

Joint Statement on the Relationship at Local level between Government and the Third Sector



Introduction

1. The signing of the Concordat in November 2007 signalled a changed relationship between the Scottish Government and Local Government based on mutual respect and partnership. For Local Authorities, the Concordat is bringing many welcome developments, including: the development of a more proportionate system of regulation, inspection and audit; streamlining the funding streams available to Local Government; reducing ring fencing; reducing bureaucracy; and a commitment from the Scottish Government to step back from micro-managing delivery.
2. It is recognised that as the relationship between Scottish and Local Government develops so too must the relationship between Government and the third sector. The third sector is an important partner of Government at all levels. Third sector organisations provide services to some of the most vulnerable people in Scotland and as such have an important role in delivering better outcomes for our communities. The current relationship between Local Government and the third sector is variable across the country and is often dependent upon personality rather than process and culture. There are real barriers to improving our financial relationships as well as the more general policy shaping partnerships and while it is true that both Scottish and Local Government are politically accountable and financially responsible to the public, the right outcomes and service provision will not be achieved without the active support and involvement of the third sector.
3. This statement, which is jointly signed by the Scottish Government, COSLA, SOLACE (Scotland) and the SCVO, is a contribution to establishing a successful relationship between Scottish Government, Local Government and the third sector. It is an important milestone representing the areas of agreement that will inform the hard work going on to create partnerships and encourage joint working and decision making in Community Planning Partnerships (CPPs). It will require continued effort by all parties to achieve.

What does a successful relationship look like?

4. A successful relationship between the Scottish Government, Local Government and the third sector will be built upon mutual respect and a joint understanding of the roles played and challenges faced by each partner in delivering better outcomes for the public. It will be a supportive and sustainable relationship which reinforces and celebrates our interdependence.
5. Local authorities and the Scottish Government will value the third sector as an integral part of shaping and delivering better services for Scotland's people and will be flexible in their approach to partnership and funding so as to recognise their role in the sustainability of the sector alongside the delivery of public service.

6. The third sector will organise itself so as to effectively participate in mutually acceptable decision making structures, in a transparent and accessible way. The third sector will be committed to working with Local Government to deliver efficiencies, promote Best Value, and achieve improved outcomes for local communities.

Funding

7. Funders should always consider and justify what grant and contract funding period is most relevant within the context of meeting service user outcomes and overseeing the provision of services. As a general rule funders will aim to take a 3-year approach to both grant and contract funding.

We recognise that third sector organisations require the necessary stability to retain and train their staff, and to plan their service development. As per [SPPN 10 2008 Social Care Procurement: Advertising and Competition](#), contract duration of longer than 3 years will be appropriate in some circumstances – e.g. where services are being delivered to vulnerable people and continuity of service is important. Authorities undertake to consider these matters when determining the length of funding agreements.

8. While 3 year (or longer) funding is often most appropriate, it is also the case that small amounts of short-term funding have a valuable role to play, particularly in terms of encouraging innovation and responding to the changing needs of local communities. Third sector organisations recognise that Local Authorities need to strike a balance between these two provisions. Where 3-year funding is declined, Local Authorities will be clear on the reasons for this decision. If this decision will have an impact upon the business planning of the organisation then Local Authorities should give sufficient notice.
9. Cross-boundary solutions within Local Authorities and across Local Authorities are increasingly being used by Local Authorities to generate efficiencies and to ensure more effective delivery of services. This has resulted in a funding environment which may require the third sector to engage with more than one Local Authority and more than one partner to secure funding. Local authorities will be sensitive to the bureaucratic burdens this can entail, and will seek to establish lead funder arrangements where possible.
10. Meeting the national outcomes also often means working across funding streams and sectors, within Local Authority areas. CPPs will look at joined-up and partnership working in relation to budget allocation, and aim to establish lead funder arrangements, where possible.
11. Local authorities recognise and respect the need for third sector providers to make appropriate provision for operating surpluses and the generation of reasonable and realistic reserves. In relation to contracts, Local Authorities' interest in the level of uncommitted reserves possessed by a voluntary organisation should be limited to satisfying themselves of the financial viability of the organisation. Therefore, in negotiating funding agreements with third sector organisations for the provision of services, Local Authorities should not expect those organisations to contribute to the revenue costs of the services from funds acquired from other sources.
12. Full consideration should be given at the outset of contract negotiations as to the treatment of any surplus or deficit with a view to promoting continuous improvement in service delivery.
13. Local Government also recognises that inflation affects third sector organisations in the same way as it does a Local Authority. Local authorities will be open to discussing inflationary uplifts as part of individual contract negotiations. It is often the case that Local Authorities are investing in the sustainability of the organisation and the sector as much as they are purchasing a service.

Shared Services and Best Value

14. Public resources are limited and public funding is provided on the basis of value for money and its contribution to agreed outcomes.
15. Local authorities already have a statutory duty to achieve Best Value. In using public funds, third sector organisations similarly undertake to strive to secure Best Value for their declared objectives, to ensure that public resources are managed efficiently, and to cooperate with their public funders' efficiency agendas.
16. Third sector organisations will consider how best to deliver shared services ensuring that they, alongside Local Authorities are always looking for better and more efficient ways of organising themselves in order to deliver Best Value and maximised capacity within the sector.

Application process for grant funding

17. The amount of information that Local Authorities require of third sector organisations will be proportionate to the amount of money requested.
18. Local authorities will seek to standardise application procedures, using standard application templates, where appropriate.
19. Openness will be a key principle, with funders aiming to ensure that third sector organisations have equal access to information about funding opportunities and support during the application process.
20. Local authorities will lead CPPs in actively promoting an outcome-focused agenda with third sector partners, as well as promoting knowledge about application procedures and funding policies, with simplicity, openness and transparency being the overriding principles.
21. Where an application is not successful, funders will provide constructive feedback.
22. Local authorities will use their websites to make the public aware of assessment criteria and timetables for funding decisions. They will take account of the third sector's responsibility to provide stability to their employees and the necessity for these organisations to retain the staff in whom they have invested. Local authorities recognise that timeliness of decision-making is crucial.

Strategic Commissioning and Procurement

23. There is now a widespread understanding that strategic commissioning offers a positive way forward for the assessment of need, design, procurement and monitoring of the effectiveness of services. The approach is inclusive and one that should create an environment where services users, their advocates, service providers and those with a statutory responsibility for service delivery can work together in constructive collaboration. This will be focussed on improving outcomes for service users but will be informed by the need for efficiency and will appreciate the constraints each other faces.

Strategic Commissioning

*'strategic commissioning' is the term used for all the activities involved in assessing and forecasting needs, agreeing desired outcomes, considering options, planning the nature, range and quality of future services and working in partnership to put these in place.*¹

¹ Social Work Inspection Agency 2009, "Guide to Strategic Commissioning", paragraph 2.5, page 10.

24. Strategic commissioning is an activity led by Local Authorities, which involves representatives of providers, as well as Local Authority purchasers, plus representatives of service users and regulators. It is vital to recognise that commissioning is not just contracting or purchasing but involves analysing needs on an area basis, and also includes an element of forecasting and 'horizon scanning' in order to prepare for anticipated needs. It is only on this basis that individual services should be commissioned. In any area the current mix of services is likely to change over time as a result of the development of a commissioning strategy, and the concept of commissioning will also imply 'de-commissioning'.
25. It is important to remember that not all strategic commissioning processes will be the same. Some will be highly complex while others will be less so. Others will have many givens which will constrain the opportunity for radical service redesign while others may be able to develop new services. Third sector organisations have a contribution to make to:
- the development of commissioning strategy, by feeding in experience and expertise relating to specific areas of activity;
 - acting as advocates for and representatives of particular communities
 - the evaluation and review of the strategy;
 - organising themselves so as to enable the involvement of a diverse group of organisations in such a way as is efficient, fair and transparent.
26. When developing and reviewing a commissioning strategy, Local Authorities undertake to ensure that they:
- involve the expertise and experience of the relevant partners including service users and their representative bodies where appropriate;
 - consider the use of forming public-social-partnerships as a means of planning and delivering services: www.pspscotland.co.uk;
 - look to purchase multiple outcomes and maximise the use of [Community Benefit](#) clauses.
 - consider how best to ensure that messages around community benefit clauses and achieving multiple outcomes can be best mainstreamed within their authority. This includes working towards a strategically designated community benefits champion;
 - support activities that help open contracting opportunities to the third sector.
27. Local authorities understand that engaging with third sector organisations on the design of services that will be competitively tendered (and in which the third sector organisation might have an interest) is in line with best practice. Guidance is available in the 'Supply Market Analysis' section of the [Scottish Public Procurement Toolkit](#).
28. All parties are supportive of the Scottish Government's efforts to ensure the third sector has the skills needed to access markets effectively. This includes provision of training to the third sector on tender writing, the support for third sector suppliers through the Suppliers Development Programme and the guide to [Tendering for Public Sector Contracts](#).

Procurement and re-tendering

29. Procurement is the process by which an authority acquires or purchases goods and services identified in its commissioning strategy, which will meet the needs of communities and individuals. Procurement needs to be understood as only one of a number of mechanisms available in a wider commissioning strategy.
30. There is a varied pattern of funding relationships between public bodies with regard to the purchasing of services. It would therefore be in the interests of all parties to achieve harmonisation of practice.

31. Grants are financial contributions to a third party which help to meet an authority's service objectives in the wider community. Many services are also delivered by third sector organisation for Local Authorities under contract. Contracts are usually used to purchase a specified service for a prescribed price within a clearly defined Best Value framework, which may involve competitive tendering.
32. Where a Local Authority has determined that a contract for goods or services should be competitively tendered, it will place an appropriate notice on the Government's contract advertising portal "[Public Contracts Scotland](#)". This will enable it to meet the requirement for adequate publicity and will ensure that third sector organisations are aware of the contract opportunity.
33. All parties are concerned to ensure that procurement policies and procedures are appropriate to the service under consideration, including in the area of services for vulnerable individuals. This involves ensuring that there are risk and impact assessments of all procurement exercises; that disruption to service continuity for recipients is minimised, as per [SPPN10/2008](#); and that the terminology of commissioning and procurement documentation in relation to vulnerable people reflects the principles of dignity and respect.

European Procurement Law

34. European Union procurement requirements should not be seen or used as a barrier to effective engagement with the third (or any other) sector in participating in strategic commissioning or other service development processes.

Monitoring, reporting and evaluation

35. Local authorities have a responsibility to follow the public pound, as outlined in 'The Code of Guidance on Funding External Bodies and Following the Public Pound', produced in 1996.
36. Just as Local Authorities' reporting responsibilities to the Scottish Government are being streamlined with an increased emphasis on self assessment, third sector reporting requirements to Local Authorities should follow a similar path. Local authorities will follow best practice in monitoring publicly-funded work, seeking to ensure that monitoring and reporting is proportionate to the amounts of funding allocated, and that monitoring is risk-based and consistent across all providers.
37. Third sector organisations will maintain agreed monitoring, performance evaluation and reporting systems to ensure the efficient and effective use of public funding allocated by a CPP or Local Authority. Scrutiny of service quality and performance will be an integral part of the review process.

Partnership

38. Partnership is most successful when each partner understands the true value of the relationship. The third sector has a role to play in clarifying what added value they bring to any decision-making and policy-forming partnerships but also what the third sector expects in return - be it information, influence, or decision-making parity with other partners. Local authorities may also wish to clearly articulate what they hope to gain from the partnership.
39. The size and diversity of the third sector can be seen as, and can indeed be, a barrier to partnership working with the public sector. The third sector has a responsibility to identify what type of organisation and person to involve at each level of partnership and to be organised in such a way that this involvement recognises the various groupings within the wider third sector. This will include all facets of the third sector from national organisations, national and local intermediary organisations, to the smaller community-based organisations. An important contributor to improved engagement will be the establishment, by local third sector infrastructure (eg Councils for Voluntary Service and Volunteer Centres), of a *Third Sector*

Interface in each Community Planning area; providing a visible connection and communication channel between the third sector and the CPP. Part of the role of the interface will be to support the third sector member of the CPP.

40. Local Government recognises that sometimes local decision-making structures can be difficult to understand. Local authorities agree to be more transparent about the various structures of partnership, planning and decision-making that exist. This will enable third sector partners to identify how best to contribute in each of those distinct settings. Local authorities will also work with the third sector to identify and amend those elements of their decision-making structures which act as a barrier to partnership.
41. The third sector will develop an increased capacity to be an active partner. The third sector will commit to using a shared services approach where appropriate in order to maximise delivery of Best Value. Local authorities and Scottish Government will be open to supporting that capacity where necessary in order to benefit from the added value that comes from a mutually-respecting relationship with the third sector.

