

The Merthyr Tydfil Compact

Mediation and Disputes Resolution Process

Introduction - The Compact

The Merthyr Tydfil Compact is a partnership agreement which supports strategic working relations between the third sector and the public sector as represented by the local authority and the Health Board in Merthyr Tydfil.

It is written in a spirit of mutual respect and understanding and provides a framework for developing shared aims and objectives to improve the quality of life of people in the local community and to provide them with effective support.

The Compact Implementation Plan sets out objectives that support continuous improvement and development relating to the Compact themes. This is one of the Codes of Practice that has been produced by the Merthyr Tydfil Compact Board.

Aims of the Compact Mediation and Disputes Resolution Process

Disagreements are a natural part of any working relationship and can be useful in identifying and addressing important issues. This Process aims to:

- Prevent disputes by raising awareness and understanding of Compact principles
- Provide a framework for managing and resolving disputes in a positive and mutually respectful way
- Develop deeper understanding between the sectors
- Avoid the damage and cost that stem from unresolved disputes.
- Support the incorporation of Compact principles into organisations' ways of working



Scope and Principles of the Compact Mediation and Disputes Process

The Compact Mediation and Disputes Process will:

- Only deal with disputes arising from Compact themes and principles and the associated Codes of Practice. A full list of supporting documents can be found on page 7.
- Take a mediation approach, i.e. where possible make use of an impartial third party to assist people who are in dispute to find common ground and a mutually acceptable resolution.
- Make recommendations, which may include reconsideration of a decision made.
- Expect that Compact breaches are followed up and measures put in place to prevent them reoccurring.
- Establish agreement (from Stage 2) on the elements of the dispute that must be kept confidential while the dispute resolution process is underway.
- Make it clear to the parties that they retain any rights to other forms of redress such as to the Public Service Ombudsman for Wales, in which case the Compact Mediation and Disputes Process will cease.
- Report to the Compact Board
- Be reviewed annually to assess its effectiveness.

The Compact Mediation and Disputes Process WILL NOT:

- Deal with direct complaints from the public
- Deal with disputes that derive from complaints about the behaviour of a member of staff and where there is no evidence of a Compact breach having taken place. These may need to be subject to a disciplinary investigation.
- Deal with disputes that clearly derive from complaints about the behaviour of an individual councillor and where there is no evidence of a Compact breach having taken place. These should either be referred to the Carys Kennedy or to the Public Ombudsman for Wales.
- Deal with disputes that have already been: subject to independent mediation or the subject of a formal complaint; or referred for investigation to the Funding and Compliance Committee of the Third Sector Scheme or to the Public Services Ombudsman for Wales no matter what the outcome See Other Ways of Seeking Resolution on page 6.
- Impose action or sanctions
- Seek to allocate blame
- Consider appeals relating to its recommendations

Disputes Resolution Process

Stage 1

Parties attempt to resolve the issues

- 1.1** When you think that a Compact principle has been breached, you should raise it with the organisation(s) concerned, stating which part(s) of the Compact you think has been breached and how. Through early dialogue and with reference to the Compact principles and Codes of Conduct, it is hoped that most disputes can be resolved without involving a third party.

If either party is unhappy with the outcome, they can go on to make use of Stage 2.

Stage 2

Partners formalise the issue and have it resolved with the support of VAMT

- 2.1** You should write a letter to Voluntary Action Merthyr Tydfil's Chief Officer in order to formalise the issue.

If VAMT are one of the parties alleged to be in breach of the Compact themes and principles then the approach should be made to one or more of the agencies listed below in "Other Ways of Seeking Resolution".

- 2.2** Your request should include the following details:

- A summary of the issue/dispute
- The Compact principle or guideline which you believe has been breached
- The names and roles of those involved
- Copies of any relevant correspondence
- The action taken so far, including informal and formal steps taken to try an deal with the matter

VAMT will contact both parties to seek clarification if necessary and offer to meet with them both together or singly in order to attempt to facilitate agreement or a solution.

If mutually agreeable, parties could also consider making use of an independent third party at this stage. However, this would be at their own cost (see Other Ways of Seeking Resolution).

- 2.3** VAMT will report the issue to the next Compact Board.

If either party is not happy with the outcome, they can go on to make use of Stage 3.

Stage 3

Referral to the Compact Board

- 3.1** If you are still unable to resolve the dispute with the support of VAMT or other third party and wish the Compact Mediation and Disputes Resolution Panel to consider your issue, VAMT will refer it to the next meeting of the Compact Board.
- 3.2** The Compact Board will assess the issue against an agreed set of criteria in order to establish whether a Compact breach has taken place. If this is the case, it will set up a Mediation and Disputes Resolution Panel, a working group of the Compact Board. (See Appendix for the criteria to establish a Panel)
- 3.3** The Panel will comprise three people, who can be impartial in relation to the dispute, from amongst the following as appropriate:
- Members of the Compact Board
 - Individuals nominated by members of the Compact Board

Wherever possible there will be a panel member from each of the sectors.

VAMT will provide the secretariat for the Disputes Panel in order to ensure consistency across different disputes.

- 3.4** The Panel, with the assistance of the secretariat, will:
- Arrange to meet **within three weeks** of the Compact Board meeting.
 - Write to both parties **within a week** of the Compact Board meeting to explain that it is considering the issue.
 - Invite the second party to submit any written information **within a week** that it thinks is relevant to the dispute.
 - Consider information from both sides and if necessary, arrange a meeting with those involved to discuss the problem.
 - Make its decision (based on the majority view) **within six weeks** of its first meeting and recommend any action in writing to both parties. If the Panel cannot reach a decision in this time, it will agree another timescale and in form both parties accordingly.
 - Check whether the follow up actions recommended by the Panel have been taken in time for the next Compact Board meeting.
 - If necessary, recommend to the Compact Board that it considers an issue that has broad interest for the Compact and that it can learn from

If you are unhappy with the outcome, you can go on to consider making use of other ways of seeking resolution.

Other Ways of Seeking Resolution

Independent Mediation

If the dispute is not resolved, you may decide to seek independent mediation from a specialist organisation. Contact Mediation Wales to find out more at E:enquiries@mediationwales.org.uk T:029 20785685. Also see www.mediationwales.co.uk Mediation is likely to involve a cost to the party(ies) involved.

Funding and Compliance Committee of the Third Sector Scheme

If the dispute is not resolved, you may decide to refer it to the Welsh Assembly Government Funding and Compliance Committee of the Third Sector Scheme, which sets out government commitments that are binding on Welsh Assembly Government and the National Health Service. The Third Sector Scheme also states that it expects local government to observe its principles.

To refer a dispute to the Funding and Compliance Committee, contact the Welsh Assembly Government at

thirdsectorqueries@wales.gsi.gov.uk T: 01685 729271 or 0845 0103300; or Wales Council for Voluntary Action at E: help@wcva.org.uk T:0800 2888 329. To find out more, see www.wcva.org.uk

Public Services Ombudsman for Wales

If you remain dissatisfied after having tried to resolve a grievance through the Mediation and Disputes Resolution process, it may be possible for you to take the complaint to the Public Services Ombudsman for Wales. The Ombudsman can look into complaints of unfair treatment or bad service through some failure on the part of the public body providing it. In order for the Ombudsman to be able to investigate a complaint there needs to be evidence of a 'personal injustice'. To find out more information about making a complaint to the Ombudsman, the contact details are:

E: ask@ombudsman-wales.org.uk ; T: 01656 641150; Fax: 01656 641199; Address: Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ. To find out more, see www.ombudsman-wales.org.uk

Implementation and Monitoring

- All disputes raised through the Compact Mediation and Disputes Panel will be reported to the Compact Board. Particular emphasis will be given to any lessons learned.
- The Compact Mediation and Disputes Process will be reviewed annually by the Compact Board to assess its effectiveness and make any recommendations for improvement. Its implementation will be monitored and reviewed as part of the Compact Implementation Plan.
- This Resolution Process will be circulated to all partnerships in Merthyr Tydfil and referenced by them as appropriate e.g. in any partnership terms of reference
- The Compact Board and the Local Service Board will promote the Resolution Process and make reference to it as appropriate

Supporting Documents

- The Merthyr Tydfil Compact (2008)
- Code of Practice on Funding, Procurement and Commissioning (in development)
- Code of Practice on Consultation and Public Engagement (to be developed)
- Code of Practice on Partnership Working
- Code of Practice on Volunteering
- Code of Practice on Third Sector Governance (to be developed)

For further information about the Merthyr Tydfil Compact see www.vamt.net

Appendix 1

Criteria for establishing a Compact Mediation and Disputes Resolution Panel

- The Compact Principle or Code of Practice which the dispute relates to has been identified
- A breach of a Compact Principle or Code of Practice seems to have taken place
- The complainant is an organisation (and not a member of the public who is in receipt of Council, NHS or third sector services)
- A panel will not be established if the dispute clearly derives from complaints about the behaviour of a member of staff **and** there is no evidence of a Compact breach having taken place.
- A panel will not be established if the dispute clearly derives from the behaviour of a Council member **and** there is no evidence of a Compact breach having taken place.
- The parties involved have already attempted to resolve the dispute;
 - Stage 1: between them
 - Stage 2: with the assistance of VAMT
- The dispute has not already been:
 - Subject to independent mediation
 - The subject of a previous formal complaint
 - Referred to the Funding and Compliance Committee of the Third Sector Scheme
 - Referred to the Public Services Ombudsman for Wales