

# Part 5H

## PROTOCOL ON PARTNERSHIP WORKING

### 1. GENERAL

1.1 This Protocol was adopted by Horsham District Council on 5th December 2007.

### 1.2 Background

Partnerships now play an important role in delivering community strategies and in helping to promote and improve the well-being of the area. They can provide a tool for the effective, efficient and economic delivery of services. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

### 1.3 Achievement

Local authorities now mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities are measured by what they achieve in partnership with others.

### 1.4 The nature of partnerships

The term partnership can encompass a wide range of collaborative arrangements. The Audit Commission defines partnership as an agreement between two or more independent bodies to work collectively to achieve an objective. They may or may not be partnerships in the legal sense. It can take all sorts of forms but is generally assumed to exclude the familiar relationships between client and contractor and between employer and staff.

### 1.5 The reasons for partnerships

The main reasons for entering into a partnership are:

- (a) the desire to find new ways to share risk
- (b) the ability to access new resources
- (c) to provide new and better ways of delivering services
- (d) to forge new relationships.



## 1.6 Partners

A partner is defined as either:

- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- (b) a body whose nature or status gives it a right or obligation to support the project.

## 1.7 Forms of partnerships

Partnerships can take many forms. Examples include:

- subsidiary or associated companies and trusts
- joint boards
- joint committees
- advisory groups
- joint consultative committees
- partnerships with suppliers
- accountable body for a partnership (e.g. Single Regeneration Budget)
- giving grants to partner organisations
- joint working.

## 1.8 Participation in partnerships

Partners participate in projects by:

- (a) acting as a project deliverer or sponsor, solely or in concert with others
- (b) acting as a project funder or part funder
- (c) being the beneficiary group of the activity undertaken in a project.

## 1.9 Partners' responsibilities

Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) to be open about any conflict of interests that might arise
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature



- (f) to act wherever possible as ambassadors for the project.

## **1.10 Controls**

The areas in which controls are needed will apply to all partnerships. The actual controls may be prescribed in some circumstances e.g. subsidiary companies or in the case of joint working subject to local discretion where it is up to the partners to agree a control framework. Giving grants to partner organisations may put the onus on partners in terms of service delivery and controls but the Council will wish to specify the conditions under which it is prepared to give a grant.

## **1.11 The importance of a business case**

Before entering into any partnership, the Council must be satisfied of the business case for

- (a) the project and  
(b) the method of delivery through a partnership.

In particular, the Council would want to be satisfied that:

- the work involved and the costs of setting up the arrangements are quantified and reasonable
- the decision-making processes are effective and efficient
- savings and economies are capable of being specific, measurable, ascertainable, relevant and timely
- service improvements are capable of being specific, measurable, ascertainable, relevant and timely
- the work required for and the costs in terms of money and time of setting and operating the partnership do not unreasonably and disproportionately fall on one party
- reporting and monitoring mechanisms are robust and transparent

both in their own right and in comparison with single or within Council procurement.

## **2. RISKS**

### **2.1 Identification of risks**

The Council faces increased financial, legal and reputational risks from partnership working. Given that risk management correlates to decision-making processes; the risk increases when those decision making processes are not sufficiently defined. Dependent on the nature of the partnership, the Council is likely to be exposed to one or more of the following risks:



- (a) failure to understand the extent of its involvement in partnerships, or its implications, including their financial and legal liabilities.
- (b) absent or insufficient criteria to enable the Council to assess whether to form a partnership or participate in one, what the appropriate level of involvement should be and what resources to invest.
- (c) a lack of formal procedures for assessing the suitability of partners, the legality of the proposed partnership arrangements and standards of financial regularity or conduct.
- (d) an exit strategy. The Council must be clear about the management of any continuing financial liability, the ownership of assets and arrangements for disposal in order to avoid the risk of future legal disputes, or of the accountable body (if this Council) becoming liable by default.
- (e) lack of clarity on insurable risk, such as indemnity cover for partner members or public liability.
- (f) lack of formal systems for recording conflicts of interests or for assessing the risks of funding proposals.

## **2.2 Failure to take account of risks**

The possible outcomes associated with these risks include:

- (a) a breakdown in financial control;
- (b) an increased risk of undetected fraud, corruption and error;
- (c) inadequate financial reporting; and
- (d) the risk of inaccurate financial data, which cannot be relied upon for preparing the annual accounts.

## **2.3 Formal internal control of risks**

All public sector organisations must now have a Statement on Internal Control and are also required to complete a “Use of Resources” statement which includes an assessment on partnership agreements. The Statement on Internal Control requires them to describe how their systems of internal control manage the main risks to achieving their objectives. Although partnerships do not have to be explicitly mentioned, their activities should be considered and any internal control issues highlighted if they fall into one or more of the following categories:

- (a) the issue has seriously prejudiced or prevented achievement of a principal objective;
- (b) the issue has resulted in a need to seek additional funding to allow it to be resolved or has resulted in significant diversion of resources from another aspect of the business;
- (c) the issue has led to a material impact on the accounts;
- (d) the issue, or its impact, has attracted significant public interest or has seriously damaged the reputation of the organisation; or
- (e) the issue has resulted in formal action being taken by the chief financial officer and/or the monitoring officer.



## **2.4 Seriousness of risks**

The degree of risk varies between partnerships, ranging from a low risk where the Council gives specific grants, to a high risk where it contributes a more complex range of resources such as physical assets and staff to providing a new service.

## **3. GOVERNANCE**

### **3.1 Importance of sound governance**

One of the biggest areas of risk in partnerships is where the obligations of the partners have not been clearly defined. For example, problems occur when one (or more) of the partners decide(s) to withdraw without giving sufficient notice. If the other partner(s) has /have been committed to providing resources that have fixed costs e.g. staffing or accommodation, then they may be liable to bear the costs of winding up the partnership e.g. redundancy pay or lease termination.

### **3.2 Partnership governance**

Each partner to an arrangement will have different governance arrangements. The partnership will therefore need to agree its own set of governance arrangements. Where this Council's arrangements are not followed, it is only acceptable to adopt the framework of the lead partner.

### **3.3 Members and governance**

The role of elected Members in the governance arrangements must be settled and clear. This will include Members' involvement in decision-making concerning and the monitoring of the arrangements and the performance of the services delivered. Identification of the right level of decision-making is important as is the proper reference at the appropriate time to the Council's scrutiny and overview machinery. Governance arrangements need to pay regard to the content, timing and level of communication to Members who make decisions and local members whose wards are materially affected to a greater degree than others.

### **3.4 Staff and governance**

The governance framework will need to be made clear to all the staff working for the partnership. This must be reflected in their terms and conditions of employment and appropriate training should be provided.



### **3.5 Personal liabilities**

There are specific issues relating to members of staff and councillors who represent the Council as directors of limited companies and some trusts where, by law, they are personally liable for their decisions. They need to be aware of this before they agree to take on such a role as the Council is unable to indemnify them.

### **3.6 The documentation of partnership arrangements**

Partners need to bring clarity to the governance of their collaboration. This requires agreement among them about purpose, membership and accountability. Partners should be clear whose interests they represent and how they will handle disputes. The first step is to draw up a comprehensive governing document or partnership agreement. All major partnerships should have a governing document, but it does not need to be overly complex, or anticipate every eventuality. Advice must be sought from the Council Secretary and Solicitor. Partnerships should use governing documents sensibly, to bring clarity to complex or ambiguous situations.

### **3.7 Agreeing the partnership documents**

The process of agreeing a governing document is itself an important element of partnership governance: it will help to clarify roles and relationships and build goodwill and trust. It is vital that partnerships review their governing documents regularly and, where necessary, amend them. This review process will confirm that current arrangements are satisfactory or afford partners the chance to raise fundamental issues that they would not normally discuss in the process of day-to-day business.

### **3.8 Contents of partnership documents**

Each partnership must decide for itself what form of governing document it needs, taking due account of any legal requirements. Each governing document must set out its main procedures clearly and unambiguously. The main elements are:

- (a) the name of the partnership;
- (b) aims and objectives;
- (c) membership, including status of different members and termination of membership,
- (d) schemes of delegation;
- (e) powers;
- (f) roles;
- (g) financial arrangements including procedures and the treatment of income and expenditure;
- (h) meetings: notice and frequency of meetings; quorum rules; chairing arrangements;



- (i) voting arrangements; and representation of other members;
- (j) decision-making processes (scope and timescales);
- (k) timescales;
- (l) review and overview mechanisms and amendments to the partnership's rules;
- (m) minutes; and
- (n) exit strategy/arrangements for dissolution.
- (o) administration and management costs
- (p) support services of central departments
- (q) premises costs and use of other assets
- (r) insurance costs, particularly when they are covered internally
- (s) sick pay of employees when partners are contributing staff time
- (t) potential liabilities e.g. cost implications where another partner withdraws altogether from the agreement or reduces their contribution
- (u) robust and transparent reporting mechanisms.

### 3.9 Key controls

The key controls for partners are:

- (a) a shared understanding of the roles, responsibilities and accountabilities of each partner
- (b) a shared ownership of strategy
- (c) better financial management, with clear procedures for determining the financial liabilities of each partner
- (d) the identification of criteria for success, management and monitoring and the judging of success
- (e) performance management arrangements between individual organisations and the partnership
- (f) structured, regular and comprehensive reporting on performance and finance
- (g) evidence of the value for money of the partnership arrangements
- (h) if appropriate, to be aware of their responsibilities
- (i) to ensure that risk management processes are in place to identify and assess all known risks
- (j) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise.
- (k) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### 3.10 Performance monitoring

There also needs to be an agreed process for planning and monitoring using performance indicators throughout the lifetime of the partnership:

- (a) regularly to review objectives
- (b) to ensure objectives are achieved



- (c) to ensure that the partnership continues to be the most effective approach to service delivery.

## **4. RESPONSIBILITIES**

### **4.1 The Director of Resources**

The Director of Resources has the following responsibilities:

- (a) To advise on effective controls that will ensure that resources are not wasted.
- (b) To advise on the key elements of funding a project. These include:
  - (1) a scheme appraisal for financial viability in both the current and future years
  - (2) risk appraisal and management
  - (3) resourcing, including taxation issues
  - (4) audit, security and control requirements
  - (5) carry-forward arrangements.
- (c) To ensure that the accounting arrangements are satisfactory.

### **4.2. Accounting controls**

In principle the accounting controls needed for partnerships are no different from any other activities of the Council. However there will be some additional requirements depending on the terms of the agreement with the other partners.

### **4.3. Financial management**

The principal governance issues in financial management are:

- (a) to establish adequate systems for financial control and monitoring within and between partnerships.
- (b) Setting strategic direction for some partnerships where the availability of resources drives the agenda, rather than community.
- (c) Ensuring that there are sufficient financial and human resources to enable the partnership to operate effectively.
- (d) to prepare annual budgets
  - (1) in accordance with a timetable agreed with the other partners
  - (2) incorporating costs and income covered by the partnership contract.
  - (3) for reporting to a joint committee / board as appropriate
  - (4) to monitor and take action to stay within the budget.
  - (5) if the Council is the lead partner for reporting to a joint committee board if appropriate or to the partners at agreed times.
- (6) to report to the lead partner if the Council is not the lead partner
  - (e) to account for expenditure and income



- (1) when the Council is the lead partner the total expenditure and income which goes through the Council's accounts must be included not just the Council's share.
- (2) expenditure and income should be subject to a partnership agreement and must be separately costed
- (3) to work within agreed rules when a pooled budget is being spent.
- (4) to prepare a set of final accounts
- (5) In accordance with accounting standards applicable to the lead partner
- (6) as required in the partnership agreement
- (7) for certification by the external auditor and the approval of any joint board / committee as appropriate.

#### **4.4. Heads of Service**

Partnerships need to agree high standards of conduct that govern the way in which they work. The integration of planning, commissioning and delivery in partnership working presents an opportunity for decision makers to promote or protect vested interests. It is important that sound procedures are in place to resolve conflicts of interest. Decisions should be open and transparent to all persons having an interest. Heads of Services have following responsibilities:

- (a) to construct a business case for the use of partnership arrangements
- (b) to ensure that partnership working will lead to greater economy, effectiveness and efficiency in delivering services
- (c) to assess the implications of creating and operating partnership arrangements
- (d) to maintain a register of all contracts entered into with external bodies in accordance with procedures specified by Contract Standing Orders
- (e) to ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared
- (f) to ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council
- (g) to ensure that all agreements and arrangements are properly documented
- (h) to provide appropriate information to the Director of Resources to enable a note to be entered into the Council's statement of accounts concerning material items
- (i) to ensure that partnerships are not entered into or resources committed unless the Council has demonstrated that it has the capacity to deliver its obligations without impacting on service delivery and has taken into account any factors identified by an appropriate risk assessment, particularly where the Council is to act as the Accountable Body
- (j) to ensure that elected Members and decision-makers are properly briefing.



## 4.5 Elected Members

Elected Members are responsible for:

- (a) approving the partnership arrangements
- (b) approving material changes to them
- (c) monitoring the performance of those arrangements
- (d) monitoring performing the services delivered through the arrangements.

