

Wakefield Compact Positive Disputes Resolution Procedure

Positive Disputes Resolution Code



This code sets out what we expect of our members if a complaint is made about their compliance with the Wakefield Compact, and what we will do to help resolve disputes. It is founded on the following principles:-

Trust

We trust Compact member organisations to investigate Compact related complaints themselves using their own complaints systems. We will not intervene in, or duplicate, internal investigations. We will 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 this 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 understand that things sometimes go wrong...

The Wakefield Compact is a set of standards that we expect organisations to comply with but mistakes are sometimes made and members don't fully live up to its aims. If this happens, it is usually accidental and/or unintentional, but sometimes there is a genuine difference of opinion over what the Compact actually requires.

We're here to help put them right...

The Wakefield Compact Group provides practical help and support to those involved in Compact-related disputes so that they can be resolved quickly, positively and constructively. This code sets out a standard for our members to live up to in resolving complaints about the Wakefield Compact, and offers three resources for you to make use of, whichever side of a dispute you are on:-

- Advocacy
- Mediation
- Arbitration

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

The Compact stands for better partnership working and creating better outcomes for individuals and local communities and is endorsed and supported by the Wakefield District Partnership.



What you need to do

1 If you think someone else 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. Compact principles are still fairly new to many organisations. It is likely that there will be accidental or unintentional breaches from time to time and you will be doing members a 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 organisation concerned but if your dispute is not resolved you may wish to go through mediation or arbitration (see below)

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

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 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.

2 If someone else complains that you have breached the Compact...

We expect you to take any complaint seriously, and to investigate it through your own complaints procedures (these should meet the minimum standards in Appendix A). The Compact should be part of your normal way of working so 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 your formal procedure.

We expect you to take part in Compact mediation or arbitration if a complaint is not resolved through your internal procedures. Occasionally, your internal investigation may not resolve matters to the satisfaction of the complainant, or there may be a difference of opinion that you have not been able to sort out between you. 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 it is unlikely to be useful to repeat it

Our commitments to you

The Compact Group can help resolve disputes by providing advocacy, mediation and arbitration. Our commitment is that:

- If you ask us to appoint an Advocate we will do so within ten working days.
- 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 those involved.
- 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 those involved 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.

What support the Compact Group can offer you

1 Advocacy

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 organisations to ask them to put things right. 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. This advocate is likely to be a member of the Compact Group and an expert on the Compact. They 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. If your advocate doesn't think there has been a breach of the Compact they will tell you so and might have to withdraw, as it would be outside our remit. Normally however your advocate will support you throughout the process and they are there to help you and take your side.

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 open to all Compact members, whichever side of a complaint they are on.

2 Mediation

We expect that most Compact disputes will be resolved through members' internal procedures. Occasionally though an investigation can finish without achieving a result that satisfies the complainant – or there may be a 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.

We have access to a small panel of qualified mediators who are completely independent of the Wakefield Compact. A mediator will work objectively, impartially and confidentially to bring you together to try to reach a resolution that satisfies both parties. 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.

3 Arbitration

If mediation fails to provide a resolution and you want to take your case further we can offer Arbitration as a final resort. This would involve a referral to a panel of three members of the Compact Group with no prior involvement in the case. 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.

The panel would produce a finding of fact which might be accompanied by recommendations. The findings would be communicated to both parties by the Chair of the Wakefield Compact and, if recommendations had been made, the Chair would ask for a formal response within an appropriate period. We would expect a member of the Compact to take very seriously the contents 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. Ultimately, the Compact has moral authority only, resting on the goodwill and commitment of its members.

Other options available to you

1 Statutory bodies and legal remedies

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 local elected member or 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.

If you were considering judicial review you would need your own independent legal advice, as the Wakefield Compact is neither funded nor mandated to provide support in these circumstances.

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.

There are strict time limits for seeking Judicial Review, and less strict ones for referring a case to the Ombudsman (three months and twelve months respectively after the matter being complained about). If you are contemplating either of these routes, you should check that their deadlines will not be exceeded before embarking on Compact Arbitration.

2 National Compact Schemes

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 District level.

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 Chair of the Wakefield Compact will be happy to advise you about how to access the national schemes and the implications of doing so.

Summary

All organisations occasionally make mistakes or errors of judgment. 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.

The Wakefield Compact is voluntarily entered into. We hope that members will positively welcome any complaints that they receive about non-compliance as an opportunity to develop working practices and improve relationships. In that spirit the Compact Group will offer practical support and assistance to help members resolve any differences that arise.