

Voice4Change England

Consultation Response

Refreshing the Compact: A framework for partnership working

Compact on relations between the Government and the Third Sector in England

Submitted to the Commission for the Compact

October 2009

Voice4Change England Partnership Members:

BECON (North East BME Network), Black Development Agency, Black South West Network, Black Training and Enterprise Group, Community Development Exchange, Confederation of Indian Organisations, Connections for Development, MENTER (East of England BME Network), MiNET (London BME Network), One North West (North West BME Network), UNI (South East BME Network) and the West Midlands Race Equality Advisory Board.



Building a Thriving Black and Minority Ethnic Third Sector

Executive Summary

1. In seeking to influence the 'final text' of the Compact, Voice4Change England remains extremely concerned over the scope of the Refreshed Compact which, in comparison with the existing BME Code, has 'levelled down' the distinctiveness of the BME third sector.
2. The Refreshed Compact's Achieving Equality section does not adequately reflect the recommendations of the Legal Review of the BME Code.
3. Voice4Change England is very concerned that none of its earlier recommendations to the Compact debate have been taken on board in drafting the Refreshed Compact consultation paper.
4. The Refreshed Compact does not refer to the persistent inequality and institutional racism that BME communities and groups have been facing and fails to recognise the need behind the specific BME Code.
5. The Refreshed Compact places weak and superficial commitments over public bodies and the Government to support equality groups therefore is not 'fit for purpose' for the BME third sector.
6. Distinct BME Code commitments for public bodies and the Government to build the capacity of BME groups to better prepare and deliver projects and influence local decisions (BME Code 3.2) have been lost in the Refreshed Compact. This will exclude large number of BME and other equality groups who have historically been under-funded and disengaged with the formal structures of the third sector.
7. In the absence of the distinct commitment 3.2 of the BME Code and Action Point check list 4, the independence of the BME third sector will be compromised.
8. Although independence underpins the Compact Values (p18 Refreshed Compact), it needs to be strengthened and be stated as a distinct commitment for public bodies and the Government for protecting small BME, equality and community groups.
9. The Compact should maintain the principle and commitment for a 12-week consultation.
10. We believe that the length of the Refreshed Compact document becomes less of an issue if fundamental considerations and commitments in support of BME and other equality groups are lacking.

11. Whilst we are disappointed that the distinct BME commitments are lost and the term 'BME and other equality groups' has not been taken on board, we welcome the descriptors for each of the equality strands.

12. The absence of a rationale for the establishment of the BME Code i.e. the historical discrimination and institutional racism facing the BME third sector, BME communities, reference to the existing equality legislation, and the Commission's legal review of the BME Code would have given the Achieving Equality section much needed foundation and in its absence the Refreshed Compact has levelled down its commitments to BME third sector organisations.

13. Commitment on the equality groups to 'build representative infrastructure organisations that can promote the broad range of interests of equality groups' (23.3) is far too prescriptive and infringes the independence of BME and other equality groups in maintaining their identity and independence. It also echoes the 'Cohesion Guidance for Funders' which required third sector groups to deliver to multiple ethnic communities and communities of interest.

Key Recommendations

1. We recommend that the Government and the third sector should revisit commitments under the Refreshed Compact following the enactment of the Single Equality Bill with an aim to provide 'appropriate emphasis' to the prohibition of discrimination by public authorities on the basis of race and other protected characteristics; to have 'due regard' to equality objectives and to the duties on Government to undertake timely Equality Impact Assessments on proposed policies.

2. The Government and Commission for the Compact must attend the views expressed by BME groups in previous consultations on the Compact debate. They must provide full explanation – a response to the BME Third Sector for not considering the Sector's response, for not undertaking timely Equality Impact Assessment and for the withdrawal of the BME Code. This response must be supported with evidence and research.

3. Although independence underpins the Compact Values (p18 Refreshed Compact), it needs to be strengthened and be stated as a distinct commitment for public bodies and the Government for protecting small BME, equality and community groups.

4. References to public law remedies should be made in the Refreshed Compact with a commitment to support BME and other equality groups to understand the complexity and application of public law in any likely disputes including analysis of funding arrangements. Local and national Compacts must

have the delivery plans with implementation targets and regular monitoring to ensure its effective use.

5. The six essential commitments of the BME Code should be included in the Refreshed Compact for the BME and equality sector. These should clearly refer to:

- ◆ the recognition and value of the work, knowledge and expertise of the BME third sector including its important role in helping Government to achieve its objectives,
- ◆ setting aside additional funds for BME and other equality organisations to build capacity, prepare and deliver projects,
- ◆ undertaking of a joint review with the affected BME and equality organisations where withdrawal of funding has occurred,
- ◆ the recognition of the independence of the BME sector and its right within law to challenge institutions, policy and practice,
- ◆ maintaining links with specialist organisations and meeting additional needs such as language needs and offering financial support for expenses incurred to draw on the expertise of the BME third sector throughout policy development, and
- ◆ developing the BME and equality sector's capacity and infrastructure through strategic funding at local, regional and national level.

6. Clear references to BME and other equality groups' specialist services should be given through out the Equality section as examples, case studies, action point checklists to ensure that challenges faced by these groups are clearly narrated to public bodies and the Government.

Annex 1: Voice4Change England's Response to the Compact Debate, Nov 2008.

Annex 2: Voice4Change England's Recommendations for the BME Compact Code and the Future of the Compact, Feb 2009.

1. About Voice4Change England

1.1 Voice4Change England is a national body dedicated to strengthening the Black and Minority Ethnic (BME) Third Sector as a positive force for change and which aims to provide a co-ordinated policy voice for BME groups and organisations. V4CE is a partnership of national, regional and sub regional infrastructure organisations and initiatives. We have successfully acquired a place where our responses to government policies objectively represent the concerns of the BME Third Sector. We aim to continue developing this mutual understanding between the BME-led third sector and government to ensure policies are responsive to BME communities' needs and aspirations.

2. Methodology for the Response

2.1 Voice4Change England's roots are based on its Partnership forged from the BME sub-group on Compact. This response is therefore informed by a practitioner understanding of the Compact and its Codes of Good Practice in relation to the BME Third Sector. As well as by the wealth of experience and representational strength of our Partners who between them **represent over 6000 BME third sector organisations across England**. This response is also directly informed by two consultation events held in Nottingham and Bristol with BME third sector organisations on Refreshing the Compact on 1st and 6th of October (2009) respectively.

2.2 In responding to this consultation, we have revisited several of our previous responses made to the Compact Debate:

- ◆ Response to the Commission for the Compact Business Plan (Jul 2007)
- ◆ Response to the Compact Debate (Oct 2008)
- ◆ Response to the (legal) review of the BME Code (Feb 2009).

2.3 **This response therefore must be seen in line with V4CE's previous submissions on the Compact debate.** Throughout this response, we will make references to our submissions and in particular to the key recommendations that we presented over the last year. Our previous submissions are attached as annexes to this response due to their relevance and reference to the analysis of the Compact Refresh consultation paper.

2.4 Voice4Change England has been closely involved in shaping the Compact to ensure that any proposed reform is informed by the views of BME third sector organisations. **Since July 2007, we have directly informed, involved, and engaged over 500 BME and other equality groups at various regional and local settings in discussions about Compact and its effective implementation.** In particular, discussions on the Legal Review of the BME Code took us to five regions where jointly with the Commission for the Compact (C4C), V4CE held discussions with BME groups. It is once again worth emphasising here, that

Voice4Change England Partners have followed the Compact debate since its earliest manifestations and have informed our responses with thorough deliberations at Partners' meetings.

2.5 As a member of Compact Voice, Voice4Change England was nominated as the 'equalities representative' to the Compact Refresh Panel (formed of cross-sectoral representatives including third sector organisations, Local Government Association (LGA) and the Commission for the Compact). We contributed in developing the 'Achieving Equality' section of the Refresh Compact to ensure that the BME and wider equality sector is fully recognised in the refreshed Compact with stronger Compact commitments. To inform our role, we have also liaised with other third sector lead organisations including the National Equality Partnership, Community Sector Coalition, National Association for voluntary and community action (NAVCA) and ROTA (Race on the Agenda).

Structure of the response

2.6 In analysing the Refreshing the Compact consultation paper, we have structured our response to include general and specific comments and a discussion on key BME commitments in the existing BME Code.

2.7 The general comments section examines the positive aspects of the Refreshed Compact consultation paper (Refreshed Compact). It then critically analyses the Refreshed Compact in reference to
(1) its relevance to the Legal Review of the BME Code which took place in November last year, and
(2) its relevance to the discussions held at various consultation events with BME groups on the future of the Compact debate and the BME Code.

2.7 The specific comments intend to respond to the consultation questions of the Refreshed Compact.

2.8 The final section offers a comparative analysis of the Compact commitments proposed in the Refreshed Compact 'Achieving Equality' section with the six key BME commitments we have identified from the existing BME Code.

2.9 An executive Summary of Voice4Change England's recommendations on the Refreshed Compact is provided at the beginning of the response.

3. General Comments

3.1 Voice4Change England welcomes the intention behind the consultation 'to bring the Compact up to date with the changes in the law, policy and

practice that have occurred since the Compact was established.' We particularly welcome the following aspects of the Refreshed Compact:

- ◆ Government/public bodies to ensure that sub contractors and all other public and private bodies distributing public money apply compact principles (Commitment 7.1);
- ◆ Government/ public bodies to apply Compact commitments when distributing European funding (Commitment 6.4);
- ◆ Government/ public bodies to support consortia and partnership bids and recognise the fact that such bids take time to be developed (Commitment 6.3 Selecting finance and funding options);
- ◆ Government/ public bodies to ensure that funding announcements are accessible and in available in Plain English and other suitable languages (Commitment 8.1);
- ◆ Recognition of volunteering time as match funded contribution and in procurement, recognition that organisations will need to include relevant administrative costs in the price they consider appropriate to deliver the required services(Commitments 9.2 and 9.3);
- ◆ Government/ public bodies' commitments on involving the third sector in policy development (Refreshing the Compact, chapter 1), provided that there is a clear cross-referencing of these commitments in the 'Achieving Equality' section.

3.2 However **we remain extremely concerned over the scope of the Refreshed Compact which – in comparison with the existing BME Code – has 'levelled down' the distinctiveness of the BME third sector.**

3.3 Furthermore, the Refreshed Compact also puts other equality and community groups in a much weaker position in their relationship with public bodies. We endorse the position of the **Community Sector Coalition** that the Compact as it stands "is for a narrow minority of third sector organisations and actively excludes the most of the wider sector, most notably the majority of community organisations." And we also support the recommendations by the **National Equality Partnership** that "more emphasis on the role of the voluntary sector and equalities sector in particular, as essential campaigners, drivers of social change, advocates, experts in local knowledge, holder of specialist expertise, and pro-community cohesion, rather than just public service deliverers".

To what extent does the Achieving Equality section reflect Karon Monaghan's recommendations on the legal review of the BME Code?

3.4 The legal review of the BME Code found the existing BME Code 'not on its face inconsistent with domestic, regional and international equality law. However, fails to give appropriate emphasis:

- ◆ to the prohibition on (direct and indirect) discrimination by public authorities;
- ◆ to the duties on Government (central and local) to have “due regard” to equality objectives...;
- ◆ to the duties on Government (central and local) to undertake equality impact assessments on existing and proposed policies, including those relating to grant funding and procurement;
- ◆ to address intersectional/multiple forms of discrimination;
- ◆ to the opportunities that exist in equality law to create and deliver community (BME) specific services;
- ◆ to the requirement that sometimes arises in equality law to create and deliver community (BME) specific services;
- ◆ to the recognition that BME targeted services may promote equality and good relations and community cohesion; and
- ◆ to the fact that voluntary and community (BME) specific services might themselves help the achievement of Government’s obligations in regional and international human rights law.’

3.5 Furthermore, the Legal Review called for an **explicit reference in the BME Code of the statutory equality duties under the RR(A)A 2000** which require public authorities, ‘including Government to have due regard to the need to achieve certain prescribed equality outcomes namely, to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.’

3.6 The Legal Review also noted that in addition to the equality duties with reference to race, gender and disability other similar ‘duties will soon be enacted addressing sexual orientation, religion and belief and age too.’ The review added that all these duties are ‘important because they will apply equally to decisions affecting the BME Voluntary and Community sector and BME communities where those decisions are likely to be relevant to women (and men), disabled, Gay and lesbian people.’ **Thus the Legal Review provided a holistic framework to address multiple/intersectional discrimination that BME groups may face in delivering services and supporting BME communities.**

3.7 **The Legal Review did not suggest that the BME Code needs to be withdrawn or diluted from the Compact for it to be consistent with the forthcoming Single Equality Act.** Extract from the suggested re-drafts (accompanying the Legal Review) clearly show the relevance of the BME Code (undertakings and commitments) to other equality strands.

Extract from the Legal Review of the BME Code – Annex ‘Suggested Re-drafts’.

The (BME) Code also aims to ensure that the equality duties now imposed upon central and local Government to have due regard to the need to achieve certain prescribed equality outcomes are complied with wherever the work of the BME voluntary and community sector is relevant. Government recognises the diversity that exists within BME communities and therefore the requirement to have due regard to the need to achieve equality outcomes across all strands, namely race, gender, disability and (having regard to the soon to be enacted new duties), sexual orientation, religion or belief and age.

3.8 The Refreshed Compact’s Achieving Equality section does not adequately reflect the recommendations of the Legal Review of the BME Code. We make this assertion on the following basis:

3.9 Commitments 20.3 and 20.5 (Refreshed Compact p47) for the Government and public bodies appear to be dealing with the Legal Review’s recommendation to give an appropriate emphasis to the prohibition on (direct and indirect) discrimination by public authorities. However it is not clearly stated that this is an existing legal duty on all public bodies and the Government which they must comply with.

3.10 We believe the commitments should be made stronger with a reference of RRA section 19B which outlaws all forms of discrimination on racial grounds by a public authority in carrying out its functions. We understand that the forthcoming Single Equality Act may change the nature of the existing equality duties. Nevertheless many domestic, European and international equality standards and statutes will still be relevant.

3.11 Voice4Change England also supports the recommendations made by the National Equality Partnership in their response to the Refreshed Compact for a clear reference of the Gender Equality Duty and other directives which make the women-only service provision fully in line with equality legislation.

3.12 Commitment 20.3 to ‘have due regard’ to the need to eliminate discrimination does not provide ‘appropriate emphasis’ to the duties on Government (central and local) to equality objectives and the fact that it is a legal duty.

3.13 Commitment 20.8 on the public bodies and Government to undertake assessment of the equality impact must also include grant funding and procurement to be in line with the Legal Review’s recommendation.

3.14 The Legal Review’s recommendations to provide appropriate emphasis to address intersectional/multiple forms of discrimination; to the opportunities that

exist in equality law to create and deliver community (BME) specific services; to the requirement that sometimes arises in equality law to create and deliver community (BME) specific services; to the recognition that BME targeted services may promote equality and good relations and community cohesion; and to the fact that voluntary and community (BME) specific services might themselves help the achievement of Government's obligations in regional and international human rights law are weakly referred in commitments 20.1 and 20.2 of the Refreshed Compact with no reference made to equality legislations.

Other comments on the Legal Review of the BME Code

3.15 Throughout the suggested re-draft section of the BME Code (Legal Review of the BME Code) references were made to the historical inequality and institutional racism facing the BME third sector thus the need for a stronger Compact in line with the equality legislation. In several places the Stephen Lawrence Inquiry and lessons learned from it have been referred to emphasise that 'the Government must be sure that its policies do not disadvantage members of the BME community and the BME voluntary and community sector.'
The Refreshed Compact does not refer to the persistent inequality and institutional racism that BME communities and groups face and fails to recognise the need behind the specific BME Code.

3.16 As our analysis demonstrates, most of the recommendations from the Legal Review of the BME Code have not been taken on board in drafting the 'Achieving Equality' section of the Refreshed Compact. This raises the question of why resources were used on a legal review and promises made to the BME third sector in light of this if the BME Code was to subsequently be abandoned. It also makes it clear that the Compact refresh will not achieve its original aim to bring the Compact up to date with changes in the law, policy and practice and to make it relevant to public bodies and all third sector organisations. In particular it does not:

- ◆ provide appropriate emphasis to the equality duties over public bodies and the Government; and
- ◆ give due importance to the persistent inequalities, discrimination and institutional racism facing the BME voluntary and community sector and social enterprises.

3.17 The Refreshed Compact places weak and superficial commitments over public bodies and the Government therefore it is not 'fit for purpose' for the BME third sector.

Key Recommendation 1: We recommend that the Government and the third sector should **revisit** commitments under the Refreshed Compact following the enactment of the Single Equality Bill with an aim to provide 'appropriate emphasis' to the prohibition of discrimination by public authorities on the basis of race and other protected characteristics; to have 'due regard' to equality objectives and to the duties on Government to undertake timely Equality Impact Assessments on proposed policies.

To what extent does the Achieving Equality section reflect the BME third sector's response to the earlier Compact debate and BME Code Legal Review?

3.18 As outlined in section 2, Voice4Change England has been involved extensively in the Compact Refresh and has made detailed recommendations on the Compact Debate on future of the BME Code.

3.19 Given our involvement in the Compact Refresh on behalf of the BME Third Sector we were eager to see how our recommendations had been taken on board in the draft Refreshed Compact. We focused on the following key recommendations proposed in our earlier responses:

- ◆ The BME Code should remain as a distinct section whether as a single document or as part of one document. It should not be 'mainstreamed' or integrated into a single equalities code.
- ◆ The Commission for the Compact should conduct a Race Equality Impact Assessment on any proposed changes to assess the likely impacts of any changes to the Compact and its commitments on the BME third sector.
- ◆ Equalities more broadly should underpin the entire Compact including the BME section.
- ◆ The principles and commitments in the existing BME Code should be clearer and stronger in the future iterations of the Compact. They should be updated to reflect the current policy and legislative environment and to better meet the needs of BME third sector organisations.
- ◆ The BME Code should be updated to: better comply with equality law; emphasise the opportunities and requirements in equality law to create and deliver community (BME) specific services; and tackle multiple discrimination.¹

3.20 **Voice4Change England is very concerned that none of our earlier recommendations have been taken on board in drafting the Refreshed Compact consultation paper.** There is an absence of a distinct BME section, Race Equality Impact Assessment had not been undertaken prior to the proposed Refreshed Compact and likely withdrawal of the BME Code, equality as a broader principle is not a cross-cutting theme but is reframed as the 'Achieving Equality' section, the commitments in the Refreshed Compact are weaker than the commitments

¹ [Voice4Change England's Response to the Compact Debate, Nov 08](#) . Also see [Voice4Change England's Recommendations for the BME Compact Code and the Future of the Compact, Feb 09](#).

offered by the existing BME Code, and finally the Achieving Equality section does not emphasise the opportunities and requirements in equality law to create and deliver community (BME) specific services and tackle multiple discrimination.

3.21 We strongly believe it is unacceptable that the BME third sector's voice and concerns have gone unheard. Voice4Change England Partners are deeply disappointed that the views to date on the BME Code, legal review and Race Equality Impact Assessment have not been taken on board.

Key Recommendation 2: The Government and Commission for the Compact must take into account the views expressed by BME groups in previous consultations on the Compact debate. They must provide a full explanation (a response to the BME Third Sector) for not considering the Sector's response, for not undertaking a timely Equality Impact Assessment and for the withdrawal of the BME Code. This response must be supported with evidence and research.²

4. Specific Comments

Scope of the Sector

4.1 In its current form, the Refreshed Compact only superficially engages a big section of the third sector including community groups. We agree with Community Sector Coalition that "most groups are excluded most of the time because the Compact is not relevant to them and does not meet their needs. In particular equalities groups, including BME groups are especially prone to exclusion as no specific effort or commitments in the wider sense are forthcoming."

4.2 The Refreshed Compact as it stands will mainly engage third sector organisations already familiar with the Compact. These are generally large third sector organisations. However, the reality is that most small, grassroots and locally based groups are absent from local Compact negotiations mainly due to scarce resources that have been committed to raising awareness about the Compact and on its implementation. There should be a commitment in the Refreshed Compact to ensure that resources are made available to BME and other equality groups to engage with the Compact (both at national and local levels).

4.3 Distinct BME Code commitments for public bodies and the Government to build the capacity of BME groups to better prepare and deliver projects and influence local decisions (BME Code 3.2) is also lost in the Refreshed Compact. This will further exclude large number of BME and other equality groups who have historically been underfunded and disengaged with the formal structures of the third sector.

² Ibid. In our earlier responses, we have provided evidence in support of the BME Code.

The independence of the third sector

4.4 At consultation events with BME groups during November 2008, 'one of the main points raised was that all too often unequal power relationships exist between the Compact "partners" – whether intentional or not – and that these inequalities are particularly sharply experienced by BME third sector organisations.'³

"Power differential means most BME groups are at the bottom of the pile".⁴

4.5 'There was also a feeling that the Compact should tackle indirect discrimination explicitly, as this is one of the main instances where power imbalances are most acute and where it is most difficult to tackle.'⁵

4.6 In the absence of the distinct commitment 3.2 of the BME Code recognising the independence of the BME third sector; and Action Point checklist 4 which demands that the complaints procedure are known to the BME third sector to utilise without fear of reprisals, the independence of the BME third sector will be compromised.⁶

Key Recommendation 3: Although independence underpins the Compact Values (p18 Refreshed Compact), it needs to be strengthened and be stated as a distinct commitment for public bodies and the Government for protecting small BME, equality and community groups.

Accountability of the third sector

4.7 We support the principle of accountability to be placed on all bodies and sectors that spend public money and/or represent the public and communities. However, we agree with the Community Sector Coalition that the discourse around the sector needing to be 'made more accountable' has increasingly been the only message on offer from public bodies and parts of the larger national sector itself, hence the emphasis on the accountability of the third sector (only) in the Refreshed Compact.

³ 'BME and Equalities Issues in the Compact: A report of events held in November 2008 and January 2009', produced by the Commission for the Compact, unpublished.

⁴ Ibid.

⁵ Ibid.

⁶ BME Code Commitment 3.2 "recognise and support the independence of the BME sector and its right within law to challenge institutions, policy and practice, irrespective of any funding relationship that might exist, and to determine and manage its own affairs", Action Point Check List 4 "Ensure that complaints procedures are known and that BME voluntary and community groups are encouraged to utilise these without fear of reprisals." See BME Code pp 5 & 7 respectively.

4.8 We also agree with **Naz Project London**⁷, who in their response to the Refreshed Compact stated 'there are huge safeguards in terms of Third Sector accountability built into every funding relationship. What is worrying is the lack of any consultation question about whether the Compact goes far enough in making the Government accountable. What are options available to us, really, if a PCT breaks the Compact? It is like the elephant challenging the flea'.⁸

The relationship between national and Local Compacts

4.9 In our previous response to the Compact Debate, we pointed out that most local compacts are not meaningful and do little to develop good working relationships between local government and the third sector. Accordingly, it was felt that any changes to the Compact at a national level would have a limited impact on local Compacts as they currently stand.

4.10 **We repeat our previous recommendation that to address this disconnect, the national Compact should set the standard for local Compact negotiations.⁹ Our partners suggested that the Compact should have a similar framework to Race Relations legislation where a set of both standard and voluntary requirements are used to form local Compacts.** This would ensure that third sector organisations and local government across England have a good understanding of what to expect from their relationship, and would also be able to tailor their requirements to suit local circumstances.

Prime/subcontractor relationship

4.11 **We welcome commitment 7.1 of the Refreshed Compact consultation paper which seeks to ensure the application of Compact principles on all sub-contracting arrangements in the delivery of public services.** The 'Compact principles' must however take into account the above analysis of the 'Achieving Equality' section in which we believe the stronger commitments of the BME Code have been lost.

Consultation

4.12 **The Compact should maintain the principle and commitment for a 12-week consultation.¹⁰** Any departure from this principle must only come about in times of emergency and immediate danger to public interest. As infrastructure organisations, Voice4Change England and its Partners support a 12-week

⁷ Naz Project London (NPL) was established 18 years ago. Over the years it has grown to become a successful pan-London provider of sexual health and HIV prevention and support services for targeted Black and Minority Ethnic (BME) communities. For more information, please contact Teixeira@naz.org.uk

⁸ To discuss NAZ Project London's response to the Commission for the Compact, please contact teixeira@naz.org.uk.

⁹ [Voice4Change England's Response to the Compact Debate, Nov 08](#) see paragraph 2.2.

¹⁰ Ibid.

consultation period outside the holiday period to ensure meaningfully engagement of BME groups.

4.13 We welcome the commitments under sub-sections 2 and 3 of the 'involvement in policy development' section which seek to ensure the involvement of equality and community groups and require public bodies and the Government to remove all barriers in the engagement of these and small third sector groups. However we would like to see better cross-referencing of these commitments with the Achieving Equality section where little attention is given to involving BME and other equality groups.

Europe

4.14 Voice4Change England welcomes the specific commitment 6.4 on European funding. The experience of most BME groups with European funding suggest that it is hard work – application procedures and project assessment frameworks are often onerous and incompatible with the proposed project's scope.

4.15 In exploring how the distribution of European funding to third sector organisations can work better, we recommend that this commitment should be read in line with the other commitments in the Allocating resources and commissioning section.

Personalised/ individual budgeting

4.16 We agree with the Community Sector Coalition's response to this section which points out that the personalised/individual budgeting agenda comes from Government, not the third sector. It is inappropriate to mention this question in this consultation document in the absence of sufficient discussion and relevance of this with Compact principles.

Content and length

4.17 Voice4Change England agreed in principle for the Compact to be consolidated into one single documents if there was evidence that this would make it simpler and easier to use for both third sector organisations and Government. The Refreshed Compact consultation paper presents the Compact as one single document but misses out many of the key commitments that we wanted to see included and strengthened with regards to BME and other equality strands.

4.18 We therefore believe that the length of the document becomes less of an issue if fundamental considerations are lacking.

Equalities Strands

4.19 We have made a detailed response above to the Achieving Equality section. We would like to re-emphasise here that in comparison with the existing BME Code, the scope of the Refreshed Compact has 'levelled down' the distinctiveness of the BME third sector.

4.20 Whilst we are disappointed that the distinct BME commitments are lost and the term 'BME and other equality groups' has not been taken on board, we welcome the descriptors for each of the equality strands.

4.21 The absence of a rationale for the establishment of the BME Code i.e. the historical discrimination and institutional racism facing the BME third sector, BME communities, reference to the existing equality legislation, and the Commission's legal review of the BME Code would have given the Achieving Equality section much needed foundation and in its absence the Refreshed Compact has levelled down its commitments to BME third sector organisations.

4.22 We agree with the National Equality Partnership in their response that further signposting would be useful for people to obtain more detailed information about equality strands. We also reiterate their assertion that paragraphs on women's, disability, BME, LGBT, and other equality strands should include challenges that these groups face including the worsening funding crisis and single group funding related attacks on the identity and independence of equality groups.

4.23 In the following section of this response, we aim to present a comparative analysis of the commitments given in the Achieving Equality section with the essential commitments of the existing BME Code.

Monitoring and analysis of funding arrangements

4.24 We recommended in our previous responses to the Compact debate that references to public law must be given in future iterations of the Compact to ensure that both Government and third sector organisations are aware of the obligations that exist under public law for public bodies and those delivering services on behalf of the Government.¹¹ **The Refreshed Compact does not make explicit references to public law (in line with the existing equality duties) and its relevance in dispute resolution.** Absence of public law remedies in dealing with contractual disputes will affect the monitoring and analysis of funding arrangements between public bodies and BME and other equality groups thus a short sight in the Refreshed Compact.

¹¹ [Voice4Change England's Response to the Compact Debate, Nov 08](#). See paragraph 3.3.

4.25 Furthermore, the importance of carrying out timely Equality Impact Assessments on proposed policies must be clearly stated as a legal requirement.

4.26 Voice4Change England also likes to emphasise that the Compact applies to all third sector organisations regardless of their funding relationships with public bodies. Small BME, equality and community groups may not have and may not choose to have any funding arrangements with public bodies but the principles of Compact around involvement in policy development, consultation etc equally apply to these groups. There should be a clear distinction and recognition of these groups in the Refreshed Compact.

Key recommendation 4: References to public law remedies should be made in the Refreshed Compact with a commitment to support BME and other equality groups to understand the complexity and application of public law in any likely disputes including analysis of funding arrangements. Local and national Compacts must have delivery plans with implementation targets and regular monitoring to ensure its effective use.

5. Comparative analysis of the proposed Compact commitments in the 'Achieving Equality' section with six key BME commitments of the existing BME Code.

5.1 In creating a shortened Compact Voice4Change England highlighted six key commitments from the BME Code that must not be lost as a minimum requirement to meet the distinctive needs of the BME third sector. The following table provides an audit of these commitments and challenges the assertion of the Refreshed Compact that "it has retained the key commitments of the original. Indeed in several respects commitments have been strengthened....." (p8).

Key Commitments in the existing BME Code	Proposed commitments in the Refreshed Compact	V4CE Analysis
<p>The Government recognises and values the work, knowledge and expertise of the BME voluntary and community sector including its important role in helping Government to achieve its objectives. (Government Undertakings 3.2)</p>	<p>Government or public bodies should:</p> <p>Have strategies in place for how it will work effectively with the third sector on equality and diversity issues, and in meeting its duties under equality law. Relevant organisations should be involved in the development of these strategies. (20.1)</p> <p>Work together with organisations in the third sector, and in particular those which represent equality groups, to understand the specific needs of people from equality groups, and to design services that can accommodate those needs. (20.2)</p>	<ul style="list-style-type: none"> ◆ No direct reference to BME groups ◆ The proposed commitments partially capture the intent of the Government to value the work of equality (BME) organisations. However a clear recognition clause for the equality sector in helping government to achieve its objectives is missing. ◆ The proposed commitments should strongly value the equality sector in line with the BME Code Government Undertaking 3.2.
<p>Government will ensure that BME voluntary and community organisations have fair and equal access to Government funding programmes, particularly those that impact significantly on BME communities and consider the case for setting aside additional funds for BME organisations to build capacity, prepare and deliver projects. (Government Undertakings 3.2)</p>	<p>Government or public bodies should:</p> <p>Ensure that equality organisations have fair and equal opportunities to access Government funding programmes, including funds to build capacity, prepare and deliver projects. (20.4)</p>	<p>No commitment on setting aside additional funds for BME/equality organisations.</p> <p>It is crucial to equalise and make fairer the historical underfunding of BME and other equality groups.</p>

<p>It is important that Government and the sector undertake a joint review where withdrawal of funding has occurred. Identifying key causes, sharing lessons for organisational management practice and highlighting general support needs will help to prevent similar problems in the future. Actions that can be taken include developing effective and supportive monitoring and evaluation systems etc. (Government Undertaking 6.7)</p>	<p>If withdrawing a strategic grant from an equality organisation, evaluate the impact and consider whether the funding can be re-allocated to another organisation in the same part of the sector. (20.6)</p>	<p>No reference of ‘undertaking a joint review’ and actions that can be taken to develop effective and supportive systems to mitigate the occurrences of funding withdrawals.</p> <p>It is important to retain the resources in the sector as the default. However, this should be done with all organisations involved and must not be funder led only.</p>
<p>Government recognise and support the independence of the BME sector and its right within law to challenge institutions, policy and practice, irrespective of any funding relationship that might exist and to determine and manage its own affairs. (Government Undertakings 3.2)</p>	<p>No commitment similar to the existing commitment 3.2.</p>	<p>In the absence of clear recognition of the independence of the BME and equality sector and its right within law to challenge institution, policy and practice, “eyes will be off the ball”. BME and equality groups will face increased marginalisation of their status and value of services.</p>
<p>Government will draw on the expertise of the BME voluntary and community sector throughout policy</p>	<p>Commitments (2.1-4.6) in the Involvement in policy development section of the Refreshed Compact deal with the effective engagement and involvement of equality groups.</p>	<p>There should be clear cross-referencing of the commitments 2.1-4.6 in the Achieving Equality section.</p>

<p>development from the pre-consultation stage through to implementation. This will involve maintaining links with specialist organisations and meeting additional needs such as language needs and offering financial support for expenses incurred. (Government Undertakings 3.2; 5.2; 5.4)</p>		
<p>Government will support the development of BME sector capacity and infrastructure through strategic funding at local, regional and national level (Action point check list 8)</p>	<p>No commitment similar to the existing commitment Action point check list 8)</p>	<p>This is a significant loss not only for the BME third sector but more widely for the equality sector.</p> <p>The proposed Achieving Equality section must commit the Government to support and develop the capacity of infrastructure of BME/equality groups through strategic funding at local, regional and national levels.</p>

Further comments on the Achieving Equality section commitments

- ◆ Commitment 20.7 should read [Government or public bodies should] 'take reasonable steps **to support and build the capacity** of third sector organisations be aware of their own obligations to comply with their duties under equality law where they are providing services on behalf of the public sector.
- ◆ Commitment 20.8 on undertaking an assessment of equality impact should include **'grant funding and procurement'**.
- ◆ Commitment 20.9 on volunteering by particular group should be supported by a **clear recognition of the value of volunteering in the BME/equality sector**.
- ◆ Commitment 20.10 should emphasise having **a single SRB check for volunteers who are volunteering for more than one cause**.

Key Recommendation 5: The six essential commitments of the BME Code should be included in the Refreshed Compact for the BME and equality sector. These should clearly refer to:

- ◆ the recognition and value of the work, knowledge and expertise of the BME third sector including its important role in helping Government to achieve its objectives,
- ◆ setting aside additional funds for BME and other equality organisations to build capacity, prepare and deliver projects,
- ◆ undertaking of a joint review with the affected BME and equality organisations where withdrawal of funding has occurred,
- ◆ the recognition of the independence of the BME sector and its right within law to challenge institutions, policy and practice,
- ◆ maintaining links with specialist organisations and meeting additional needs such as language needs and offering financial support for expenses incurred to draw on the expertise of the BME third sector throughout policy development, and
- ◆ developing the BME and equality sector's capacity and infrastructure through strategic funding at local, regional and national level.

On commitments for the third sector in the Achieving Equality section

5.2 Commitment 23.3 to 'build representative infrastructure organisations that can promote the broad range of interests of equality groups' is far too prescriptive and infringes the independence of BME and other equality groups in maintaining their distinct identity and independence. It also echo the 'Cohesion Guidance for Funders' which required third sector groups to deliver to multiple ethnic communities and communities of interest.

5.3 Furthermore, in the absence of Government's commitment to set aside additional funds to build the capacity of BME/equality groups this commitment feels like an imposition – a top down approach to 'direct' third sector activity.

Clear recognition of and specific focus on BME and other equality groups

5.4 In line with the above detailed analysis, Voice4Change England believes that the section on Equalities could be improved in following ways:

- ◆ The context of the BME Code informs the Equality section. The persistent inequalities and institutional racism that BME and other equality strands face are recognised hence the need to put specific focus on each equality strand.
- ◆ Clear references to BME and other equality group specific services should be given as examples, case studies, action point checklists to ensure that challenges faced by these groups are clearly communicated to public bodies and the Government. For example commitment 21.2 should clearly mention BME groups in relation to the cohesion agenda, as these groups are most at risk of being denied funding under the misguided notion that they do not promote cohesion when evidence suggest that the opposite is true. This should be further strengthened by providing references to the Legal Review of the BME Code in particular around the BME/community specific service provision valid in equality law

Key Recommendation 6: Clear references to BME and other equality group specialist services should be given through out the Equality section as examples, case studies, action point checklists to ensure that challenges faced by these groups are clearly narrated to public bodies and the Government.

6. Comments on the response

We would be happy to discuss our response further with the Commission for the Compact, the Office of the Third Sector, and the Compact Voice.

Please contact Arjumand Kazmi, Head of Policy, Voice4Change England at arjumand@voice4change-england.co.uk or on 0207 843 6129 to discuss the response in detail.

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