



## Challenging the process

Engaging with commissioners and public bodies can be a complex process, but sometimes you may find that you are being treated unfairly. There are now several cases of local organisations successfully challenging public bodies which have withdrawn funding suddenly without consultation or explanation (see Public Law Project for case studies). It is useful to be aware of the following information and resources if you are thinking about challenging the process:

### **Making the case for continued grant funding**

Often local authorities or other public bodies say they are required to tender for goods and services under EU law but this is not always the case, especially for provision of social welfare services. Although public bodies have the right to choose to provide all their funding through a commissioning process (instead of grants), it is possible to argue the case for retaining some local authority grant funding, using government guidance.

For more information, please see the **Local grants Forum** leaflet and website. The Forum is a partnership of national organisations campaigning to save grants and improve commissioning.

<http://www.navca.org.uk/stratwork/natpolicy/localgrants/home.htm> ]

### **Gender Equality Duty:**

The Gender Equality Duty came into force on 6<sup>th</sup> April 2007. Public authorities are now legally required to: 1. eliminate unlawful discrimination and harassment and: 2. promote equality of opportunity between men and women.

They must also:

- Prepare and publish a 'gender equality scheme', including addressing the 'gender pay gap'
- Gather and use information on how their policies and practices affect gender equality in the workforce and delivery of services
- Consult stakeholders
- Assess the impact of its policies and practices on gender equality
- Implement actions in its Gender Equality Scheme within three years unless unreasonable or impracticable to do so
- Report against its Gender Equality Scheme every year and review every three years.

You can use the Gender Equality Duty to encourage public bodies to take action on gender inequality or use it to show how your work can help them to meet their obligations under the Duty. For more information please see:

[see **Guidance on the Gender Equality Duty for the voluntary and community sector**, Equal Opportunities Commission, July 2007; and WRC's guidance: **Gender equality scheme: a template for local public bodies**  
[http://www.wrc.org.uk/resources/guidance\\_for\\_public\\_bodies.aspx](http://www.wrc.org.uk/resources/guidance_for_public_bodies.aspx)]

### **Intelligent commissioning:**

Central government and other public bodies such as the National Health Service have defined good practice in commissioning, calling it 'intelligent commissioning'.

Principles include:

- When identifying and developing an understanding of local need, public bodies should consult and engage with voluntary and community sector organisations, including service users;
- Consultation with voluntary and community sector organisations should be well in advance of commissioning of new services and public bodies should work *with* the voluntary and community sector to decide on priorities;
- Outcomes for service users should be the main focus;
- Public bodies should consider investing in the capacity of service providers, especially those working with 'hard-to-reach' groups (e.g. by providing support with understanding the commissioning process and enabling organisations to meet their requirements);
- The contracting process should be transparent and fair;
- Public bodies should consider tenders from partnerships/consortia of several organisations where appropriate;
- Public bodies should ensure long-term contracts and share risk where appropriate;
- Public bodies should seek feedback from service users, communities and providers to review effectiveness of the commissioning process.

You can refer to 'intelligent commissioning' when lobbying public bodies to follow good practice in their commissioning process.

For more information, see: National Association of Voluntary and Community Action (NAVCA) briefing on commissioning and procurement:

<http://www.navca.org.uk/localvs/lcp/briefings/>

### **Compact:**

Established in 1998, the Compact is an agreement between Government and the voluntary and community sector in England. It recognises shared values, principles and commitments and sets out guidelines for how both parties should work together.

It is based on five 'codes' focusing on BME communities, community groups, consultation and appraisal, funding and procurement, and volunteering. Each local area and region should have its own local compact and follow the government's specific guidance on commissioning published in February 2009.

For more information about the Compact, please see:

<http://www.thecompact.org.uk/aboutus> and for a copy of the specific guidance on commissioning:

<http://www.thecompact.org.uk/files/103954/FileName/CommissioningGuidance.pdf>

**Duty to involve:** This is a new duty on public bodies from April 2009 to inform, involve and engage 'representatives of local persons', including marginalised or vulnerable members of the community.

You can refer to this duty in order to ensure that public bodies consult with you and your service users about local needs, etc.

See WRC factsheet at:

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2009/d/duty\\_to\\_involve.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2009/d/duty_to_involve.pdf)