



Surrey Compact

The Surrey Compact is a commitment to continually improve relationships between the public, voluntary, community and faith sector and organisations representing service users and carers.

POSITIVE DISPUTES RESOLUTION CODE

May 2009

This code sets out what is expected of our signatories if a complaint is made about compliance with the Surrey Compact, and what the Surrey Compact Implementation Group will do to help resolve disputes.

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1. Introduction

Things sometimes go wrong

- 1.1 The Surrey Compact is a detailed, and occasionally complex, set of standards with which organisations that are signatories are expected to comply. If this does not happen, it is usually accidental and/or unintentional, although occasionally there is a genuine difference of opinion over what standard the Compact actually requires.

Scope

- 1.2 This code is intended to describe the process to follow in the event of a Compact-related dispute, so that it can be resolved quickly, positively and constructively.
- 1.3 This code applies to signatories to the Compact, although they need not have been members at the time of the dispute.
- 1.4 This code sets out a standard for members to live up to in resolving complaints about the Compact, and offers four resources for all parties in a dispute to use:-
 - Support
 - Mediation
 - Arbitration
 - Evaluation
- 1.5 The code is founded on the following three principles:

Trust

Signatories are expected to investigate Compact-related complaints themselves using their own complaints systems. The Surrey Compact Implementation Group (SCIG) will not intervene in, or duplicate, internal investigations. The SCIG will only get involved afterwards if the complainant is not satisfied with the handling of the matter and asks for mediation or arbitration.

Freedom to choose

If use is made of any of the resources or processes set out below to help resolve a Compact complaint it, will not limit or restrict organisations rights to seek other remedies provided for in law.

Voluntary compliance

The Compact's authority derives from the commitment and goodwill of its members. If an organisation is asked to change its practices as a result of an upheld complaint, it is expected to do so voluntarily. If an organisation feels that it is unable to explain the rationale for that decision, it may compromise the organisation's ability to remain a Compact member.

2. What we expect from your Organisation

If you considered that a another signatory has breached the Compact:

The matter should be taken up with the organisation through its complaints procedure, to give them an opportunity to put it right.

- 2.1 Signatories should appreciate the opportunity to improve partnerships when accidental breaches are brought to their attention. It is expected that most disputes will be resolved quickly, informally and constructively once they are brought to the attention of the organisation concerned.

Tell the Surrey Compact Implementation Group (SCIG) about your action.

- 2.2 Let the SCIG know about any Compact-related complaint that is made, even if it is resolved quickly by the other party. Confidentiality will be respected. The SCIG will not get involved unless requested. The SCIG needs to know about the issues that are causing concern, so that performance and trends can be monitored.

If a signatory complains that, another signatory organisation has breached the Compact:

It is expected that the complaint is taken seriously, and is investigated through the organisation's complaints procedures.

- 2.3 It is expected that all signatories have complaints procedures that meet certain minimum standards (see Appendix A). The Compact should be written into your procedures so that complaints about non-compliance can be investigated and dealt with through existing channels. It is expected that minor concerns are resolved quickly and informally, without having to resort to the formal stages of the organisation's procedure.

It is expected that organisations take part in Compact mediation or arbitration if a complaint is not resolved through internal procedures.

- 2.4 Occasionally, internal investigation may not resolve matters to the satisfaction of the complainant. There may be a genuine difference of opinion that has not been resolved.
- 2.5 If internal processes have reached an end without a resolution of the complaint, it is expected that an organisation takes part in any reasonable mediation or arbitration (see below) that the complainant asks for.

3. What support can the Surrey Compact Implementation Group (SCIG) offer (you) the complainant?

Stage One - Support

- 3.1. It can sometimes be difficult to work out whether or not there has been a breach of the Compact, and it can be daunting to approach some of the larger signatories to ask them to put things right. If an organisation believes there has been non-compliance by a Compact signatory, the SCIG can appoint someone to help review the complaint.
- 3.2. They are likely to be a member of the Compact Implementation Group or an expert on the Compact. He or she will review the matter with you and whether there has been a breach.

- 3.3. If he or she does not think there has been a breach of the Compact, he or she will tell you and you might have to withdraw. It is important that the SCIG do not get involved in disputes outside their remit.
- 3.4 If there has or may have been a breach he or she will help you decide how to take the matter up through the other side's complaints procedure and will support you through the process.
- 3.5 The SCIG believe that this service is likely to be of particular value to voluntary, community and faith members that do not have a detailed knowledge of the Compact or the resources to take up concerns formally with other organisations. However, it is open to all Compact members, whichever side of a complaint they are on, to use the service.

Stage Two - Mediation

- 3.6 It is expected that most Compact disputes will be resolved through members' own internal procedures. Should an investigation finish without achieving a result that satisfies the complainant a mediator can be appointed to help resolve the dispute. Either party may request a mediator.
- 3.7 Qualified mediators, who are completely independent of the Surrey Compact, will work objectively, impartially and confidentially to try to reach a resolution that satisfies both parties.
- 3.8 A typical mediation involves separate meetings with each side, followed by a joint meeting at which solutions are discussed. Mediation takes place "without prejudice", so taking part will not restrict the rights or weaken the complainant's case. Should it fail to resolve the dispute the complainant is able to seek redress elsewhere.

Stage Three - Arbitration

- 3.9 Should mediation fail to resolve the dispute, stage three provides provision for arbitration as a final resort. Arbitration would involve a referral to a panel of three members of the Surrey Compact Implementation Group (SCIG) who had had no prior involvement in the case.
- 3.10 The format would be for the panel to decide depending on the circumstances. There would always be a call for papers,

and there would usually be a hearing attended by both sides. A suitable timetable would be drawn up with the participation of both parties at the outset of the process.

- 3.11 The panel would produce a finding of fact, which might be accompanied by recommendations. The findings would be communicated to both parties by the Chairman of the SCIG. The Chairman would ask for a formal response to the recommendations within an appropriate period.
- 3.12. The Compact is at present not a legally binding document although there is some case law. The SCIG has no formal powers to require any organisation to do anything other than relying on the signatories' commitment to the Surrey Compact, its principals and codes and their goodwill.

The Surrey Compact Implementation Group (SCIG) commitments

- 3.13 If you ask us to appoint a Supporter to assist, this will be done within ten working days.
- 3.14 If asked to appoint a Mediator, this will be done within five working days. Our target for completing a mediation case is twenty working days, depending on the availability of the parties.
- 3.15 If a case is referred for arbitration, an Arbitration Panel will be appointed within five working days. The time needed to complete arbitration will depend on the complexity of the case and the availability of the parties. The Panel would agree a detailed timetable with both parties at the outset of the proceedings. SCIG targets are:
 - To complete an investigation within thirty working days of appointment of the Panel.
 - To produce a statement of findings within ten working days of completing the investigation.

4. Other Remedies

Statutory bodies and legal remedies

- 4.1 If the complainant is not satisfied with the outcome of a dispute brought against a public body, whether or not it is Compact-related, there are other available remedies to:
- Write to a borough or county councillor, or Member of Parliament.
 - Make a complaint to the Local Government Ombudsman or the Parliamentary and Health Service Ombudsman, if your complaint was against one of the bodies falling within their remits.
 - Seek Judicial Review.
- 4.2 If considering judicial review, however, it would be necessary to seek independent legal advice. Surrey Compact is neither funded nor mandated to provide support in these circumstances.
- 4.3 There are strict time limits for seeking Judicial Review, and less strict ones for referring a case to the Ombudsman (see Appendix B). If either of these routes is contemplated, it is important to check that their deadlines will not be exceeded before embarking on Compact Arbitration.
- 4.4 If a matter has already been referred to an ombudsman or to the courts, an arbitration panel appointed. They have statutory powers which the Compact does not have, and it would be ineffective for two independent investigations to take place at the same time.

National Schemes

- 4.5 There is a National Compact Advocacy Scheme, and also a National Compact Mediation Scheme, that seek to deliver at a national level what the Surrey Compact is aiming to deliver at a county level.
- 4.6 There may be local issues that are better dealt with at national level. It is a matter of choice which to use. A Compact Supporter and the Surrey Compact Development Director will be happy to advise on the implications and how to access the national schemes.

- 4.7 The Charity Commission (regulator for charities in England and Wales) will investigate complaints about charities. The Charity Commission has produced a helpful leaflet on how charities manage complaints about their service.
- 4.8 ACAS has developed a code of practice on disciplinary and grievance procedures for employers and employees

5. Conclusion

- 5.1 All organisations make occasional mistakes or errors of judgement. Signatories are not expected to be complaint-free, but they are expected to:
- Respond quickly and constructively if complaints are made.
 - Put things right effectively, if they have gone wrong,
 - Learn from the experience so that they are not repeated.
- 5.2 It is hoped that signatories will positively welcome any complaints that they might receive about non-compliance as an opportunity to develop working practices and improve relationships.
- 5.3 In that spirit, the Surrey Compact Implementation Group offers practical support and assistance to help signatories resolve any differences that arise between them.

Appendix 1

A Minimum Standard for Complaints Investigation

Members of the Surrey Compact range in size from statutory organisations turning over millions of pounds a year to small local organisations staffed entirely by volunteers with an income of a few thousand. It would be impossible, therefore, to specify one complaints process suitable for all signatories to adopt. The process should be proportionate to the size of the organisation and reasonable given the complexity of the work and the risks that the organisation is managing.

Every complaints system, large or small, simple or complex, should have an irreducible minimum standard that the organisation should not fall below. This is set out below:

Signposts

Complainants should be aware how they can complain against your organisation, and how they can make any of the choices that your system offers them once a complaint has been made.

Communication and Accountability

Complainants must be kept informed of progress, know what is happening and who is dealing with their complaint at any given time.

Escalation

Complainants should be able to take their complaint to a higher level if they are not happy with the outcome achieved at any stage. Typically, there may be three levels:

- An **informal** stage, when the emphasis is on putting something right as quickly and as simply as possible, and with the minimum of fuss.
- A **formal** stage, when the complaint is carefully investigated, a reasoned decision reached and a remedy proposed.
- An **appeal** stage, where earlier decisions are reviewed and revised if appropriate, and a final decision is made.

Timescales

Deadlines must be specified for each stage of the process, and these must be made clear to complainants. Sometimes there are statutory deadlines to be met, and these are outlined in Appendix II.

Records

Records should be kept of any complaint that gets beyond the informal stage.

Learning and improvement

Complaints are an opportunity to learn. Organisations should ensure that use is made of complaints to improve the services and quality of all work that is provided.

Appendix II

Timescales for complaints investigations

The longer a complaint is allowed to drag on the less satisfactory is its final outcome, so deadlines must be set and publicised for each stage of the process. The need for reasonable speed must be balanced against the need for care and thoroughness.

An example of good practice, these are the standards that Surrey County Council sets:

How long will it take to sort out my complaint?

“We can sort out simple stage one complaint within five working days. If it is going to take us longer than this we will contact you to let you know how long it will take and who is carrying out an investigation. Stage two and three complaints, and more complex stage one complaints, may take up to 20 working days each to sort out”.

(Surrey CC leaflet: “Comments, compliments and complaints”)

Complainants should not be denied access to any of their other rights, which sometimes have to be exercised within a set time:

Local Government Ombudsman

“You should complain to us within 12 months of when you first knew about the matter you are complaining about. If you leave it later, we may not be able to help”.

LGO: “How to complain to the Local Government Ombudsman”

Judicial Review

“The claim [...] must be filed promptly and in any event not later than three months after the grounds upon which the claim is based first arose”. (Part 54.5 Civil Procedure Rules)

Extract from www.judiciary.gov.uk

Requests for other formats of this document and
replies addressed to

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