

Report of investigation into matters raised in a Compact Monitoring Form submitted by Mike Coker on 8th April 2008

1. The Council received a Compact Monitoring Form on 8th April from Mike Coker relating to the proceedings of the Grants Advisory Panel at their meeting held on 5th March 2008. The Form alleges 9 breaches of the Compact in relation to 5 decisions or procedures.
2. The Compact is not a legally binding document or contract. It is a mutual agreement between those who decide to endorse its principles and commitments to action. Its authority derives entirely from the respect accorded to it by the partners and the extent to which it influences future decision-making and development. It is intended to be of both practical and symbolic significance. Although it is not legally binding, it is the intention of those who have collaborated in producing it that it should have authoritative focus in promoting good quality working relationships between the partners.
3. The local procedure for responding to issues raised under the Compact is for Compact Monitoring Forms to be received by the Service Manager, Policy and Partnership, for investigation. The investigation will, where possible, suggest both whether the issues raised by the form have been substantiated and a recommended way forward.
4. In reporting on the circumstances giving rise to the allegations in this case and the relevance of the Compact, it is first important to establish the purpose and status of the Grants Advisory Panel, its policies and the role that Mike Coker was undertaking at the meeting.
5. The Grants Advisory Panel, as its name suggests, is responsible for considering applications to the Council and the Edward Harvist Trust for financial support made by voluntary and community organisations. Financial support is delivered through three different routes: the main grants programme (including Service Level Agreements); community lettings and the Edward Harvist Trust. The Panel makes recommendations on the applications to Cabinet.
6. There are qualifying conditions applicable to the main grants programme relating to the governance of applicant organisations, the functions that can be supported and their connection with Harrow. The Grants Advisory Panel is supported by the advice of a Grants Adviser, elected by the Sector, to provide information and a voluntary and community sector perspective on applications. The Grants Adviser at the meeting of the Grants Advisory Panel meeting held on 5th March was Mike Coker.
7. The first set of allegations relates recommendations of grants to Girlguiding Middlesex North West and K.S.I.M. Senior Citizen Association. These organisations had applied for funding but their applications had been found by officers not to satisfy the qualifying conditions. Towards the end of the Grants Advisory Panel's meeting on 5th March, the Chair recommended that these two organisations should each be awarded £4,000.
8. Legal advice was given regarding recommending grants for organisations that fell outside the published qualifying conditions. The value of qualifying conditions was that the process that judged whether applications were eligible for funding was clear and transparent and in which the voluntary and community sector had confidence. Departing from the published conditions would reduce the integrity of the process. If the conditions were to be set aside, then applications from other groups that also fell outside the conditions, in addition to those identified by the Chair, should be considered and other groups might have applied had they been aware that the conditions would not be rigorously enforced. It was noted that it

would be necessary for Cabinet to initiate consultation before the conditions could be changed.

9. The Grants Adviser gave similar advice.

10. The Grants Advisory Panel recommended Cabinet to approve Grants of £4,000 to each of these organisations. In the event, Cabinet approved awards in respect of these organisations totalling £4,387 – the same level of funding as in the previous year.

11. The Compact Monitoring Form suggests that in making those recommendations, the Panel breached a number of terms of the Compact as follows:

- Point 3 from the Statutory Sector actions within the Funding and Procurement Code “To ensure fair and equitable guidelines for all members of the Panel to follow”
- The introduction to the Compact document itself which states “The main aims of the Harrow Compact are to build on existing partnerships and develop the relationship between the sectors through mutual respect and trust so that they can together provide more effective services to local people and communities within the borough.”
- One of the aims and objectives of Harrow Compact is “Ensure equitable access to resources”
- One of the shared principles in the Harrow Compact “We agree that genuine partnerships across the sectors require integrity, objectivity, understanding, accountability, openness, honesty and collaboration and a recognition of equal value of their respective contribution.”

12. In considering the alleged breaches of these Compact terms and aspirations, I have discussed the events of the meeting on 5th March with officers who were present and examined the published minutes of the meeting.

13. From the minutes and the recollection of officers, it is clear that the history of the discussion at the meeting given in the Compact Monitoring Form and summarised above is substantially accurate. The letters from two specific organisations, which had not fallen within the qualifying conditions, were considered and grants recommended. Letters from no other non-qualifying organisations were considered. Legal and Grant Adviser’s advice referred to was given at the meeting. The issue is whether the action taken by the Panel amounts to a breach or breaches of the Compact.

14. In relation to the first point regarding fair and equitable guidelines, it seems that the Panel complied with this requirement by having published qualifying conditions that were clear and ensured that grants were directed to organisations that devoted the large majority of their efforts to Harrow residents. By departing from these qualifying conditions, however, the Panel ceased to comply with the Compact requirement. The condition in question included a requirement that a set percentage of members of applicant organisations that must either live or work in Harrow. In considering applications that did not comply with this condition, the Panel set no new percentage against which Panel Members would be able to judge the eligibility of other applications. Rather than adhering to guidelines, the Panel made arbitrary decisions that were not in accordance with any guidelines.

15. In relation to the second point regarding building relationships and mutual trust, the arbitrary action of the Panel in relation to these two applications has clearly undermined trust

as evidenced by the Grant Adviser completing a detailed Compact Monitoring Form. The Compact attempts to set the standard for relationships between the statutory and voluntary and community sectors – relationships characterised by very different levels of access to power and resources but with a hallmark of mutual respect. The action of the Grants Panel did not demonstrate respect for voluntary and community sector by setting aside, without consultation, the qualifying conditions against which 65 organisations prepared and submitted applications.

16. In relation to the third point regarding equitable access to resources, any organisations that did not fall within the qualifying conditions, other than the two selected by the Grants Advisory Panel for recommendation, did not have equitable access to resources. In effect, a special case was made for the two selected organisations. Similarly, other organisations that did not fall within the qualifying conditions may have been discouraged from applying due to their expectation that the conditions would be equitably applied.

17. In relation to the fourth point regarding principles, the manner in which the recommendation of the Grants Advisory Panel was reached would seem to undermine genuine partnerships by failing to exhibit integrity in the application of qualifying conditions, objectivity in applying the same conditions to all applicants, accountability in respect of explaining the reasons for varying the use of the qualifying conditions, and collaboration in failing to pay due regard to the advice of the Grants Adviser.

18. I have not, in the course of this investigation, sought the reasons for the Grant Advisory Panel's actions. This is because, no matter what good intentions may have led the Panel to make its recommendations and irrespective of the merits of the organisations recommended for funding which did not fall within the qualifying conditions, the explanation would have not materially affected whether or not the principles on which the Compact is based had been observed. The main issues here are about process and the importance of open and transparent processes in relation to the always fraught business of allocating a finite sum of money between competing organisations whose applications total several times the available budget. It appears from this investigation that the four points made in the Compact Monitoring form are soundly based and that the principle to which they refer have been breached.

19. In order to restore trust to the relationships covered by the Compact, it is recommended:

19.1. That the qualifying conditions for grants are referred to the Scrutiny Review of the Council's relationship with the Voluntary and Community Sector for consideration and potential amendment. The Review's recommendations, once adopted, should have the status of unbreakable rules amendable only by Cabinet after full consultation with the Voluntary and Community Sector; and

19.2. While the applications from these two organisations did not fall within the grant qualifying conditions, the Council nonetheless has the power to provide financial support to these organisations. To withdraw now funding that has been approved could present legal difficulties, especially if the organisations concerned have incurred expenditure based on the knowledge that funding had been approved by the authority. To overcome the objections to the process by which this funding was agreed, it is recommended that an alternative budget should be identified from which the £4,387 approved by Cabinet for these organisations can be drawn. In these circumstances, the Council's support for these groups in the current year would not be grants from the grants budget.

20. The Compact Monitoring Form raised a second set of issues relating to Point 5 from the statutory Sector's Actions in the Funding Code which states "The Statutory Sector will respect the independence of the (voluntary and community) sector."

21. The matters raised in relation to respect for the independence of the sector refer to comments made in discussion of various applications before the Grants Advisory Panel. In the first case, it is alleged that, during discussion of whether a particular organisation satisfied the qualifying condition relating to 80% of members living or working in Harrow, it was suggested that the Council should seek a copy of the organisation's membership database. When legal advice was offered that this might breach Data Protection legislation and confidentiality clauses, it was suggested that a Council officer could inspect the database without recording any information.

22. In the second case, the Grants Advisory Panel commented favourably on attempts to bring various organisations concerned with the needs of the same community into a form of federation. In the third case, similar comments were made about the desirability of trying to unite organisations serving similar communities.

23. In each of these cases, it is alleged that the action proposed or supported amounted to disrespect for the independence of the sector. The minutes of the meeting do not record the discussion of most applications and do not include any comments relating the applications in question. The allegations are, however, consistent with officers' recollection of the meeting.

24. In the first case, the Council as a funder has the right, and indeed the obligation, to be satisfied that its qualifying conditions have been satisfied. However, the Council needs to apply the same standards of evidence to all applicants. In other cases, that standard appears to have been that organisations have stated that they meet the qualifying condition. In cases where well-founded or reasoned doubts about compliance with a qualifying condition, the Council should be entitled to ask additional questions but this should not include contemplation of seeking a copy of a membership database. For this proposal to have been advanced demonstrates a lack of respect for the independence of the sector.

25. This particular proposal was not, however, agreed. Instead, it was suggested that an officer inspect the database. This action would not be unreasonable as a response to a well-founded doubt about compliance with the qualifying condition such as complaints from Harrow residents that the organisation was unable to help them because it was fully committed by supporting people in other boroughs. There is no evidence of such concerns and the proposal appears to have arisen from a casual comment at the meeting of the Grants Advisory Panel. In this context, the proposed action does constitute disrespect for the independence of the sector.

26. The two other alleged breaches of the Compact referring to disrespect for the independence of the sector relate to approval of action to seek to streamline provision by encouraging organisations serving substantially the same community to work together or even merge. One of the features of the voluntary and community sector is the speed with which new organisations can form and begin to work with a sub-set of a community already served by one or more existing organisations. The sector thus provides a buoyant market place of providers of support and services catering to different shades of opinion, culture and belief. The volatility of the sector, however, makes it very difficult for funders to be able to support services for a whole community when fragmentation of providers occurs.

27. In these circumstances, a funder wishing to meet the needs of a particular community is likely to explore whether and to what extent organisations serving parts of that community can

be encouraged to work together. This does not, in my view, amount to undermining the independence of the sector. In one case, however, the Compact Monitoring Form suggests that the officers' recommended grant was reduced from £2,000 to £500 and accompanied by a request that the organisation concerned be asked to "marry up" with another organisation servicing the same community. Where encouragement becomes financial coercion, disrespect for the independence of the sector has occurred.

28. Finally, the Compact Monitoring Form points to alleged infringements of the "fair and equitable guidelines for all members of the Panel to follow" principle and the "mutual respect" principle both of which are set out fully at paragraph 11 (bullets 1 and 2) above. The issue here is that the Grants Adviser was unsure of the rules concerning personal and prejudicial interests and felt that he did not get sufficient assistance in deciding whether he had interests that fell into one or both categories. The impression was given that other members of the Panel had received different or better advice.

29. This was the first meeting that the Grants Adviser had attended following the resignation of the previous Adviser. There does not appear to have been an induction or familiarisation process that might have prepared the Adviser more thoroughly before the formal meeting. If there had been, the difficulty that Members of the Council often face in relation to personal and prejudicial interests might have been more apparent to him.

30. While officers can and do explain the law relating to personal and prejudicial interests, it is for members to decide whether their personal circumstances constitute an interest that needs to be declared and which category of interest it might be. Members have frequently sought more detailed and personal advice which officers are unable to provide. In this case, the Grants Adviser asked for guidance which officers could not supply and, because the members at the Panel had, through long practice, no difficulty with the declaration process, it might well have appeared that different guidelines or differential treatment was in operation. From the evidence, I do not find that difficulty in which the Grants Adviser found himself constitutes a breach of the Compact principles but it is recommended that future Grants Advisers are offered adequate induction into Council procedures including the declaration of interests.

31. This report will be sent to the complainant for comment and then submitted to the HSP for consideration. The HSP may recommend the Council to consider the report and to take appropriate action.

Mike Howes
25th April 2008