

## HILLINGDON COMPACT

<b>Cabinet Member</b>	Cllr Douglas Mills
<b>Cabinet Portfolio</b>	Improvement, Partnerships and Community Safety
<b>Officer Contact</b>	Ian Edwards, Sarah Johnstone – Deputy Chief Executive’s Office
<b>Papers with report</b>	None.

### HEADLINE INFORMATION

<b>Summary</b>	Cabinet is asked to consider proposals amending the notice period and procedures for changing the funding to voluntary sector partners set out in the Hillingdon Compact. This would bring it in line with the National Compact. The local voluntary sector (primarily those funded by corporate grants budget) have been consulted and their responses are included in the report.
<b>Contribution to our plans and strategies</b>	Funding the voluntary sector directly contributes to the aspirations contained within the Community strategy
<b>Financial Cost</b>	There are no negative financial consequences arising from this report
<b>Relevant Policy Overview Committee</b>	Corporate Services and Partnerships Overview Committee
<b>Ward(s) affected</b>	All

### RECOMMENDATIONS:

That Cabinet agree that:

- 1) **The notice period in the Hillingdon Compact for ending or reducing funding to the Voluntary and Community Sector (VCS) is amended to a minimum of three months.**
- 2) **That a process to minimise the negative effect is followed when ending or reducing funding to the VCS and is set out in the Hillingdon Compact. This would consist of the following :**
  - **The Council will notify groups as early as possible where there are resource constraints and where possible endeavour to give more than three months notice**
  - **Groups will be informed if their funding is part of a review and the Council will undertake assessments of affected groups including Equalities Impact Assessments where relevant**

## **INFORMATION**

### **Reasons for recommendation**

The Hillingdon Compact currently requires that the Council and other statutory signatories give six months notice of a reduction or ending of funding. It does not set out a specific process that a funder should undertake when considering making reductions or discontinuing funding to a group.

The recommendations will bring the Hillingdon Compact in line with the national Compact in making decisions for reductions or discontinuing funding. In the current financial climate, the recommended notice period will give the Council greater flexibility to respond to financial pressures. It will make the process more transparent and inclusive for potentially affected groups and fulfil requirements of public law to follow due process.

These recommended provisions of the Compact do not apply where payment is made to a VCS organisation under contract for services as the terms within that contract will apply.

The present national Compact is currently being renewed by the coalition Government and is subject to consultation ending 1<sup>st</sup> November. The provisions to minimise the impact of ending funding within the draft renewed Compact similarly commits to:

- Assess the impact on beneficiaries, service users and volunteers before deciding to reduce or end funding.
- Where there are restrictions or changes to future resources, discuss with Civil Society Organisations the potential implications as early as possible, giving organisations the opportunity to respond. Consider the response before making a final decision.
- Give a minimum of three months' notice in writing when changing or ending a funding relationship or other support, and provide a clear rationale for why the decision has been taken.

As a public authority, we have a duty to eliminate discrimination and promote equality of opportunity on the grounds of Race, Gender and Disability.

In making a decision regarding funding or service provision, public authorities must assess the potential impact of that decision, both positive and negative. Where further action is required, public authorities must take this into account. Should a public authority be unable to avoid any potential negative impact which arises as a result of the decision, this must be a key consideration of future action, such as considering the effect of the decision when the financial situation has improved.

The reality is that, in times of financial constraint, public authorities will have to make difficult and often unpopular decisions regarding funding and service provision. The Public Sector Equality Duties do not prevent authorities making these decisions, provided that decisions are taken in accordance with the duties. Members must therefore be advised of their duties at the time of taking decisions; failure to do so may result in successful legal challenge to those decisions.

## **Alternative options considered / risk management**

To not commit to a particular process for concluding a financial arrangement nor to make change to the six month notice period.

The option to not recommend the adoption of the defined process was rejected as the proposal is now standard national practice and it will better ensure that the Council is not open to legal challenge over any future decision to reduce or terminate funding to VCS organisations.

The retention of the six month formal notice period along with the adoption of the process above is not recommended as it would increase the timeframe required to bring about a reduction in funding in response to changing circumstances and thereby put the Council at greater risk of having to act in a non-compact compliant manner.

A compromise proposal put by the VCS that the notice period be reduced to 4 months was discounted as reasons have not been identified that would require Hillingdon's VCS organisations to be treated differently from organisations subject to the national Compact.

## **Comments of Policy Overview Committee(s)**

The Corporate services and Partnerships Overview committee has not reviewed this issue.

## **Supporting Information**

The Compact recognises the vital role that the third sector plays in helping to create a more equal society and sets out commitments that will help both sectors work together to achieve their equality goals.

A good working relationship between the third sector and the public sector will help to meet the needs of the people they serve or represent and reduce inequality. The Compact plays a key role in helping this relationship to work by ensuring that organisations which promote equality are allocated sufficient resources and benefit from effective and relevant policy development.

The recommendations are derived directly from the refreshed National Compact and draft renewed National Compact in terms of the notice period and process for reducing or concluding a funding relationship. The National Compact commits to a process that upholds the public sector Equalities Duty and will mitigate the negative effects of withdrawal of funding on groups and service users. By consulting with affected groups and conducting impact assessments, it will be possible to evaluate the impact on residents and determine any reasonable alternatives or services that they can access.

A number of Voluntary and Community Sector Organisations are additionally subject to a Service Level Agreement that sets out the Council's expectations having provided funding to that organisation. These SLAs contain a common clause relating to the reduction or termination of funding that was amended by way of letter to the recipient organisations in September replacing the former clause, *"As per the terms of the Hillingdon Compact, the Council will give 6 months notice if it intends to withdraw or reduce the level of funding"*, with a new clause, *"The Council will give the same period of notice to withdraw or reduce the level of funding as that which is set out in the Hillingdon Compact in force at the time"*, thereby ensuring that SLAs will always be consistent with the Compact.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

Three months is the formal notice period but informal consultation will be required with the organisations affected before this time. Good financial planning by the sector includes the onus on them not to expect repeat funding unless that undertaking has been expressly given.

A decision to withdraw funding should not occur without some forewarning and with a process attached that ensures that impact will be considered and responses to proposals heard. The process of assessing impact aims to mitigate against any negative bearing a reduction in funding might have.

Resistance from the sector to reducing the notice period is understandable although there was no clear reason given / or valid arguments why Hillingdon VCS should be treated differently from elsewhere in the UK.

It is acknowledged that to secure alternative funding in just three months is highly problematic as it will be for groups nationally, however as explained above the three months period is the minimum in terms of formal notice. It should be noted the majority of groups hold reserves which can be utilised for exactly this scenario. The Council has consistently encouraged organisations to diversify their income base and it is good planning practice to build financial sustainability and not to rely on repeat funding or a narrow source of funding.

The overall objective, when considering financial reductions to VCS groups is to ensure that a proper process is in place and that it is both transparent and consultative. Having clarity about the process and the ability to influence how decisions are made will have a beneficial impact on relationships, particularly when relationships are potentially tense due to financial constraints.

The Council needs to ensure that in future groups will know what to expect in terms of timescales and process regardless of where their funding is coming from within the Council and can therefore plan accordingly.

### **Consultation Carried Out or Required**

The local VCS was consulted via letters sent to all corporately funded groups informing them of the proposals and inviting them to respond. It was also sent to Directorates who were asked to make comments and forward it to groups funded via sources other than the corporate grants budget.

Hillingdon Association of Voluntary Services organised a forum for discussion with the Council on the proposals with the VCS to which all Hillingdon groups on their database were invited.

The overall response from the sector welcomed the process attached to reducing or discontinuing funding but disagreed with the notice period of three months. Groups felt that it would not be possible for them to adequately wind up their affairs including initiating redundancies in that time period.

A joint submission was made via Hillingdon Association of Voluntary Services on behalf of their membership and some individual submissions were received. In summary, these made the following points:

- a. A reduction to 3 months would negatively impact on project planning, and recruitment and retention of staff.
- b. That 3 months was not long enough to make long term staff redundant or to wind up an organisation
- c. That a closure of one project suddenly or loss of a staff member be destabilising for the organisation as a whole
- d. However, the sector unanimously welcomed the process required to reduce or end a financial relationship

Some respondents argued that good financial planning by the local authority would reduce the need to change the notice period and that the voluntary sector required greater stability of funding if it was to meet the challenge of a shrinking public sector.

One submission accepted the 3 month notice period as long as impact assessments would ensure that affected clients would receive alternative support. However, as it is not possible to ensure alternative support in every circumstance, this submission is not supported.

Overall, sector submissions made the case to retain the 6 month notice period ideally. (A show of hands at the HAVS consultation showed almost unanimous support in favour of retention). A compromise was suggested individually and jointly that the Council consider a compromise of 4 months if it felt that 6 months was not possible. All voluntary sector respondents welcomed the process suggested in the proposal.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

The Comprehensive Spending Review (CSR) announcement in Oct 2010 indicated there will be further reductions in government grants to Local Authorities, the actual impact can only be evaluated once the Local Government settlement figures are available. Therefore in this current financial climate future government funding streams cannot be guaranteed and the recommendation to reduce the notice will assist the Council in responding to government funding pressures.

### **Legal**

The Hillingdon Compact is not a binding legal agreement and therefore it is open to the Council to reduce the notice period for ending or reducing funding to the Voluntary and Community Sector [VCS] to a minimum of three months so as to bring it into line with the National Compact.

The Council has carried out a consultation exercise with the local VCS. The case of R v London Borough of Brent ex parte Gunning stipulates that the product of consultation must be conscientiously taken into account by the decision maker when a decision is actually made. Therefore, provided that the Council has sufficiently listened to the responses which it has received from the consultees, it can legitimately proceed to amend the notice period without fear of a successful legal challenge being brought against it on the basis that the principles in Gunning have not been observed.

It is spelt out in the body of the report that a degree of flexibility should be maintained by the Council and it should have regard to its equalities duties when making funding decisions in individual cases. This is an important consideration; whilst the Council owes a fiduciary duty to

its Tax payers, which is of particular significance in the current economic climate, this ultimately has to be balanced by the duties which is imposed on it in common law and by the Equality Act. Taking into account individual circumstances and having proper regard to Equalities Impact Assessments will help to demonstrate that the Council's decision making is both Wednesbury reasonable and also compliant with its statutory obligations.

### **Relevant Service Groups**

The paper was circulated to service groups for comment and information.

### **BACKGROUND PAPERS**

- Hillingdon Compact
- Draft renewed national Compact
- Refreshed national Compact
- Letter to VCS organisations whose funding is subject to SLA