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# The Case for Statutory Compacts between Welsh Local Authorities and the Third Sector: Summary Report and Recommendations

# **Summary Report and Recommendations**

**February 2013**

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Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government.

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## **Annexes**

There are four annexes to this report:

- Annex A: Report on Preliminary Interviews
- Annex B: Case Studies
- Annex C: Literature Review
- Annex D: Legal Opinion

These are available on request from:

## 1.0 Introduction

### 1.1 Origins, Aims and Scope of the Study

The Welsh Government has commissioned Practical Wisdom R2Z and Wavehill Ltd. to undertake research to help inform its decision on whether to introduce a statutory requirement for Welsh local authorities to establish compacts with third sector organisations in their areas. More specifically it has set out ten research questions that can be grouped into the following four clusters:

- *Effectiveness*: What are the costs and benefits of local compacts? Have they performed as advertised? Have they had a positive impact on partners' organisations, ways of working together, services provided and end users? Could this impact have been produced in any other way or at lower cost?
- *Factors for success*: What factors are required for success in local compact working? What are the essentials? What are the optional extras?
- *Factors for lack of success*: What are the barriers to successful compact working? What are the problems that need to be solved?
- *Putting local compacts on a statutory footing*: What are the advantages and disadvantages? How could such a requirement be designed to have maximum impact?

### 1.2 Structure of the Report

This report presents a concise account of our findings and sets out the conclusions we have drawn from the study together with some recommendations for the Welsh Government. It begins by setting out the methodology for the study and the kinds of evidence we have collected. It examines local compacts from a number of different perspectives, including that of "Welsh exceptionalism". It then addresses the issues of effectiveness; the factors that explain success or failure; and the advantages and disadvantages of putting local compacts on a statutory basis. In the final section it draws together our conclusions and discusses their implications for action by the Welsh Government.

## 2.0 Sources of Evidence

We collected the evidence on which this report is based in four ways:

- We conducted semi-structured telephone interviews with a total of fifteen key informants who had detailed and specialist knowledge about compacts and about relationships between government and the voluntary sector in the United Kingdom. We digitally recorded and transcribed the interviews – which lasted between thirty-five and eighty minutes – and fed back an analysis of their contents to informants to check validity and prompt further observations. This provided us with an initial range of views about what constituted success or good practice; the factors contributing to success or lack of success; and the desirability of a statutory requirement for local compacts. We set out our detailed findings in ANNEX A to the report.
- We undertook case studies in six Welsh local authority areas selected to provide us with a variety of compact arrangements; relationships between local authorities and local voluntary sectors; levels of compact activity; coverage of all parts of Wales; and a cross-section of different cultural and socio-economic conditions<sup>1</sup>. These involved desk research to locate relevant documentation and identify key informants; interviews with people involved in compact working on both sides of the relationship; and, where possible, group discussions with members of liaison bodies. The case studies provided us with detailed information about the extent to which current arrangements in different settings had improved relationships between local authorities and local voluntary sectors and the costs and benefits that had flowed from this; the factors that had determined the degree of success achieved by compacts; and the views of those involved about the desirability of putting local compacts on a statutory basis. We set out our detailed findings in ANNEX B to the report.
- We reviewed the written evidence on compacts including a wide range of academic literature, published and unpublished; public policy documents both of direct relevance, such as compacts and their action plans and monitoring reports, and of contextual significance, such as overarching strategies involving the voluntary sector; practitioner literature which offered guidance on cross-sector partnership working and the compact way of working; and administrative documents produced during the processes of compact development and

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<sup>1</sup>These were Bridgend, Caerphilly, Carmarthenshire, Conwy, Rhondda Cynon Taf and Vale of Glamorgan.

implementation. This enabled us to locate compacts in a number of different contexts – internationally in comparison with other “policy documents on cooperation”; intra-nationally within the UK as an aspect of devolution and national differentiation; as an element of social policy, “the formal tip of a very much larger iceberg of changing relations between government and civil society” (Morison 2000, 102); and as a form of partnership – and to “unpack” the issues involved in a statutory requirement as well as to assess what is known about the impact of local compacts and the factors associated with success and good practice. We set out our detailed findings in ANNEX C to the report.

- We have also sought advice on the nature and force of the statutory requirements and non-statutory guidance that are already in place and on the appropriateness of our recommendations from an acknowledged expert in public law – Shaun Jamieson, solicitor and partner in the firm of Hugh James (Cardiff Office). His legal opinion is set out in ANNEX D to the report.

### **3.0 Local Compacts in Context**

#### **3.1 Partnerships**

Compacts can be seen as distinctive kinds of cross-sector partnerships. We can learn a great deal about them by looking at both what they have in common with other cross-sector relationships and what is distinctive or different about them. Partnerships preceded compacts and have continued in operation alongside compacts: they have, in effect, acted as market makers for compacts. There is a significant literature about partnerships which provides us with the means to get past “ideal-type” official definitions and rhetoric about the benefits of partnership working and to achieve a better understanding of their dynamics and some of the difficulties in making them work.

A fairly typical definition of a partnership was provided by the Welsh Assembly Government. It involved four key elements:

- “Collaboration between organisations or stakeholders that have their own independent identities....
- A real sense of shared purpose with clearly-identified and jointly-agreed objectives....
- Genuinely-shared decision-making and joint ownership....
- A formalised structure that is agreed by all partners at the outset....” (Welsh Assembly Government 2004, 2).

The rationales for engaging in partnerships of this kind accentuate the positive and emphasise the benefits that will be experienced by one or more of the partners or of communities generally. These include achieving:

- more together than separately;
- greater mutual understanding and respect;
- functional aims such as being able to address intractable problems or deliver co-ordinated packages of services;
- benefits for voluntary organisations in the form, for example, of increased resources or enhanced ability to act strategically;
- benefits for local authorities in the form of improved quality of services provided; and
- benefits for the users of public services in the form of better-targeted or more appropriate services and for the wider community.

The reality of many partnerships is, however, very different from the Platonic ideal, because they are shaped willy-nilly by external forces, internal dynamics and the nature of existing relationships between partners. In the first place, partnerships are shaped by the wider economic, social and political environment. For example, in the 1980s and early 1990s, tensions between local authorities and voluntary organisations, which had developed as a consequence of radical changes in the way public services were delivered and a shift of power from local to central government, prompted a vision of partnership that was more about gaining mutual understanding and enabling partners to adapt to their new operating environment than about pursuing concrete joint aims (Bemrose and MacKeith 1996, 6). In the second place partnerships are bespoke, shaped by the different aims, structures, methods of operation and timescales of partners. In particular, they reflect partners' power and standing, their propensity to dominate or to share, and their politics, their application of party political agendas to their aims, structures and methods of working. Finally, partnerships are shaped by what has happened already: the "paradox" of partnerships (and compacts), formulated by Craig, Taylor and colleagues, is that local government bodies and their voluntary sectors face a future largely determined by their past and that those with good relationships are good at partnerships and compacts and those with bad relationships are bad at partnerships and compacts and that change for the better requires substantial and sustained effort (Craig *et al.* 2005, 9).

Furthermore, there are barriers in the way of successful partnership working. These include "national" obstacles which stem from national policies or requirements that may, for example, impose conflicting high-level objectives, limit the powers available to local government bodies to address problems

(Audit Commission 1998, 7) or lead to “a mismatch between public policy directives and, on the other, the practical reality on the ground” (Cairns *et al.* 2006, 23). They include “cultural” obstacles which arise from lack of understanding and trust between the partners. And they include “local”, “internal” or “day-to-day” obstacles which reflect “the inherent difficulties of getting a range of agencies with differing purposes, structures and ways of doing things to work together” (Audit Commission 1998, 7).

There is no shortage of advice and guidance about how the mechanics of partnership can be made to operate efficiently, although this seems to have had little impact: “Many of the techniques and practices that help successful partnerships to deliver are straightforward: there is no great mystery about them. But although they are common-sense, they are by no means common practice” (Audit Commission 1998, 50). There may, in any case, be problems with this kind of prescription and the underlying assumption that one size fits all: when “toolkits and checklists imply that, if participants follow a set of prescribed guidelines, relationships and outcomes will be improved”, then guidance may act as a dead hand on the ways and means of individual partnerships and lead those involved to overlook “the critical importance of *local* solutions” (Cairns *et al.* 2006, 23-24).

Cairns and his colleagues, like other authors, conclude that one of the key factors in developing successful cross-sector partnerships is the achievement of increased trust and mutual understanding, but there is little, if any, guidance in the literature about how to manage this. The answer depends on local circumstances, historical and current relationships and the personalities of key participants and thus requires a *local* solution, and this might be found within the approach suggested by Taylor that partnerships “cannot be tacked onto the edges of existing systems” but should be seen as a different way of working (Taylor 1997, 6).

The practice of partnership working is thus a great deal more challenging than “ideal-type” definitions and lists of anticipated benefits would suggest, and guidance to those engaged in it is limited and may, in fact, be unhelpful.

### **3.2 National Compacts**

Like other forms of partnership, compacts are the product of the time and place of their conception. The four national compacts in the UK were agreed in 1998 at the beginning of the “New Labour project”, when the new government felt the need to detoxify the unhappy relationship between government and the voluntary sector in order to enable voluntary organisations to play a major role in restructuring the welfare state via its Third Way initiative. There has been little comparative research on the

development of compacts in the four nations of the UK, although what there is suggests that, despite the superficial appearance of a common origin, identity and purpose, they have developed in different ways – not least as a consequence of devolution.

The Welsh Scheme, in particular, has been characterised as the product of a distinctively Welsh context, including previous developments in partnership working, local government reorganisation, moves for cultural autonomy, and a “consistent, strong uniform infrastructure network”. It has been argued that there is a strong and distinctive “civic culture” in Wales:

“A belief in the importance and effectiveness of collective effort and an identification with locality remain close to the centre of political and community gravity in Wales – perhaps more so than in some other parts of the United Kingdom. This predisposition towards co-operative enterprise provides both a bedrock upon which the voluntary sector is able to secure its own legitimacy and a secure platform from which to take its place in the new pluralism which devolution provides” (Drakeford and Green 2001, 97-99, 107, 113-14).

And, at the institutional level, Wales is unique within the UK in the statutory basis of its compact and the development of a “variety of mechanisms for bringing politicians and ministers together with the sector under the compact umbrella” (Hayton 2003, 23-24).

The UK national compacts attracted international attention and influenced the development of similar protocols or arrangements in other countries, including not only the Westminster-based democracies of the Commonwealth but also countries in the former Eastern Bloc and the European Union. While recognising that “each national example remains unique” (Toftisova 2005, 5/20), some cross-national studies identify areas of good practice and factors for success or failure that are of general application.

Variations between national compacts include:

- Legal status: “enshrined in legislation or... more informal”; only three countries have put their relationship on a statutory basis – Estonia, Ireland and Wales;
- Form: “short statements of principles or long prescriptive, detailed documents... stand-alone or... accompanied by a series of supporting documents and specific regulations or codes”
- Number and scope of government and non-government signatories: on the government side government as a whole or an agency responsible

for relations with nonprofit organisations or specific departments; on the nonprofit organisation side individual front-line organisations or umbrella or “peak” organisations;

- Range of government and non-government support structures created to co-ordinate implementation and monitor progress;
- Stated aims: focus on “collaborative processes (developing better relations) or on the achievement of specific outcomes (i.e. new funding regimes, legislative initiatives, improvements in social indicators)”
- Timelines specified: “generally open-ended but may have specific timetables for “revision and re-authorization” or an end date (Casey *et al.* 2008a, 2-3; Casey *et al.* 2008b, 29).

The wider cross-national literature also identifies key weaknesses that have led to the failure of national compacts. On the one hand compacts are vulnerable if they do not have a broad base of support and are associated with particular political interests: changes in regimes have led to abrupt changes in support for compacts. And, on the other, they will not succeed if the voluntary sector is not organised, not led representatively and dynamically, not “sector conscious” and not convinced of the value of engaging with government: the failure of “sectors” to emerge as legitimate partners has cut short promising moves towards developing compacts.

The international literature also enables us to identify four key factors that appear to underpin the development of successful national (and, by extension, local) compacts. They are:

- Government bodies capable of entering into partnership with the voluntary sector;
- A voluntary sector similarly capable of entering into partnership with government bodies;
- The existence of an interface between government bodies and the voluntary sector that is sufficiently extensive and important to warrant their entering into and sustaining a partnership; and
- The existence of reasons for both government bodies and the sector which, if not the same, are at least compatible.

And we can add a fifth factor drawn from our review of the wider literature of partnership:

- The existence of administrative arrangements for implementation that are fit for purpose and can drive the partnership forward.

### 3.3 Local Compacts

International studies focus mainly on national compacts and pay little attention to local compacts except for studies of arrangements at the state level in federal states. This lack of interest is partly due to their timing (just after the first flush of development of compacts and before implementation had got under way) and partly due to their top-down approach, which treats local compacts as necessarily junior versions of the arrangements made at national level. However, some studies welcome the development of sub-national compacts:

“The real success of a compact comes when its ideas are used at the local level where most NGOs are situated. The experience of the preparation of all existing compacts shows that local NGOs, after becoming familiar with the ideology of a national compact, are very keen to start preparation of their own local level compacts. For this they need just a little encouragement and advice” (Liiv 2001, 13/15).

Within the UK studies focus on local compacts in England, although the annual surveys conducted by Wales Council for Voluntary Action (WCVA) provide evidence of the experience in Wales. We will draw on the latter in the later stages of this report. The development of local compacts in England has been very uneven partly because of the variety of existing relationships between local government and the voluntary sector and partly because of the lack of consistent and sustained leadership from central government. It also reflects differences of opinions within the sector about the value of compacts: surveys of councils for voluntary service (CVSs) by their national body, NAVCA, have consistently found them to be almost equally divided between those that think compacts make a valuable contribution to their relationships with local authorities and those that do not.

Two quantitative studies offer insights into voluntary organisations’ perceptions of the benefits of compact working at local level. The State of the Sector Panel, which was commissioned by the Home Office to provide information required for monitoring performance against its Public Service Agreements for the voluntary and community sector in the years 2002/03 to 2004/05 provides robust information on the effectiveness of local compacts. A majority of respondents reported partnership-generative impacts – providing a better understanding of the limits that government works within and enabling a starting point for improved trust between organisations and government – and general benefit to organisations. They reported that the least important impact, sadly, was enabling an organisation to have more influence on government policy (Green 2009, Table 3.9, 20). The Audit Commission found

that voluntary organisations had benefited from the development of local compacts; compact working had led to a greater understanding of the constraints under which both sides operated and improved local authorities' understanding of the need for full cost recovery. More specifically it had helped to improve – to some extent – funding and commissioning practice in some places. The benefits for local authorities included a strengthened relationship with voluntary organisations because of better mutual understanding and enhanced opportunities for joint working (Audit Commission 2007, 32-33).

Most of the evidence about the impact of local compacts is based on case studies rather than solid quantitative data. There is, however, a weight of anecdotal evidence that indicates that “the value of compacts varies greatly from place to place, and this depends on a number of factors, including the quality of the existing relationship between the sector and local government bodies; the capacity of the leading sector infrastructure body; and the quality of its leadership” and the “continuing force of the ‘paradox of compacts’: they can improve relationships which are reasonably well-grounded but cannot change them where change is most needed” (Zimmeck *et al.* 2011, 127).

There are a number of factors that have contributed to the ineffectiveness of local compacts. The Audit Commission put forward three main reasons why they might not work effectively: lack of resources for implementation; lack of tangible incentives to comply; and failure to take account of local circumstances (Audit Commission 2007, 34). Other studies have produced longer and more wide-ranging lists of factors, including the tendency to focus on producing a document rather than developing a relationship of understanding and trust and a failure to follow development with adequate arrangements for implementation and review.

### **3.4 The Welsh Perspective**

Among the nations of the UK Wales has been exceptional in its commitment to and promotion of the compact way of working. At the national level it has outperformed England, where New Labour's enthusiasm waned over the long haul and the Coalition has dismantled key parts of the machinery for implementation; Scotland, where a promising start was cut short by the accession to power of the Scottish National Party who appear to have placed much less emphasis at the Scotland-wide level on compacts and much more on local compacts, as the community planning of public service delivery has become more important; and Northern Ireland, where direct rule limited the space for compact working, and the re-established Northern Ireland Assembly created space for a new Concordat in 2011. At local level it has outperformed England, where only a third of local authorities reported to be “covered” seem

to have “live” compacts; and Scotland, where there are no more than a few centres of enthusiasm.

There are a number of reasons for this strong showing in Wales:

In the first place Wales is the only part of the UK where government has demonstrated “the importance we attach to our collaboration with the sector and the vital contribution the sector makes to prosperity and quality of life” (National Assembly for Wales 2000, 5) by putting its compact way of working on a statutory foundation. The Government of Wales Act 1998 required the National Assembly “to make a scheme setting out how it proposes, in the exercise of its functions, to promote the interests of relevant voluntary organisations” (s.144). This requirement has been fulfilled by the endorsement by the Assembly of the Compact (signed by the Secretary of State for Wales and the Chair of WCVA in 1998); its adoption of the Voluntary Sector Scheme based on it (2000) and the current action plan (2008). The Government of Wales Act 2006 transferred responsibility for the Scheme from the Assembly to the Welsh Government.

In the second place, the Welsh Government has put in place a set of transparent institutional arrangements for implementing the Scheme that, in their comprehensiveness, sustainability and effectiveness, far exceed those of the other nations. These include a Funding Code of Practice; action plans to drive forward implementation and to integrate the activities of the voluntary sector into the Government’s overarching strategic planning and delivery framework; a responsible Minister and a dedicated administrative unit within his department; the expectation of periodic high-level reviews; bi-annual meetings between all eight ministers and relevant voluntary networks; bi-annual or tri-annual meetings of the Voluntary Sector/Third Sector Partnership Council (and its Funding and Compliance Sub-Committee), attended by the responsible Minister and, as appropriate, other ministers, officials and representatives of twenty-five voluntary sector networks; and web-based publication of annual reports on the Scheme and additional supporting documentation.

In the third place, the Welsh Government has adopted a focused, proactive and consistent approach to developing compact working in local authorities. This has included giving clear indications to/requiring local authorities and NHS bodies to enter into partnerships/compacts with the voluntary sector and to involve the sector in the development and implementation of strategic plans; providing resources to support compact development and capacity building for compact working by county voluntary councils (CVCs); and monitoring local partnership working through annual compact surveys of CVCs carried out for the Partnership Council by WCVA.

The Welsh experience is also unique in that the Welsh Government encouraged the adoption of thematic compacts between several government agencies and voluntary organisations with an interest in their areas of operation. We reviewed the experience of four thematic compacts covering the Environment; Education and Learning; Culture and the Welsh Language. None of the four is currently active. The Steering Committee for the Environmental Compact effectively stood itself down in 2010, because it felt that the Compact had achieved its aims and it was confident that the good work would continue; the Welsh Language Compact and its Liaison Group have been displaced by the appointment of the Welsh Language Commissioner and the transfer of responsibility back to the Welsh Government; and the Learning and Cultural Compacts flickered briefly and died. Overall, the experience of overlaying a national generic compact, which had specific representation of the diverse elements of the voluntary sector, with additional thematic compacts has not been a success.

### **3.5 The Social Policy Context**

The UK compacts can be seen as a particular response to far-reaching economic, social and political changes as they impact on government and the voluntary sector. There are three main bodies of literature that seek to clarify and explain the nature of these changes and their impact. All of them agree on two points, the creation of a “space” for the sector and a “place” for compacts.

- The first focuses on the “unsustainability” of the welfare state – the need to reduce its scale and cost and the transfer of the delivery of public services to the private and voluntary sectors which has “led to the gradual movement of the third sector away from the economic periphery towards the socio-economic centre (Haugh and Kitson 2007, 981-84, 990).
- The second looks at governance and discusses issues of decision-making power and accountability alongside reasons for and methods of involving the voluntary sector. One conclusion from these analyses is that the Compact “institutionalised the idea of a single, unified social actor, with whom the government and the public sector could deal” (Carmel and Harlock 2008, 158).
- The third considers policy formation and implementation – the processes by which particular policies were adopted and put into action. In England this involved the “mainstreaming of the third sector

into public policy” – the transformation of the third sector from a minor to a major player and of policy on the sector from “piecemeal and ad hoc” to a “coherent whole” (Kendall 2000, 542).

### **3.6 The Changing Environment**

It is now fourteen years since the agreement of compacts in the four nations of the UK, and those we interviewed at the outset of our study emphasised the need for a historical perspective that took account of important changes in the environment in which compacts operated. They identified three key elements in this changing picture.

In the first place, informants pointed to the ebbs and flows over time of the relationship between specific local authorities and their local voluntary sectors and the rise and fall of interest in compacts as one aspect of that relationship. As one informant put it, “They come and go both formally and informally. Everyone has had one at some point, and then they live or die by the interest of the councillors, the local authority officials and, to a degree I suppose, the CVC”.

In the second place, informants highlighted important changes to the wider environment within which compacts have been implemented. While the pace of change and the significance of its impact have varied from nation to nation, there has been a general shift in the nature of governments’ approach to their relationship with the voluntary sector which has successively added to the original rather open-ended offer of partnership through the increasing adoption of a contractual relationship to the contemporary salience of commissioning regimes. For some informants commissioning represented a significant departure from the kind of relationship embodied in the idea of compacts, and most recent revisions or renewals of compacts aimed to accommodate this changed economic relationship.

Commentators have suggested that, in England at any rate, it no longer makes sense – if it ever did – to single out the voluntary sector for special attention since local authorities are also commissioning services from the private sector on a growing scale. As long ago as 1996 Bemrose and MacKeith suggested that local authorities should develop “strategies for dealing with their work with the independent sector as a whole, rather than just for the voluntary sector” (Bemrose and MacKeith 1996, 35), and leading elements in the voluntary sector in England are currently manoeuvring to keep in the public service delivery game as sub-contractors by entering into compact-like arrangements with the private sector (Murdock 2012).

And, in the third place, this important set of developments has been accompanied by a series of reforms in the configuration of public services involving the establishment of cross-sector partnerships and boards and the development of new forms of strategic planning. At one stage local infrastructure organisations in Wales were expected to facilitate third sector participation in no fewer than 158 different partnerships (WCVA 2003, 8-9). Past and current changes in the organisation of the NHS have also contributed to a highly turbulent environment for the implementation of public and social policy and the delivery of services.

## **4.0 The Value and Limitations of Compacts**

### **4.1 Benefits**

It is clear from the literature that, unlike other kinds of partnership, compacts have been developed largely to promote better mutual understanding and improve relationships and processes rather than to achieve concrete objectives or to deliver specific impacts on services.

On one level, some of those we interviewed as part of our initial trawl of perspectives from across the UK and some of those who took part in our case studies saw compacts as a means of addressing problems with the existing interaction between local authorities and local voluntary sectors. For many the development of compacts had increased awareness of the sector and its work, raised its profile and led to a wider and deeper recognition of the value of its contribution. As one participant in the case studies put it, "The third sector has traditionally not been seen as equal to statutory organisations and [the compact] helps get recognition and understanding of the third sector". This had, in turn made it more likely that local authority councillors and officers would listen to the concerns of voluntary organisations and refrain from making arbitrary or unexplained decisions about their funding.

The impact of developing, agreeing and implementing compacts was, however, seen as more significant than simply addressing these issues and problems. Compact working provided an occasion for partners to come together to explore their relationship and, in so doing, to develop mutual understanding and open up new channels of communication. In many places it had changed the ways partners saw each other and provided a new basis for dialogue and co-operation. As one voluntary sector informant put it: "It's often been the process of being in the same room at the same time, talking about issues and challenges that has made the difference.... It's developed a greater share of understanding of what the challenges are facing our public sector partners and what the challenges are facing our sector and also what

the opportunities are for a better and more positive working relationship". The compact process, according to another informant, "enabled people to have dialogue" and a series of meetings led not only to a better mutual understanding of the circumstances and constraints under which both parties operated but also to some kind of meeting of minds on an individual or personal level. Compacts might not deliver all the changes in local authorities' practices the voluntary sector might have wanted to see, but they could provide an opportunity to argue the case and in many places they have changed the nature of the conversation that was taking place.

The transformation of the relationship between local authorities and their voluntary sectors is not, of course, simply an end in itself. It is the key to a more productive working partnership in which voluntary organisations and their representatives play a much-enlarged role in the "shaping of services and identifying the key priorities", as one informant put it. In the words of another informant, "This is about... being at the table... being involved in policy formulation, consultation, budgets and various other consultations, framing out and scoping services". At best compacts can make a valuable contribution to the development of something close to co-production in service delivery with "all those elements that you would expect in effective working relationships, which is about trust, about effective communication and about whole approaches to delivering effective services". Thus the ultimate value of compacts can be seen as their contribution to the improvement of services and the benefits of those who use them.

Identifying concrete examples of the evolution of this working partnership and its impact on the quality of services has not proved easy, but our case studies did provide us with some evidence of this kind. Recognition of the role of voluntary sector organisations has led to some significant changes in funding relationships. Compacts were credited with a move by some authorities to longer-term funding agreements – for three or even five years rather than annual arrangements; the adoption of a more appropriate framework for commissioning (which enabled voluntary organisations to bid for contracts in an open and transparent manner); and the introduction of small grants schemes. One CVC was empowered by its compact to challenge decisions about the funding of individual organisations: "On several occasions [we] have changed the authority's mind on their decision to cease funding an organisation following a discussion through the compact forum". And one local authority, similarly inspired, decided to invest in the CVC's volunteer bureau to enhance its service rather than to set up its own provision.

Compacts have also produced improvements to the ways in which local authorities conduct consultations, including the adoption of a twelve-week period for responses that "helped the third sector to be able to respond fully"

and mechanisms to ensure that voluntary organisations received feedback on their responses to consultations. Operationally an example of the impact of a greater recognition of the role that the voluntary sector played was observed by the researcher who attended a committee meeting as part of one case study. A draft of the authority's Improvement Plan was presented to the meeting, and a sector representative expressed satisfaction that it included specific references to the role played by the voluntary sector in delivering priorities in a way that would have been unthinkable a few years earlier. Other examples of impact include the contribution of the compact to ensuring that there was appropriate voluntary sector representation on the new partnerships established by a local authority to address issues affecting young people and regeneration and the establishment of a joint community development initiative.

Compacts have also created new and more effective channels of communication. On a strategic level this has provided local authorities and voluntary organisations with "the opportunity to look at where duplication of funding was taking place. We look at how we can provide better services and pool resources". On a more day-to-day level, better communication promoted efficiency. One informant noted that "if, for example, I have a problem with social services... we work together and the problem can be addressed in a day; and if we didn't have a compact, it would take weeks. It provides a mechanism to enable an efficient response to an issue".

Informants were, however, of two minds about the need for arrangements for resolving disputes between local authorities and voluntary organisations. Their views reflected the "paradox" of compacts discussed above. In the areas where compacts had been actively implemented and relationships were good they were seen as back-stops that would not normally be needed, but in the areas where compact working had not been embedded and relationships were undeveloped, they were seen as useful and necessary:

"I think the key contribution could be the mediation/arbitration aspect. The new codes of practice – e.g., the Commissioning Code – are key. I think this is where the Compact will be tested. There are changes at the moment in relation to third sector funding with increasing use of procurement for services that people didn't used to have to tender for.... I can see circumstances where the Compact is used to arbitrate in any disputes that arise."

## **4.2 Limitations**

It will be clear from the nature of the examples of impact presented above that the kinds of achievements that can be expected from compacts are modest;

they tend to be “small, incremental victories” rather than revolutionary changes in the relationship between partners. And even small victories could be hard won. The claims made by some informants in the case studies were modest: “I don’t see it as a document that impacts directly on service delivery. It’s not the sort of thing that changes delivery. It has a different area of concern, more of a corporate or strategic document.” And “it facilitates – creates an environment where discussions can happen”.

Other informants highlighted these and other limitations of the compact approach as a means of transforming relationships and improving the design and delivery of services. One warned that “there is a tendency on the part of people, both in government and in the sector, to feel that maybe there’s a silver bullet out there but there is no silver bullet”. To change the metaphor, another suggested that the compact could best be seen as a useful tool but not the only one in the toolbox. Like any tool, its value depended on the willingness of someone to select and use it and the skill and application with which it was wielded. It could be used to discover common ground and explore differences but only if those concerned were open-minded enough to engage with the process.

Some informants saw use of compacts as essentially optional, to be applied selectively: “The Council use the Compact when it’s convenient for them... and then, when the consultation is about something less palatable, there is an oversight and the Compact is not adhered to”. There were limitations on the extent to which the influence of compacts could permeate every level and section of local authorities and all organisations across the diverse fields of the voluntary sector. It was only those who were convinced of the value of compacts that attended the meetings, and informants were not sure “how it has penetrated other areas of the local authority” or how far “people are really aware of it... The ones at ground level haven’t fully embraced it yet – that will be the test”. And compacts had no “teeth”: they were not legally binding documents but agreements whose application depended on the acceptance of moral obligations. One informant described this as “the wave factor”: “You wave the document and you say, but you’re really outside the bounds of this agreement. People were bound to it only to the extent they accepted their moral obligations”.

### **4.3 Resolution of Disputes**

In the light of these views about the nature of the obligations incurred by signing compacts it is not surprising that informants had little to say about resolving disputes and processing complaints about the failure of local authorities to act in accordance with compacts. The one example of an attempt to mediate by a compact liaison group was between two voluntary

organisations (and, even then, the group failed to resolve the issue). The record of initiatives in England to address these matters – Compact Mediation Service, Compact Advocacy Programme and Empowering the Voluntary Sector – is mixed, and some local voluntary organisations have chosen to challenge their local authorities in the courts – thus bypassing any compact-specific mechanisms. But activists remain a minority – voluntary organisations are generally reluctant to risk their future relationship with local authorities in this way.

In Wales, voluntary organisations can make complaints to the Funding and Compliance Sub-Committee of the Partnership Council about failure by local authorities to comply with local compacts, but there is little evidence that they have used this remedy and considerable doubt about the nature of the sanctions available to the Sub-Committee.

If, as many local compacts suggest, disputes are “a natural part of any working relationship and can be useful in identifying and addressing important issues” (Bridgend County Local Service Board 2011, 28), the absence of disputes makes a statement about the brittleness of some local authority-voluntary sector relationships. It reflects not only the unequal power of the partners but the stronger partner’s willingness to use that power to get its way and the weaker partner’s fear of the consequences of rocking the boat. The continued absence of arrangements for resolution of disputes in some compacts and the absence of a collective track record of facing up to and dealing with problems through discussion and compromise indicate that local compact working is not as robust as it might appear.

## **5.0 Factors for Success and Failure**

Based on our review of the literature we noted earlier five key factors that provided the foundations for successful national compacts. By extension at the local level these are:

- Local government bodies capable of entering into partnership with the voluntary sector;
- A voluntary sector similarly capable of entering into partnership with local government bodies;
- The existence of an interface between local government bodies and the voluntary sector that is sufficiently extensive and important to warrant their entering into and sustaining a partnership;
- The existence of reasons for both local government bodies and the sector which, if not the same, are at least compatible; and

- The existence of administrative arrangements for implementation that are fit for purpose and can drive the partnership forward.

We deal with each of these below.

### **5.1 Local Government Capability**

The development of effective compacts is shaped by the broader social, political and institutional context within which it takes place. In particular, its success will depend on the degree to which the local government body is open to engagement with other interests and to forming a co-operative relationship with the voluntary sector in its area. The process of designing and developing the compact needs to be based on a minimum level of commitment from the local government body on which it can build; without it the compact process cannot magically transform its relationship with the voluntary sector. This commitment needs to be made at the highest level of the local government body and responsibility for acting on it vested in appropriate parts of its machinery. As well as willingness “capability” also implies capacity, and the local government body will need to commit resources to the process mainly in the form of officer and (in the case of local authorities) councillor time but also in terms of the ancillary expenses involved in meetings and the dissemination of documents. Above all, the local government body will need to identify the appropriate person or persons who can provide the leadership required by the process – not in the heroic Napoleonic mode but the kind of leadership that “makes sense” of the situation and identifies the way forward. And s/he or they probably need to be involved in the long term.

### **5.2 Voluntary Sector Capability**

The “capability” of the voluntary sector to enter into partnership with local government bodies is more problematic. While the existence of an effective infrastructure organisation is a necessary condition for success, it is not of itself sufficient. The role of the infrastructure body is to ensure that the full range of voluntary organisations is represented in the negotiations involved in developing and implementing a compact and not to claim the representative role for itself: the compact is between the local government body and the voluntary sector rather than the infrastructure organisation. The arrangements at national level for election to the Third Sector Partnership Council in Wales via fora that bring together voluntary organisations in various fields of interest and which report back to their constituents offers a useful model. Some groups have spelled out the role and functions of sector representatives in role descriptions and other guidance. The infrastructure organisation has a

vital role to play, however, in taking on its share of the arrangements for servicing the process. Like local government bodies the sector will need committed, appropriate and effective leadership from representatives who are available for the long haul.

### **5.3 The Basis of the Relationship**

The motivations for both sides to engage in a quest for partnership need not be the same but should be compatible and should be sufficiently extensive to provide the basis for collaborative action.

Incentives for the voluntary sector to invest in compact working were mainly about improving access to funding and arrangements for funding. Organisations hoped that compacts would provide a more open and more transparent process for funding and therefore greater security of funding and, if possible, full cost recovery. But, beyond these bread and butter issues, they were also concerned to find ways in which they could promote the interests and needs of their users or beneficiaries. In essence they felt that compacts would make a difference in these areas of concern.

Incentives for local government bodies are more elusive. They can best be seen as flowing from enlightened self-interest. On the one hand local government bodies that engage with the people they serve through voluntary organisations are more likely to be better at understanding people's needs and meeting them. On the other hand local government bodies that engage publicly in partnership, which is in tune with national governments' policies and is invariably seen as a "good thing", gain reputational benefits – as leaders or "champions" or, in the case of some English local authorities as "Compact Award winners".

Informants warned that the implementation of compacts could "get off on the wrong foot" when voluntary organisations used the mechanisms not as an opportunity for dialogue but as a one-way channel for complaints and grievances about the behaviour of local authorities. They stressed that compacts also imposed obligations on the voluntary sector and that local authorities should be more proactive in ensuring that the sector lived up to its share of the bargain.

### **5.4 Arrangements for Implementation**

Key aspects of the architecture required for effective compacts are:

- A text that is fit for purpose and regularly updated or refreshed. One informant in the case studies liked “the look and feel of the new Compact, much better than previous versions. The heavy jargon has been taken out and there is a clear agreement in place”. Another commented that his “compact has evolved and adapted as the relationship/partnership has changed and matured over the years. You have to keep looking at it to keep it relevant”. “Ownership” of the text was created by effective consultation. One informant felt that the latest iteration of his compact had been produced by “much more consultation, involvement across all organisations, and drive”, but another felt that process was “managed by the local authority” rather than broadly-based and the resulting text, although acceptable, was not seen as belonging to all the parties. The text itself needs to be brief – to ensure it would be widely read – and restricted to general principles and shared aims with more detailed agreements set out as codes of practice on commissioning or funding arrangements; consultation; mediation or conflict resolution; and other matters.
- A structure for implementation. No matter how well-crafted the text, it will “remain on the shelf” unless it is implemented in a deliberate and structured fashion, which includes planning, setting of targets, monitoring and evaluation of progress and resolving problems as they occur. In most cases arrangements for implementation are set out in an action plan or a set of commitments to take action in specific areas of co-operation. In any case the responsibilities of the partners should be clearly set out, and targets should be measurable and have specific time frames. Monitoring and evaluation of progress should take place at least annually.
- A liaison body composed of representatives of partners to have oversight of implementation and to monitor progress. While a minority of our informants felt that this role could be played by existing bodies such as local service boards, most favoured the use of a bespoke group, committee or panel. Informants favoured local authority representation that was a mixture of councillors (especially Cabinet members) and officers and voluntary sector representation that paralleled the kind of sub-sector fora active at national level (openly elected/selected). Effective practice includes requiring a response or feedback to issues raised in liaison meetings either in writing or by the attendance of relevant officers at the next meeting as well as pre-meetings or caucus meetings of the partners to prepare for the main group meetings.

- Number and nature of partners: bipartite, tripartite and multi-party compacts. Local compacts form a complex web and include local authority-voluntary sector and health board-voluntary sector (bipartite) compacts as well as compacts with multiple local government bodies up to and including all members of local service boards (tripartite and multi-party compacts). The trend over time has been to reduce the number of compacts and increase the number of local government partners. Informants had mixed feelings about the different types. Some welcomed the wider representation of government bodies, but others felt that these additional bodies were not pulling their weight and that the simple local authority-voluntary sector relationship or health board-voluntary sector relationship was easier to manage. In the absence of a consensus or convincing evidence either way this seems to be a matter for local decision.
- Motivation and efficacy. Once engaged in compacts, partners need to feel that what they are doing is actually making a difference to the ways in which local government bodies and voluntary organisations work together, and this means setting and achieving concrete and measurable objectives. The general principles enshrined in compacts need to be expressed as practical and achievable activities. Partners will not maintain their attendance at cross-sector meetings if they perceive them to be no more than talking shops.

## **5.5 Making the Arrangements Work**

One key to successful implementation is a shared understanding of the nature of compacts. Our informants felt strongly that:

- They were not legally binding contracts but statements of shared values and aspirations that had moral and political force.
- By the same token their discussions should be “dialogue by the spirit rather than by the letter of the law”.
- They depended on the creation of feelings of trust and mutual respect between the partners.
- They depended on a willingness to recognise the asymmetry of power among partners and to compromise and work towards common goals.

No matter how well designed and resourced the arrangements for compact implementation, the consensus among informants was that ultimately success depended on the establishment and maintenance of good personal relationships among key individuals. While this was facilitated by compatible personalities we were also reminded that relationships of this kind needed to

be placed within a structure of representation and operational utility, required continuing attention and commitment and had to be “made to work”. And, given the turnover of personnel, new relationships needed to be established from time to time.

And there were major advantages where turnover was low. In one case study area the key people who had established the compact and the committees in 1999 were “still in post, driving the agenda today”. In another “a number of influential people have remained for a significant period of time – in many cases over ten years: “Having stable people has helped [the compact] develop. Some have come and gone, but the core people are still here and it helps that I can just pick up the phone anytime to any of them as we know each other very well”. In a third new members of staff in both the local authority and some key voluntary organisations revived interest in a long-dormant compact.

Local authorities and their voluntary sector partners need to ensure that long-established leaders are reinforced and challenged by new people with fresh ideas and different experiences. Unless vigorous efforts are continually made to ensure that the work of compact liaison groups and the ways in which their actions are implemented reached across the different departments of local authorities and affected the work of a wide range of voluntary organisations, compacts could easily become the property of a small and unrepresentative group of people and, in the process, lose credibility and the power to influence action.

## **6.0 Views on a Statutory Basis for Local Compacts**

Informants held a wide range of views about the desirability and practicality of introducing a statutory requirement for local authorities to establish compacts. These fell into three categories – opposition to the requirement; support for the requirement; and support for doing something but no firm view as to what.

At one end of the spectrum was firm opposition to the proposed requirement. This was based upon the view that it was inappropriate to apply coercion to what should be a voluntary agreement which the parties freely chose to enter into. “Compacts only really have value if people believe in it and are committed” and “You can’t force good relationships” were two of the ways in which this was expressed. Informants also argued that making compacts obligatory would lead to nothing more than lip-service: “You wonder how many [would] just go through the motions” and “Too much effort would go on admin related to that and it would become a tick box exercise”. They felt that there was a real danger that a statutory requirement might encourage a “one

size fits all” approach and ignore the need to tailor compacts to local needs and circumstances: “Every local authority is different and the third sector is different in each area”.

At the other end of the spectrum was support for the requirement. This was based upon the view that, where local authorities had failed to engage in compact working, despite all manner of persuasion, then they needed to be coerced to “come to the table”. One informant argued that “there is so much diversity in every local authority. It would help bring them along – to bring authorities to account”; while another said that it “would really put a stamp on it in terms of the Welsh Government’s perception of the importance of it as a document and could lead to the compact being recognised in a different light”. Underpinning this view was the belief that compacts would be of value in all kinds of areas regardless of the state of the existing relationship between the local authorities and their local voluntary sectors: “I don’t think in areas where relationships are not good it would happen organically and they would benefit from having one as it would protect the third sector in these areas”. And informants suggested that a statutory requirement would offer long-term stability: “[The local compact] is achieving good work... but a statutory compact would ensure that this work did not stop happening”. Several informants also argued that local authorities tended not to bother with anything that was not a statutory requirement and, in times of cuts, tend to “retreat to the irreducible core consisting of their statutory duties”.

Between opposition and support for the proposed requirement was the view that, where compact working was not going well, something should be done. Some informants who were not convinced of the need for a statutory requirement suggested alternative ways of achieving better coverage that involved or went beyond the application of greater pressure on local authorities by the Welsh Government. One suggested that “a very clear good practice guide would make more sense than legislation. Show people what they can help with and achieve and you are more likely to get them to do something”; while another suggested that statutory recognition could be awarded as a kind of “quality mark”: “It could be a reward and partners would work towards this – almost as a certificate of achievement or quality check but not where there is little going on as the compact is set up on the wrong footing with a lack of proper foundations.”

Some of those in favour of the idea of a statutory requirement were concerned to avoid too much prescription. One argued for “the bare minimum”, making it “compulsory for the local authority to have a scheme setting out how it proposes to conduct its relations with the voluntary sector”. This approach would have met the suggestion made by others that the compact should still have “local ownership reflecting what that particular county needs”. On the

other hand informants warned of the danger of local determination muddying the underlying ethos of the compact approach if the requirement did not incorporate a clear definition of what a compact was and what its role should be. They also expressed concern about compliance. They felt that there needed to be a system of monitoring the development and implementation of local compacts that was more sophisticated than an exercise in ticking boxes. They suggested that one way forward was for the Welsh Government to “set up an agency” to monitor and police the performance of local authorities “or give those functions to an existing agency” and that another way was to task the Welsh Audit Office with ensuring compliance, as it already monitored the performance of local authorities in various ways and “what they do take seriously are audits and inspections”.

Our own e-mail straw poll of compact partners in Scotland and in top-tier local authorities in England was unable to shed any further light, as respondents’ views fell into the same patterns discussed above, although it is interesting to note that in local authorities where relationships were poor, voluntary organisations were particularly keen on the statutory requirement.

In England, two consultations, the first on the future of the Compact in July-October 2008 and the second on a draft of the proposed new or “refreshed” Compact in July-October 2009, explored a number of pressing issues, including the relationship between national and local compacts; whether there should be a statutory foundation for either the Compact or the Commission for the Compact, recently created as the Compact’s champion and “honest broker”; and whether and how the form and content of the Compact should be revised in order to make it fit for purpose and future-ready. These consultations were driven by recognition that the implementation of compacts both nationally and locally was patchy, breaches of “the spirit of the Compact” by government bodies were undermining faith in compact working, and momentum was draining away. They considered three legislative options for providing the Compact with “teeth” – converting the national Compact from a voluntary agreement to a set of statutory obligations; putting government bodies and the sector under an obligation to “have regard” to the principles of the Compact and justify any deviation from them (“the Welsh model”); and establishing the Commission as a statutory body accountable to Parliament rather than to ministers and with powers to “call for papers” and oblige government bodies to explain their actions.

While it is hardly surprising that both central and local government bodies were opposed to most or all of these options, the sector’s opposition and its focus on the “huge practical problems with a regulatory approach” (Directory of Social Change 2008, 6) were more surprising. Voluntary organisations set out a long list of reasons for opposing legislation in the form of the first two

options and limiting the scope of the third, if it meant that the Commission's powers might be aimed at their compliance as well as that of government bodies and if local compacts were to be cloned from the national Compact without scope for meeting local needs and preferences. Their reasons included fear of the limbo of the legislative process; the wastefulness of having to renegotiate local compacts in the light of legislation; the expectation of government bodies' engagement on a "jobsworth" or "tick box" basis; the further marginalisation of already marginal organisations (small, rural, Black and minority ethnic organisations); "going legal" and the involvement of lawyers and associated costs; the reduction of compact working to its lowest common denominator; and dread of making relationships more adversarial. All in all they feared "the spectre of Voluntary and Community Services (VCS) being bound by a whole new set of constraints, open to inspection by yet another body, and the whole thing could appear so frightening that the VCS abandons the Compact in large numbers – which is hardly the desired outcome" (Newcastle CVS 2008, 2).

What, then, are the lessons to be learned for any forthcoming consultation on providing a statutory foundation for local compacts in Wales from what our informants have told us and our examination of submissions presented in these two consultations on the Compact in England? Firstly, it is clear that the debate was framed in such a way and was so dominated by political in-fighting (between government and the voluntary sector, within government and within the voluntary sector) that it followed lines of exploration which were non-starters before they started. Secondly, it is clear that respondents did not really understand the options on offer, particularly the "Welsh model", and argued themselves into odd corners. Thirdly, it is clear that the debate did not explore the issues that were at the heart of what needed fixing. Finally, it is clear that before embarking upon a consultation it is necessary to think through underlying issues. This means asking the right questions in the right way and then listening carefully to the answers.

## **7.0 Discussion**

### **7.1 The Problem**

The English debate does, however, serve to remind us of the nature of the problem to which a statutory requirement for local compacts has been suggested as the solution. As noted earlier, the Welsh Government has adopted a focused, proactive and consistent approach to developing compact working in local authorities which has led to much better "coverage" of local areas than has been achieved elsewhere in the UK. All local authorities in Wales have adopted compacts at least once, and WCVA's surveys of CVCs

provide an annual count which ranges from twenty-two in 2003 to eighteen in 2011. Even in such an ostensibly simple matter as this, however, it is difficult to work out which of these were active, resting or for functional purposes dead at any one time, since there was no consistent provision of information about compacts and compact working on partners' websites (and in some cases no information at all). It is clear that the process of implementing local compacts has not been a smooth one and that local areas have varied greatly in the extent to which partners have owned and actively promoted local compacts.

There are signs that some of the impetus has been lost. WCVA's surveys also provide insights into the use of various mechanisms for developing and implementing local compacts. The picture which emerges from aggregate data is not one of progressive adoption of key components and cross-local authority harmonisation but of gentle atrophy. There has been an overall decline in the number of joint liaison committees, the frequency with which they meet and the use of action plans (including those with measurable targets and timescales) by compact partners/joint liaison committees. There has been, oddly, given the importance of funding in local government-voluntary sector relationships and the forcefulness with which the Welsh Government has recommended the adoption of local funding codes along the lines of the national Code of Practice on Funding, relatively low take-up of these codes.

There also seems to have been some slippage on the local authority side in the level of involvement of Cabinet members and councillors, although this has been balanced to some extent by increased involvement of senior officers. On the voluntary sector side there seems to have been a decline in the level of involvement of representatives agreed by the wider sector and a slight decline in the direct election of those representatives relative to other methods such as selection by interview and reserved places for particular organisations (although in many cases local sectors used more than one method). While these changes might be ephemeral, they might also indicate a loss of energy invested by partners in compact working and a decline in their legitimacy.

In summary, our review and additional analysis of the literature suggest that local compact working since 1998 has not resulted in the universal and sustained adoption of compacts in all local authority areas. It has not resulted in sufficient or equal efforts being made to implement compacts in all local authority areas. It is against this background that WCVA has argued that:

“There is a strong case for placing compacts on a statutory footing if we want to be sure that the relationship between the sector and local government is strong and taken seriously in every part of Wales.

Where relationships are already working well it would not impose additional demands, but would reinforce their effectiveness as they will have recognition in law. Where they are not working well, or can be improved, it would ensure that something is in place that can be built upon. It would provide a mechanism in every area to agree the nature of the sector's involvement in current and new strategic planning initiatives, and to service design and delivery" (WCVA, 2012; 2).

## 7.2 Issues and Considerations

The case for placing a statutory requirement on local authorities as a means of addressing the uneven implementation of compact working at local level rests on the answers to four key questions:

- How important for the Welsh Government is it that compact working be universal and universally effective – that the benefits enjoyed by areas with well-developed local arrangements as a result of compacts should be extended to places where they do not exist? The answer to this question will depend on the extent to which it continues to see the voluntary sector as a key player whose contribution to the design and delivery of local services and its role in articulating local needs and gaining community involvement is distinctive and deserving of special attention. If, like in England, government sees the sector as one of a range of “willing providers” (or willing sub-contractors to the private sector), the case for special attention and therefore a compact-type arrangement is weak.

Our understanding of compact working in England and Wales suggests that while even one effective compact is worth having, there needs to be not just a critical mass of compacts but compacts for all, since poor performance (or no performance) undermines confidence in the value and efficacy of compact working as a whole. The evidence suggests that local compact working in Wales has lost direction and energy.

- Are the mechanisms for promoting local compacts that are already available to the Welsh Government inappropriate or insufficient? Could they be strengthened without recourse to legislation? Could they be deployed more energetically or more effectively?

We have found little evidence to suggest that voluntary organisations (or local government bodies for that matter) have used existing mechanisms to deal with poor compact working or actual breaches of compacts at local level or that the Welsh Government individually or through the Partnership Council has actively encouraged good

performance/shamed poor performance by partners in local compacts. In the two English compact consultations, whatever reservations respondents had about the big bang of legislation, they were keen on incorporating monitoring of compact working into existing methods for ensuring accountability of local authorities, health boards and other local government bodies.

As noted in the Legal Opinion included as ANNEX D, in addition to these compact-specific mechanisms there are a number of existing obligations placed on local authorities, *inter alia*, by the Local Government (Wales) Measures 2009 and 2011. These include an obligation continuously to improve the exercise of their functions, annually to set out improvement objectives and to consult representatives of stakeholders; the power to co-operate/collaborate with any person to improve the exercise of their functions; and a duty to undertake community planning and to identify long-term objectives; and in all three cases to have regard to guidance issued by Welsh Ministers. If they were so-minded, Ministers could issue guidance in cases where lack of sufficient engagement with voluntary organisations is considered to be detrimental to the exercise of these functions and, for example, to develop appropriate performance indicators and require monitoring of progress. They have not done so.

- Would a statutory requirement have the desired effect? If we accept the view that compacts are voluntary agreements that depend on the exercise of free choice, then the impact of a statutory requirement may be limited and it is possible that the requirement might lead to a superficial response based on lip-service and ticking boxes rather than real change in the way relations with the voluntary sector are conducted. On the other hand the existence of a requirement might strengthen the hand of individuals within local authorities who would prefer a better relationship.

We think it is likely that measures, both compact-specific and more general, such as those suggested above, if they were energetically and consistently applied, would have a positive impact – not only through celebrating the good but through naming and shaming the bad. It is worth noting that when in 1999 the Welsh Secretary wrote to local authorities requiring them to develop compacts, they all did so, and that when in 2010 the Chief Executive of NHS Wales wrote to local health boards requiring them to revise their arrangements for compact working following reorganisation, they all did so. It is also worth noting that WCVA's brief experiment in 2006 and 2007 of publishing CVCs' assessment of the state of relations with their local authorities proved

unpopular and was continued in aggregate only, which suggests that bad publicity might be an effective lever. The key is to find the right levers and then to keep up the pressure in order to ensure that what happens next is genuine partnership working and not box ticking.

- What is the right balance between the need for consistency and common practices on the one hand and the need to leave space for local compacts to be developed in ways that respect local circumstances and address local needs and preferences? What are core features? What are optional extras?

Developing and implementing compacts is not rocket science, and we believe that there should be both consistency to reflect common aims, principles and essential mechanisms and flexibility to reflect local preferences. We would recommend the mandatory inclusion of mechanisms aimed at increasing the workability and legitimacy of local compacts – for example, the inclusion of detailed arrangements for resolution of disputes, provisions for election of voluntary sector representatives and individual sign-up by organisations.

## **8.0 Conclusions and Recommendations**

We do not have definitive answers to the questions set out above. They are matters of judgement by the Welsh Government and local compact partners, and the issues on which the degree of support for the choices they represent needs to be canvassed as part of a consultation process.

As the Legal Opinion sets out in ANNEX D there are three broad options among those to be explored:

- Do nothing;
- Develop existing compact-based and legal frameworks to impose greater control or influence over compacts;
- Introduce new statutory obligations in respect of compacts.

We reject the first option on the grounds that too much doing nothing has contributed to the problems of uneven implementation and loss of momentum that now need to be dealt with. We think that the second option is worth a try, since the basics are in place and only need to be booted up, action can take place without delay and this will serve notice on the compact world that this is the last step before turning to more heavy-duty methods. We therefore think that the third option should be held in reserve and adopted only if nothing else works.

Clearly, a consultation document would need to set out clearly what each of these options might involve and the advantages and limitations of adopting that approach which are set out in detail in ANNEX D.

We have, however, proposed an optimum set of arrangements for compact working, whether on a voluntary or a statutory basis, and suggest that, if there is to be a consultation on defining the problems that need to be solved, considering and prioritising various solutions and exploring the advantages and disadvantages of the three proposed options, these might form part of the core features. These suggestions could be incorporated into a section of a consultative paper in the form of a series of issues for discussion:

- In the first place, the local requirement could mirror the national scheme. Rather than place the emphasis on a document setting out the principles of the relationship (which in itself makes little impact) existing/proposed frameworks could require local authorities “to make a scheme setting out how they propose, in the exercise of their functions, to promote the interests of relevant voluntary organisations” or “to make a scheme setting out how they will manage their relationship with the third sector”.
- The scheme would need to meet minimum requirements – which we suggest should consist of a statement of the principles on which the relationship would be based; establishment of a joint planning mechanism with appropriate representation from all partners; the development of action plans with measurable targets and realistic timescales; and arrangements for monitoring and evaluating progress made in meeting objectives.
- If resources permitted, responsibility for advising the Welsh Government and the National Assembly on the adequacy of the scheme developed by local authorities and the extent to which they had made satisfactory progress towards their goals would be vested in a specialist unit or commission with powers to require reports from local authorities. This unit could also provide support to partners on setting up schemes and implementing compacts and make available on its website a library of useful guidance, advice, evaluations and relevant studies. Given the current economic and fiscal environment, the Welsh Government will need to consider how best to meet the need to carry out some or all of these functions within existing resources.

- As well as being accountable to the Welsh Government local authorities would also be required to report to the Partnership Council and other interested bodies on the work of the scheme on an annual basis and make all relevant papers available on its own website and those of all partners.

We are also concerned about the poverty of the evidence base on the development, implementation and impact of local compacts in Wales, since this provides little support for an informed debate on the current state of play and what to do next. As part of the consultation process the Welsh Government should consider undertaking a large survey of a representative sample of voluntary organisations that would provide a better picture of the sector's experience of local compact working to date and take the consultation process wider than the "usual suspects" likely to respond to a more conventional invitation to comment on a consultative document.

We have also learned from the experience of the consultations conducted in England that local compacts should not be looked at in isolation but as part of the national arrangements to which they are linked. And there are grounds for looking again at the wider national picture. The "statutory requirement" (or the "Welsh model") is little understood outside the offices of public law specialists, and there has been little interest in government or in the voluntary sector about legislation or alternatives to legislation. The Third Sector Scheme has not been updated to reflect the changes mandated by the Government of Wales Act 2006, and the strategic action plan is now out of date.

The Government of Wales Act 2000 (but not the Act of 2006) contained a requirement to "keep the scheme under review", with reviews to follow general elections. An Independent Review took place in 2003-04. After such a long gap it may well be time to consider undertaking a further independent review with a remit to secure a working evidence base and to consider updating the Scheme, formulating a new strategic action plan, generating understanding of the appropriate relationship between national and local compacts and dealing with complicating factors such as multiple layers of compact working through thematic compacts and health board compacts and, specifically, how to deal with non-compliance or breaches.

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