



Surrey Compact

Consultation Document

Start date Monday 21st April 2008 until Monday 14th July 2008

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

POSITIVE DISPUTES RESOLUTION CODE

This code sets out what we expect of our members if a complaint is made about their compliance with the Surrey Compact, and what we will do to help resolve disputes.

1. Introduction

Things sometimes go wrong

- 1.1 The Surrey Compact is a detailed, and occasionally complex, set of standards that we expect organisations to comply with. It should come as no surprise that behaviours sometimes slip and members don't fully live up to the Compact's aims. If this happens, it is usually accidental and/or unintentional, though occasionally there is a genuine difference of opinion over what standard the Compact actually requires.

We're here to help put them right

- 1.2 The Surrey Compact Implementation Group seeks to provide practical help and support to those involved in Compact-related disputes, so that they can be resolved quickly, positively and constructively.
- 1.3 This code sets out a standard for our members to live up to in resolving complaints about the Compact, and offers three resources for you to make use of, whichever side of a dispute you are on:-
- Advocacy
 - Mediation
 - Arbitration
- 1.4 The code is founded on the following three principles:-

Trust

We will trust members to investigate Compact-related complaints themselves using their own complaints systems. We will not intervene in, or duplicate, internal investigations. We would only get involved afterwards if the complainant was not satisfied with your handling of the matter and asked us to mediate or arbitrate.

Freedom to choose

If you make use of any of the resources or processes set out below to help resolve a Compact complaint that, will not limit or restrict your 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 we ask you to change your practices as a result of a complaint, we expect you to do so voluntarily. We don't have any power to force you to.

2. What we expect from you

If you think another member has breached the Compact

We expect you to take the matter up with them through their complaints procedure, so that they can put it right.

- 2.1 The Compact is not a straightforward code, and it is still fairly new to many organisations. It is quite likely that there will be accidental or unintentional breaches from time to time, and you will be doing members a useful service by bringing these to their attention. We expect that most disputes will be resolved quickly, informally and constructively, once they are brought to the attention of the member concerned.

We'd like you to tell us about your action.

- 2.2 We'd like you to let us know about any Compact-related complaint that you make, even if it is resolved very quickly by the other party. We'll respect confidentiality and we won't get involved unless you ask us to, but we do need to know about the issues that are causing concern, so that we can monitor performance and trends.

If another member complains that you have breached the Compact

We expect you to take any complaint seriously, and to investigate it through your own complaints procedures.

- 2.3 We expect all members to have complaints procedures that meet certain minimum standards (see Appendix A). We expect the Compact to be written into your procedures so that complaints about non-compliance can be investigated and dealt with through existing channels. We expect you to put right minor concerns quickly and informally, without having to resort to the formal stages of your procedure.

We expect you to take part in Compact mediation or arbitration if a complaint is not resolved through your internal procedures.

- 2.4 Occasionally, your internal investigation may not resolve matters to the satisfaction of the complainant, or there may be a genuine difference of opinion that you have not been able to sort out between you.
- 2.5 If your internal processes have reached an end without a resolution of the complaint, we expect you to take part in any mediation or arbitration (see below) that the complainant asks for. We would not expect you to take part in mediation if it had already taken place as a part of your own complaints procedure, as it is unlikely to be useful to repeat it.

3. What support the Compact Implementation Group can offer you

Advocacy

- 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 our larger members to ask them to put things right. So if you think there has been non-compliance by a Compact member, we can appoint an “Advocate” to help you prepare and present your case.
- 3.2. Your Advocate is likely to be a member of the Compact Implementation Group and an expert on the Compact. S/he will review the matter with you, help you decide how to take the matter up through the other side’s complaint procedure, and assist you in all your dealings with them.
- 3.3. If s/he doesn’t think there has been a breach of the Compact, s/he will tell you so and might have to withdraw, as it is important that we don’t get involved in disputes outside our remit. But your Advocate is there to help you and to take your side, and will normally support you throughout the process.
- 3.4. We think this service is likely to be of particular value to voluntary and community members that don’t have a detailed knowledge of the Compact or the resources to take up concerns formally with other organisations. But it is, of course, open to all Compact members, whichever side of a complaint they are on.

Mediation

- 3.5 We expect that most Compact disputes will be resolved through members’ own internal procedures. Occasionally, though, an investigation can finish without achieving a result that satisfies the

complainant – or there may be a genuine difference of opinion that the investigation has not been able to sort out. If this happens, at the request of either party, we can appoint a mediator to assist.

- 3.6 We have a small group of qualified mediators who are completely independent of the Surrey Compact. A mediator will work objectively, impartially and confidentially to bring you together to try to reach a resolution that satisfies both parties.
- 3.7 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 your rights or weaken your case if it doesn’t work and you want to take matters further.

Arbitration

- 3.8 If mediation fails to provide a resolution and you want to take your case further, we can offer Compact Arbitration as a final resort. Arbitration would involve a referral to a panel of three members of the Compact Implementation Group who had had no prior involvement in the case.
- 3.9 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.
- 3.10 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 Surrey Compact and, if recommendations had been made, the Chairman would ask for a formal response within an appropriate period.
- 3.11 We would expect a member of the Compact to take very seriously the content of any letter written under these circumstances and to implement any recommendations. But it is important to understand that the Compact itself is not a legally binding document and the Implementation Group has no formal powers to require any organisation to do anything. Ultimately, the Compact has moral authority only, resting on the goodwill and commitment of its members.

Our commitments to you

- 3.12 If you ask us to appoint an Advocate to assist you, we will do so within ten working days.

- 3.13 If you ask us to appoint a Mediator, we will do so within five working days. Our target for completing a mediation case is twenty working days, depending on the availability of the parties.
- 3.14 If you refer a case to us for arbitration, we will appoint an Arbitration Panel within five working days. The time needed to complete an arbitration will depend on the complexity of the case and the availability of the parties, and the Panel would agree a detailed timetable with both parties at the outset of the proceedings. Our 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. You have other options, too

Statutory bodies and legal remedies

- 4.1 If you are not satisfied with the outcome of a complaint that you have brought against a public body, whether or not it is Compact related, there are other options open to you,:-
- You can write to your borough or county councillor, or to your MP, to ask them to take the matter up for you.
 - You might want to go 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.
 - In exceptional circumstances (and subject to a wide range of conditions and qualifications), you might consider seeking Judicial Review.
- 4.2 If you were considering judicial review, however, you would need your own independent legal advice, as the Surrey Compact is neither funded nor mandated to provide support in these circumstances.
- 4.3 Going for Compact Arbitration will not stop you from taking advantage any of these remedies later. However, if you have *already* referred the matter to an ombudsman or to the courts, we will not appoint a Compact Arbitration Panel. They have statutory powers that we do not have, and it would be ineffective for two independent investigations to take place at the same time.
- 4.4 There are strict time limits for seeking Judicial Review, and less strict ones for referring a case to the Ombudsman (see Appendix B). If you

are contemplating either of these routes, you should check that their deadlines will not be exceeded before embarking on Compact Arbitration.

The National Compact 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 we are aiming to deliver at a county level.
- 4.6 There may be local issues that are better dealt with at national level. It's your choice which to use. Your Compact Advocate and the Surrey Compact Development Director will be happy to advise you about the implications and how to access the national schemes, if you decide to go down that route.

5. Conclusion

- 5.1 All organisations make occasional mistakes or errors of judgement. We don't expect our members to be complaint-free, but we do expect them to:-
- respond quickly and constructively if complaints are made,
 - put things right effectively, if they have gone wrong, and
 - learn from the experience so that they don't make the same mistake again.
- 5.2 The Surrey Compact is a Code that is voluntarily entered into. We hope that members 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 Compact Implementation Group will offer practical support and assistance to help members 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 members to adopt. Your system should be *proportionate* to the size of your organisation and *reasonable* given the complexity of your work and the risks that you are managing.

There are some basic features that *every* complaints system, large or small, simple or complex, should have – an irreducible minimum standard that you should not fall below. We set these out below. It is up to each member to decide how to implement them – but implement them you must if your complaints system is to work properly.

Signposts

You need to make clear how people can complain against your organisation, and how they can make any of the choices that your system offers them once a complainant has been made.

Communication and Accountability

You must keep complainants in touch with progress, and make sure they 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

You must specify deadlines for getting through 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 B.

Records

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

Learning and improvement

Complaints are an opportunity to learn. You should make sure that your organisation uses them to improve the services that you provide and the quality of all the work that you do.

Appendix B

Timescales for complaints investigations

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

As 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 complaints 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")

You should also ensure that you do not deny complainants 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