulated within the contractual agreement and are generated and provided in a timely and accessible manner.
- 4.1.10** Be honest, timely and transparent in reporting problems and under performance at the earliest possible stage.
- 4.1.11** Put in place systems to evidence positive (and negative) impacts on required outcomes, and to evaluate the services delivered.
- 4.1.12** Identify the social and added value of services, including any related outcomes or unintended consequences.
- 4.1.13** Involve current service users in monitoring and include measures of user satisfaction e.g. assessment of compliments and complaints.

## **4.2 We will work together to develop effective processes for service review**

### **Commissioners undertake to**

- 4.2.1** Seek to maximise involvement of current and potential service users, including the views of marginalised and excluded groups, in reviews. Where possible, commission consultation work as part of the review process, recognising that VCS is a conduit for reaching marginalised and diverse communities and people.
- 4.2.2** Involve current and potential VCS providers in reviewing services.
- 4.2.3** Give enough time for involvement in review, in line with Compact commitments, and listen with an open mind to what is being said.

### **VCS organisations undertake to**

- 4.2.4** Contribute positively to reviews of services to inform future practice and commissioning processes.
- 4.2.5** Facilitate the involvement of service users, including marginalised and excluded groups, in service reviews.
- 4.2.6** Be clear about whose views they are representing during review processes – their organisation's or service users' views.

### **Conclusion**

This Compact commissioning code was produced in 2010 and will be periodically reviewed and updated. Compact partners have committed to work towards the good practice set out in the code and the Compact Group will monitor and report on progress towards this annually at the Compact conference. If the code is not being implemented in the county, the Compact Group will consider any issues using the compact mediation procedure. Please contact the VCS Assembly Team - [admin@glosassembly.org.uk](mailto:admin@glosassembly.org.uk).