

HARROW COMPACT

HARROW CODE OF PRACTICE ON COMMISSIONING AND FUNDING

1. The Funding and Commissioning Code aims to clarify how the statutory sector and the voluntary and community sector (VCS) can work together to enable clearer and more effective funding relationships. The Code does this through:
 - Establishing a framework of best practice for financial relationships between the statutory and third sectors in Harrow.
 - Setting out undertakings for both sides to clearly define expectations.
 - Reflecting our joint commitment to enable a ‘thriving voluntary and community sector in Harrow’.
 - Setting out a process for the Partnership Board to monitor implementation.
2. The Code is aimed at commissioners in the statutory sector involved in commissioning and funding the voluntary and community sector in Harrow. It is consistent with their duty to achieve Best Value and value for money, complies with European Public Procurement Directives, Public Contracts Regulations 2006, related legislation and case law. It is to be applied according to all current legal requirements.
3. In the VCS, it is particularly aimed at organisations wishing to obtain contracts, resources or grants to sell products or services to the Harrow Council and NHS Harrow or any other statutory sector body in Harrow, or to deliver services on their behalf to local communities. Harrow Council commissions many services from the VCS but may also provide small grants or short-term grants for certain activities.
4. The Code underpins the original undertakings within the Harrow Compact published in 2004. The Agreement aims to build voluntary and community sector capacity and sustainability by working towards longer-term agreements and aligned funding arrangements.

GUIDING PRINCIPLES

5. This code is founded on the key principles embodied in the Harrow Compact, including that the partners wish to see a funding environment that is characterised by:
 - **Sustainability** - Working towards a financial environment which enables long-term planning.
 - **Independence** - Recognition of the third sector’s rights to self-determination and campaigning.
 - **Accountability** – A standard, honest, proportionate and transparent approach across all sectors. This includes transparent decision-making, whereby the reasons for approval and rejection are clear; and effective record keeping and reporting by funded organisations to demonstrate how public funds have been used.

Items underlined in this document are explained in the Glossary attached.

- **Efficiency** - The need for value for money in the use of public funds.
- **A Focus on Outcomes** – Focusing funding programmes at specified outcomes that address identified needs. The voluntary and community sector should be involved in informing the focus for funding programmes.
- **Timeliness** - Allowing time for planning, decision-making and action so they have real effect – examples of timescales for different functions are set out in this code.
- **Funding Diversity** - Recognising the strength of building mixed income-generation strategies.
- **Discussion and Dialogue** - Helping to understand each organisation's needs and priorities and building trust to identify and overcome problems before they impact on the delivery of outcomes.
- **Compliance** with all applicable EU and UK legislation and funding agreements or contracts.

6. **In support of these principles the statutory sector undertakes to:**

- Inform, consult and involve voluntary and community sector organisations in commissioning cycles and grant application processes, as far as legislation and commercial considerations allow.
- Develop a long-term view of the needs of current service users and the wider needs of communities.
- Strive to achieve Best Value and value for money in the delivery of services, whether delivered by the statutory sector itself or by external organisations, including the voluntary and community sector.
- Work towards implementing longer-term contracting and funding arrangements with the voluntary and community sector, recognising that clarity regarding the length of contracts and funding enables better business planning.
- Recognise the need for short term contracts and funding in some instances.
- When asked, provide feedback on unsuccessful bids, applications and/or decommissioning decisions.
- Raise any concerns about or risks to performance, delivery and outcomes as soon as the concern comes to light.
- Provide clarity about contract and funding monitoring requirements. Require information only that is needed or will be used to assess performance whilst reserving the right of access in the event of suspected fraud or impropriety.
- Minimise demands for information by ensuring that only one copy of any information is requested by any funding body in any one year for grant applications.

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- Act professionally and with integrity in relation to commissioning and funding processes and relationships with the VCS.
- Provide appointees to Management Committees or Boards of voluntary and community sector bodies only when requested and no longer require any voluntary and community organisation to include provision for a Councillor or Council appointee on their Management Committee or Board. The Council may consider appointing observers to organisations and will provide any such observer with a clear role and set of responsibilities.
- Ensure openness, transparency and equality of opportunity for relevant voluntary and community sector organisations during commissioning cycles and grant application processes.

7 In support of these principles the third sector undertakes to

- Recognise it is legitimate for the statutory sector to require public recognition of their funding when required.
- Recognise that public accountability requires honest and transparent processes, reporting and behaviour.
- Be aware of and plan for the risks for which they are responsible, in particular the risks associated with the delivery of outputs and outcomes, and advise funders and partners of potential difficulties.
- Adopt quality assurance principles in management, governance and service delivery proportionate to their scale of operation.
- When required, be prepared to open up practices, processes and records to funders and partners, within the bounds of professional confidentiality, and to be responsive to their support and advice.
- Monitor and act on feedback from people using the services, including compliments and complaints and monitor and act on reasons given by people eligible to use but not using the service.
- Recognise that there are competing demands for public spending and that there may be more organisations applying than money available.
- Be prepared to consider strategic alliances for example through sharing back office functions to increase the value for money that they offer.
- Seek to avoid funding dependency and pursue income diversity.
- Recognise that funding may cease if outcomes are not delivered or if agreed processes are not followed. VCS organisations will also repay project funding unused at the end of the project or accounting period

8. Together, the statutory sector and the voluntary and community sector undertake to:

- Respect confidentiality within the bounds of legal requirements.

Items underlined in this document are explained in the Glossary attached.

- Utilise fair pricing and full cost recovery structures when pricing and delivering services, whilst recognising that costs must be reasonable and proportionate.
- Recognise the need for a financial reserves policy.
- Establish how the outcomes of the service or project can best be sustained, so that they contribute to the long-term capability of the voluntary and community sector and the achievement of Best Value and value for money in service delivery for the statutory sector.
- Take account of good practice and strive for good practice and continuous improvement.
- Ensure that main point of contact details are provided and that good communications are maintained.

9 **The Role of Partnerships and Consortia**

It is increasingly common for services, projects and programmes to be delivered via local partnership and consortia arrangements in which the voluntary and community sector plays a vital role. There are considerable benefits in pursuing these arrangements, not least in fostering a positive collaborative environment and achieving economies of scale. However, it takes time and resources to contribute to partnerships, which might pose problems for small organisations or those who lack dedicated staff.

Partnership and consortia coordinators need to consider the widest possible range of potential partners at the outset of a project and consider including support for voluntary and community sector organisations to participate fully.

10 **Dealing with disputes**

Early resolution of complaints should be sought. Any disputes in relation to individual funding relationships or to the application of this framework should initially be made to the commissioner concerned. If unresolved, the issue should be escalated through the relevant local complaints system, management structure or partnership as appropriate. If the complaint or dispute is not resolved through these processes, or if it has widespread implications for the voluntary and community sector or for local policy or practice, the issue should be raised through the Compact Resolution Process.

Details of this process, including a flow chart, and all other Compact documents and information can be found on the Harrow Compact web pages.

GRANT FUNDING CODE

11 With regard to grants not subject to contract, the Compact Code signatories agree to the undertakings set out below:

12 **The statutory sector undertakes to:**

- Publish the details about each grant scheme in a timely manner to allow the sector sufficient time to prepare and submit high quality applications.

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- Work to establish a single front door for, initially, the local authority and, subsequently, the public sector generally, which will require only one copy of organisations' constitution and other documents to be supplied and will endorse organisations as eligible for particular grants programmes.
- Clearly state what each funding programme is trying to achieve, what information is needed, how long it will take, what the process is and whom to contact for more information.
- Consider offering a pre-application dialogue to potential applicants to discuss any potential application and how it fits with the objectives of the programme.
- Work towards maximising the use of electronic applications, whilst still ensuring that application forms are simple, easy to read and understand, with guidance notes, and readily available alternative formats, including paper copy.
- Make grant offers in writing including payment arrangements, any conditions that need to be met, any restrictions on the use of the funds and reporting arrangements.
- Wherever possible make payments in advance.
- Provide maximum notice, with a minimum of 12 weeks, of the end of a funding arrangement (if not specified in the offer letter or agreement).
- Fully justify any action taken to withdraw or reclaim grant monies.

13. **The voluntary and community sector undertakes to:**

- Consider fully the terms set out in the offer letter or agreement and ensure these can be met.
- Use the grant only for the purpose stated and within the timescale agreed.
- Work towards identifying unit costs wherever possible.
- Provide information on what was achieved with the grant.
- Recognise that the grant (in whole or in proportional part) may be withdrawn or may be reclaimed if the recipient fails to adhere to the grant conditions, fails to deliver the agreed objectives, fails to provide adequate reporting or to submit invoices on time.

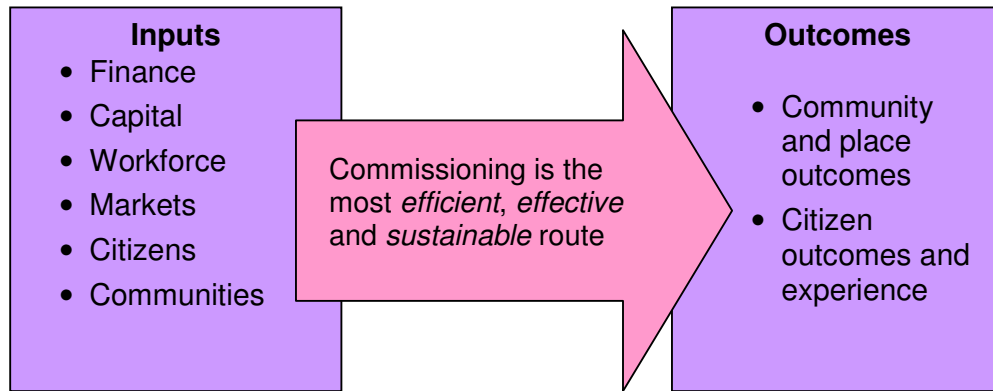
14. **Together, the statutory sector and the voluntary and community sector undertake to:**

- Ensure that any under-utilisation of a grant or under spend is identified as early as possible and that arrangements are made for its use before the end of the financial year.

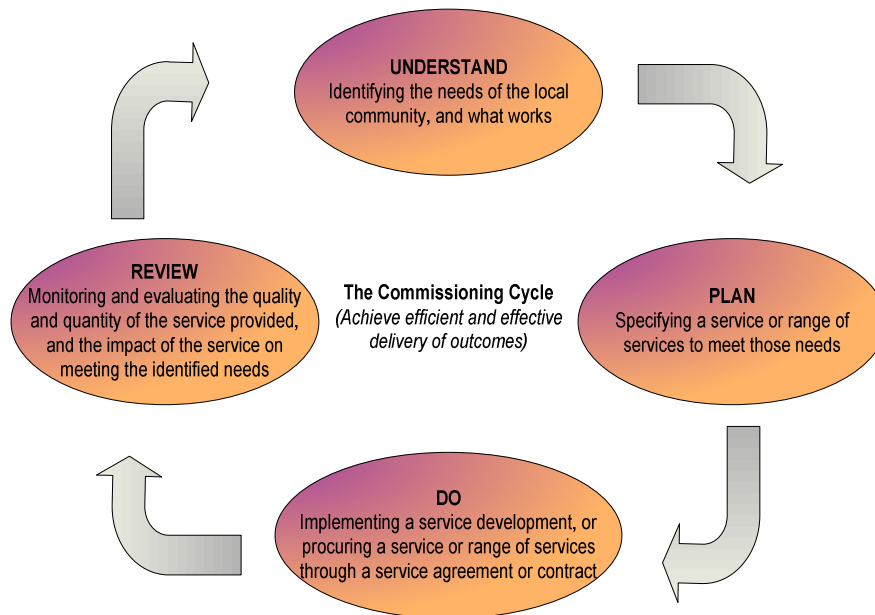
THE COMMISSIONING AND PROCUREMENT CODE

Items underlined in this document are explained in the Glossary attached.

Commissioning is defined as “deciding how to use the total resources available within an area (including statutory, third, private and communities themselves) in order to provide outcomes for citizens in the most efficient, effective and sustainable way.” The following diagram shows this;



15. The commissioning cycle is formal and can broadly be distilled into four key processes: understand, plan, do and review;



16. Understand

The understand stage of the commissioning cycle involves recognising the outcomes to be achieved, identifying local needs, resources and priorities through;

- Reviewing policy/strategies.
- Analysing data e.g. Experian and performance data.

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- Gathering views of service users (providers are a key source of information and insight in this phase).
- Analysing current and future spend.
- Understanding and challenging the business needs (wants vs needs).
- Confirming budget and analysing existing and potential suppliers/supply markets.

The local voluntary and community sector may have a number of roles throughout these processes:

- As representatives at a strategic level.
- As providers and potential providers of the service.
- As advocates on behalf of certain user groups where appropriate.

17. The statutory sector undertakes to:

- Consult the widest possible range of relevant, potential provider organisations, including those from the voluntary and community sector, within the bounds of legal and commercial constraints and requirements, with regard to services and priorities. Clear distinctions need to be maintained at all times between the general consultative stage and the design of service specifications. To prevent a conflict of interest, as soon as the design of a tender specification starts to be considered, potential providers will be required immediately to withdraw from the process

Consultation could include:

- a) Inviting potential provider organisations to discussions at least 12 weeks prior to contract advertisement
- b) Considering whether certain user groups would benefit from advocacy support to engage in the consultative process
- c) Recognise that contributing to the process takes time and resources

- Be transparent about outcomes, needs, priorities, resources and targets and be open to adapting specifications according to relevant data and views gathered.

- Consider where it may be appropriate to commission local voluntary and community sector organisations to conduct local mapping exercises and/or research amongst the communities/user groups with which they have contact

- Endeavour to ensure that its consultative action fosters partnership between organisations.

18. The voluntary and community sector undertakes to:

- Contribute constructively to the consultation about services and focus their contribution on the needs of end users
- Respect confidentiality and be clear about who they represent and how they came to their views.

19. Together, the statutory sector and the voluntary and community sector undertake to:

Items underlined in this document are explained in the Glossary attached.

- Develop the optimum scope and scale of contracts – ensuring that they are appropriate to help secure a diverse supply base, to encourage relevant organisations of all sizes to compete (within legal and commercial constraints) and to achieve Best Value.
- Identify how possible conflicts of interest arising from consultation and intentions to tender can be prevented.

20. **Planning**

This stage involves mapping out and considering different ways of addressing the needs identified through the needs assessment in the understand phase.

- Setting out how the outcomes can be addressed effectively, efficiently, equitably and in a sustainable way
- Developing a commissioning strategy based upon the understand elements of the commissioning cycle
- Developing an options appraisal and commercial challenge of service options
- Deciding whether to “make, buy or influence”
- Achieving agreement of the outcomes and plan for achieving them through the appropriate process.

21. **The statutory sector undertakes to:**

Include potential voluntary and community sector providers in market analysis and research that is undertaken

Involve relevant voluntary and community sector organisations in any market testing and market warming exercises that are undertaken

Include full consideration of the social, economic and environmental value offered by voluntary and community sector organisations in the “make, buy or influence” decisions that are made and in any later tender or grant application process

- Recognise the need to stimulate the market for voluntary and community sector providers. This can include commissioning voluntary and community sector infrastructure agencies to provide training for capacity building in commissioning skills within the sector, particularly recognising the support needs of smaller and or inexperienced groups
- Provide sufficient time, where service requirements permit, for organisations to respond to requests for input and later, to respond to invitations to take part in tender and grant application processes. In particular in relation to larger value and risk services or those involving joint working
- Signpost organisations to their local and regional infrastructure providers for assistance in taking part in commissioning or grant application processes, before the processes themselves begin.

22. **The voluntary and community sector undertakes to:**

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- Ensure their eligibility when applying, that their proposal meets the requirements of the contract specification and that they understand the requirements.
- Recognise and respect that the final decision about the award of any contract rests with the commissioner.

23. Do

This stage involves making investment decisions based on the appropriate information identified in the “Plan” stage to secure delivery of the desired service or services through:

- Developing markets through the creation of competition
- Managing tender and evaluation processes if required
- Developing contracts including performance measures and
- undertaking training/awareness of new arrangements with the workforce

A well managed grant application or tender process means that applications from those organisations best able to deliver the specified provision, to required quality levels and within the available budget will succeed. All processes must be undertaken so that they are compliant with the commissioning agency’s financial procedures and also with EU Public Procurement Directives and other relevant legislation. The overriding principle must be towards equality of treatment, non-discrimination and transparency.

Where a tender or grant application process is used, this may involve a “two-stage” process. If so, the first stage will involve use of a prequalification questionnaire (PQQ) to establish bidder’s legal standing and previous performance. Evaluation of PQQs will result in establishment of a “short list”. Short-listed applicants will be asked to respond to an Invitation to Tender (ITT) or equivalent which will ask them to apply their expertise, processes and policies to the specific delivery of the contract in question. Quantitative evaluation of responses to the ITT (or equivalent) will result in the identification of a successful tenderer.

Effective terms of delivery will give clear expectations of what is to be delivered and by when, so that organisations can bid appropriately and so that successful bidders can plan and deliver effectively, to achieve the best possible outputs and outcomes. This approach will also ensure that risks are recognised and placed with the body or organisation best able to manage them. Contracts will be developed which will include performance measures.

24. **The statutory sector undertakes to:**

- Give reasonable notice of procurement opportunities, to comply with EU Public Procurement Directives and Public Contract Regulations 2006.
- Publish the criteria against which grant applications and tenders will be assessed and make decisions in accordance with those criteria.
- Ensure that the demands made on bidders and applicants are not unnecessarily bureaucratic, by using processes and paperwork that are appropriate to the risk and value of the contract or grant in question.
- Promote opportunities widely and consider proactive approaches (after publication of any contract advert or Notice) to encourage organisations to bid. This is particularly

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important for voluntary and community sector organisations who may not have engaged in the commissioning process before.

- Ensure that third sector organisations are not required to provide any more information and assurances than those required from potential suppliers from other sectors.
- Provide timely notification of decisions and give adequate notice in advance of the expected date of the commencement of the contract. If possible, this should be at least 12 weeks for new services or projects.
- Provide clear terms of delivery (including success and performance criteria) to the organisation before any contract is entered into.
- Ensure that conditions are directly related to the contract risks and the intended outcomes of the project.

25. **The voluntary and community sector undertakes to:**

- Agree terms of delivery at the outset.

26. **Payment Terms**

Services should be funded in the most effective way so that the best possible long-term outcomes are achieved. Payment terms should allow both parties to plan and develop for the future and create positive incentives to perform.

27. **The statutory sector undertakes to:**

- Consider the timing of payments to create the right incentives for delivery.
- Where feasible, consider making payments in advance of expenditure rather than in arrears, taking into account the impact this may have on the organisation and the service.
- Subject to contract terms, make payments within 30 days of a correct invoice.

28. **The voluntary and community sector undertake to:**

- Agree with the commissioning body a clear understanding about payment terms
- Issue invoices correctly and in a timely manner to allow the statutory sector to make the necessary payments
- Notify the statutory sector at the earliest opportunity should a need for a change in the payment pattern occur

29. **Review**

This stage involves monitoring service delivery against expected outcomes using performance management and users feedback and reporting how well it is doing against the plan. This drives performance and continuous improvement, which leads to additional benefits.

Items underlined in this document are explained in the Glossary attached.

Effective monitoring focuses on performance against agreed indicators and outcomes; is proportionate and not burdensome, ensuring transparency about the use of funds and what they have achieved. Effective agreed monitoring, with good management information, will ensure that changes or problems are identified and addressed at an early stage.

The information received from the review process will help identify the impact of the service on meeting the identified need and feed into the next phase of commissioning, establishing whether the service needs to be continued, redesigned, or decommissioned.

30. The statutory sector undertakes to:

- Agree a simple process for controlling any changes to the agreement, including the actions that will be taken if the organisation is failing to deliver and include these in plain English, i.e. intelligible and free from jargon, as part of the contract.

Develop standardised reporting requirements for those organisations that receive funding from more than one funding agency, and set up joint commissioning arrangements where appropriate.

- Agree with the service provider the level and type of monitoring that will be required, including action to be taken if delivery targets are not met, before signing the contract.

31. The voluntary and community sector undertakes to:

- Keep documentation to allow monitoring by funders' internal and external auditors, and allow right of access, as agreed.
- Provide monitoring information as specified in the terms of delivery.

32. Concluding a Financial Relationship

The Code seeks to achieve a well managed process for the conclusion of a financial relationship. This includes when the contract finishes; if funding ends earlier than the intended closure because delivery targets are not met; or if funding ends as a result of a review of strategic or development funding. Detail of how termination of contract due to default or failure to perform will be dealt with, will be set out in individual contracts.

Termination of contract should be considered only as a last resort. A well managed process will:

- Minimise the negative impact on service users.
- Consider the long term stability of the voluntary and community sector organisation.
- Aim to maintain a continuing constructive relationship.
- Ensure effective arrangements are made for a seamless hand-over to the Council or any other successor organisation.

33. The statutory sector undertakes to:

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- Comply with the notice provisions within the contract with respect of decisions to terminate contract conditions (unless there are serious breaches of the contract by the voluntary and community sector body), if the contract is terminated before the end of the period the contract covers, in order to allow voluntary and community organisations to fulfil their duties as good employers and prepare alternative plans.
- Give the reasons for ending the funding agreement or contract and allow the provider organisation to respond to proposals to change or end an arrangement.

34. The voluntary and community sector undertakes to:

- Recognise that funding may end as priorities change, subject to the terms of existing agreements and contracts.
- Plan in good time for different situations to reduce any potential negative impact on both users and the organisation.
- Adhere to their duties as good employers. For example, giving required redundancy periods, consulting staff and providing information if requested to facilitate a transfer of staff under Transfer of Undertakings (Protection of Employment), (TUPE), to a new provider.

35. Statutory Requirements

As Public Authorities, the statutory sector is subject to a number of statutory duties, including those relating to anti-discrimination, human rights and the freedom of information. These statutory duties and obligation are of relevance in funding and commissioning arrangements and so may need to be considered as part of this Code.

36. The statutory sector undertakes to:

- Notify voluntary and community sector organisations where assistance is required or where they become aware that there are concerns in relation to the fulfilment of statutory obligations.

37. The voluntary and community sector undertakes to:

- Recognise statutory duties and obligations and ensure that work is compliant with them, so not causing a statutory sector organisation to breach those requirements
- Assist, where appropriate, the statutory sector in complying with those requirements.

38. TAKING THIS CODE FORWARD

The Compact in Harrow is driven by a multi-agency group, comprising the voluntary and community sector representatives to the Partnership Board in conjunction with Council officers. The Partnership Board will have ownership for progressing and monitoring the undertakings set out in this Code.

39. GLOSSARY

Best Value

Best Value is to “make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

This includes the consideration of overall value, including economic, environmental and social value, when reviewing service provision. Social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves.

*(“Best Value Statutory Guidance” 2nd September 2011,
<http://www.communities.gov.uk/documents/localgovernment/pdf/1976926.pdf>)*

BAME

Black, Asian and Minority Ethnic.

Commissioning

This is the process of specifying, securing and monitoring services to meet people’s needs at a strategic level. This definition refers to the whole commissioning cycle and can relate equally to both funding and purchasing activities. The term ‘commissioner’ means the body for which the services are being provided.

Contract

A contract is in place where a service is provided in return for payment. Every contract should define the services to be provided in the specification. This defines delivery standards to be expected and/or service levels and is often referred to as a Service Level Agreement (SLA).

Compact Resolution Process

The Harrow Compact Disputes Resolution Process can be found on the Harrow Compact Website (eventually)

Conflict of Interests

A conflict of interest can arise when an individual or organisation acts in such a way that they compromise their independence, for example by using influence or gaining knowledge. A conflict of interest exists even if no improper act results from it, and can create an appearance of impropriety that can undermine confidence in the conflicted individual or organisation. Within a procurement setting, this means that an organisation cannot be involved in the tender specification design if they wish to tender for that contract. They would need to withdraw from any consultation immediately a tender design is considered.

Infrastructure Organisation

Voluntary and community organisations that play a supporting, co-ordinating, representation, policy-making and development role for other voluntary and community organisations.

Items underlined in this document are explained in the Glossary attached.

Fair Pricing

Fair pricing of goods, works and services enables the achievement of value for money by the statutory sector and continuity of business operations by the voluntary and community sector selling to them, or delivering services on their behalf

Full Cost Recovery

Full cost recovery means recovering or funding the full costs of a project or service. In addition to the costs directly associated with the project, such as staff and equipment, projects will also draw on the rest of the organisation. For example, adequate finance, human resources, management and IT systems are also integral components of any project or service.

The full cost of any project therefore includes an element of each type of overhead cost, which should be allocated on a comprehensive, robust and defensible basis. The methods used by the voluntary and community sector to allocate full costs should follow these principles:

- The method should be simple so that the amounts can be calculated without disproportionate effort*
- The method must be equitable where there are several funders of different services*
- Costs should be recovered only once; where a grant has been given specifically for other costs, those should not be included in calculating amounts to be paid by other funders.*

Gift in Kind

Non-financial support to organisations provided without cost, for example staff time, use of facilities and services or donated goods.

Grants are provided to subsidise an organisation's activities. They are normally:

Core grants - general subsidies to be used as the recipient feels appropriate or

Specific grants - where there are conditions attached on how the money is to be used, or may be linked to an SLA.

Match funding - funding that is found by groups to match a grant that has been offered by another funding organisation. It is often a requirement to qualify for grant approval.

Procurement

Defined as being the acquisition of goods and/or services from third party suppliers under legally binding contractual terms where all the conditions necessary to form a legally binding contract have been met.

Reserves Policy

This is a key financial policy requirement which ensures that an organisation has appropriate funds to sustain services during possible fluctuations in income. This policy also needs to demonstrate financial probity and that reserves are proportionate to organisational function.

Service Level Agreement

Items underlined in this document are explained in the Glossary attached.

The term Service Level Agreement (SLA) has been used to describe some grant contracts that set binding conditions with detailed specifications for levels of outcome and output performance. An SLA can relate to a “supply” of a service or an administration of a grant award. (‘Improving financial relationships with the Third Sector’ HM Treasury May 2006)

Statutory Sector

This is the collective term for organisations with powers to fund or provide services, such as Local Authorities, Health Authorities and NHS Trusts and the Police.

Strategic Grant

Funding that is given to often well established organisations recognised to be of strategic importance and whose continued existence is considered to be beneficial.

Tender

A competitive procedure by which a bid is made to provide services at a certain price, volume and standard.

Transfer of Undertakings (Protection of Employment), (TUPE)

TUPE often applies when a service is tendered and an existing provider is replaced by a new one. It means that the employees in the original services often have the right to be transferred to the new organisation. They then have all their previous rights protected, such as hours of work, pay, holiday and pension entitlement. Organisations tendering for services will need to examine whether TUPE will apply if they win a tender and consider what this will mean in the future. Commissioners need to provide guidance on TUPE to third sector providers and consider supporting preferred providers to undertake assessments of TUPE obligations

Unit Cost

This is a means of expressing the cost of providing a specific service to an individual or distinct group of clients. For example, the cost of one hour’s counselling will include a proportionate element of all costs that contribute to providing that service. See also ‘Full cost recovery’ above.

VAT - Value Added Tax

As this is a highly complex area of finance, it is essential that organisations tendering for contracts and submitting applications for grants obtain professional advice regarding their VAT position.

Voluntary and Community Sector (VCS)

This is the collective name for charities, voluntary, non-government, and campaigning organisations. This may include faith groups, social enterprises, co-operatives and mutuals.

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