

Partnership Policy

(reviewed and updated February 2020)

Summary

This Policy applies whenever officers are considering entering into a partnership with an external body. The advantages of adhering to this policy is that it protects the Authority and its Officers from the risks and liabilities associated with partnership working. It aims to promote good partnership working by raising the awareness of good practice and supporting important aspects of managing partnerships.

The critical first step is to determine whether it is intended to enter into a formal partnership or not. This policy provides the framework for that decision and the necessary next steps.

Classification of Partnerships

The numerous terms used to describe partnership working are often used interchangeably which can lead to confusion. It is important that all terms are properly defined and agreed at the outset of any new partnership.

A partnership exists where two or more separate parties collaborate to achieve an agreed outcome. This can lead to the formation of a legal partnership with or without a written agreement. In a partnership the members will be jointly and severally liable for the activities subject to any liabilities defined in a related legal agreement. In practice this may mean whoever has the 'deepest pockets' takes ultimate responsibility unless they have taken steps to protect themselves.

It is important to determine the nature of any joint working to establish whether a partnership has actually been formed and to prevent the accidental formation of partnerships where this is not intended. Support for community groups can create the potential for this to occur and should not be overlooked.

Advisory and networking arrangements that enable Officers to keep in touch with developments and do not include commitments or obligations will not normally result in the formation of a partnership. Occasional support for other organisations projects will not normally result in the formation of a partnership but where this is ongoing or structured it may be worth documenting the arrangement through a Memorandum of Understanding.

Checklist for good partnership working

All Officers or Members who are involved in formal partnership activity should consider the following:

- What is the partnership intended to achieve. Has it got clear, documented and agreed objectives and targets?
- What is its intended lifespan?
- What is the constitution of the partnership including who is leading, accountable and what other organisations will be represented on the partnership and in what capacity (for example to support or deliver)?
- Who is specifically responsible for the risks associated with the partnership and its projects
- Who will represent the Authority (Members and Officers) and partners and how will they feed back into the organisation and vice versa?
- Are there clear partnership governance processes for decision-making and resource allocation?

- What are the specific resource commitments required of all partners; are these adequately defined?
- Where will match-funding be sourced, if it is required by an external funder and will it be underwritten by each partner?
- Has IT and other necessary support services been considered and arranged?
- What are the legal obligations and liabilities of the lead partners and participating partners?
- What is the approach to communications? Would a communications protocol be appropriate?
- Are there arrangements for monitoring, reporting, review and exit?
- How will disputes be resolved?
- Has information sharing been adequately considered, and is it in line with General Data Protection Regulations (GDPR)?
- Who makes the decision on the partnership ending and how any surplus assets be dispersed or any outstanding liabilities shared?
- Are all its necessary documents in place?
- Are there any of the following considerations:
 - Human Rights
 - Employee
 - Health & Safety
 - Equality
 - Intellectual property
 - Freedom of Information

Responsible Officers and Heads of Service (HoS), in consultation with Directors, will need to be confident that these questions have been asked and that appropriate provisions have been made based upon the responses received.

Guidance for specific stages of Creating, Managing, Reviewing and Exiting a Partnership are set out below.

STAGE 1 - Creating or joining a new Formal Partnership

Firstly determine whether a partnership is intended to be formed. If a partnership is not to be formed then it is recommended that the decision is recorded locally for the avoidance of doubt. From the date of this review it is no longer intended to maintain a central database of partnerships.

If a partnership is to be formed then determine the extent of the relationship and the necessary documentation to provide certainty and accountability about the partnerships function and powers. Guidance on the types of document are set out in the section titled 'Documentation'. If a new partnership agreement is to be drawn up then it is essential that the advice of the Legal Services and Finance is sought and followed.

The decision to create or join a new formal partnership should be made by a Head of Service. The judgement rests with the HoS in consultation with their Director whether approval needs to be escalated to Strategic Leadership Team (SLT) based upon their assessment of:

- Financial commitment and risk.
- Risk to the reputation of the Authority.

- Impact on existing programmes
- Impact on resources.
- Impact upon Authority assets.
- The fit with established National Park Management Plan (NPMP) and Corporate Strategy objectives
- The consequence of not supporting the proposed partnership

There will be a need to report to Members if higher budget approval or Member representation is required.

For every partnership which the Authority enters into there should be a Responsible and Accountable Officer. Typically this will be a Head of Service or Director as they will need to have sufficient authority to commit resources and make decisions at a level appropriate to the work being undertaken.

STAGE 2 – Being a member of a Formal Partnership

For the time that the Authority is a member of a formal partnership, the partnership Responsible Officer is responsible for monitoring and reporting on the progress of the work to the Authority.

This should be achieved by the partnership's work being an action(s) in the relevant Service's Delivery Plan so progress and risks can be monitored. Where the partnership also contributes towards the NPMP delivery plan, progress should also be report to the NPMP Advisory Group and Annual Monitoring Report provided to the Authority.

It is expected that all partnership Responsible and Accountable Officers will complete an evaluation of each partnership's performance annually as part of their Delivery Plan review and produce a RAG rating. If this identifies any significant risks to the Authority then these should be addressed or escalated to SLT for consideration as appropriate. The Authority expects that Responsible and Accountable Officers actively review the progress of partnerships that they are involved with and where this is found to be unsatisfactory it is expected that they will take action to remedy the situation to protect the Authority's interests. Equally, if the partnership is no longer meeting the Authority's objectives, the Responsible Officer should follow the Stage 3 protocol to exit the partnership.

STAGE 3 – Reviewing/Changing/Exiting a Formal Partnership

The case for reviewing, changing or exiting a Formal Partnership should be made by the partnership Responsible Officer in consultation with the relevant Director. Where this affects Members or has significant financial or reputational implications this decision should be referred to Strategic Leadership Team (SLT) and the Chief Financial Officer for them to approve.

The same factors should be given consideration when altering or exiting a partnership as would be considered on forming a partnership; listed under Stage 1.

Where the Authority leaves a partnership or changes its engagement with an existing partnership this decision must be acted on and documented, including a report to Committee if necessary.

Governance Arrangements

All Formal Partnerships that the Authority participates in will have some level of written agreement or governing document in place to ensure a shared understanding amongst the partners about the desired outcomes of the partnership, about membership, about individual commitments to the

partnership and about accountability. Where the Authority is the accountable body our own Standing Orders and governance procedures apply and this will be stated in the partnership arrangements.

Where another body is accountable, then its procedures apply covering legal and financial matters and this will need to be made clear in the partnership agreement. The specific role and contributions of participating members may be the subject of an individual agreement that will need to be made clear in the partnership agreement and checked with Legal Services. Legal Services are the only ones that can sign legal agreements on behalf of the Authority.

Documentation

It is essential that any formal Partnership has the correct documentation to protect the Authority. The nature of the documentation used will be determined by the type of partnership which is being engaged in.

For relatively informal [and low value] arrangements with limited commitment of resources a memorandum of understanding may be appropriate. A Memorandum of Understanding (MoU) can be used to establish a functioning collaboration but with the express intention of not entering into a legal partnership. The advantage of this is that it allows organisations to support each other practically without taking on any wider responsibility for their operations. However, it would be inadequate for complex projects which require detailed allocation of risk and accountability. A MoU is not a legally binding document but a statement of intent. Legal Services will support the agreement and documentation of MoUs which must be signed by Legal Services on behalf of the Authority.

[Template Heads of Terms are attached at Appendix 1, which may be used as a basis for discussions with partner organisations]

A Service Level Agreement (SLA) maybe more appropriate to describe the nature of the arrangement between two (or more) organisations. Normally this covers the practical elements of service delivery by one organisation to another and is a form of service contract. Parties should be aware that if payment is involved then a legal contract is likely to have been formed between the two parties and there may be VAT implications. A service level agreement should be in writing and legal services support should be obtained.

For more specific forms of collaboration and partnership which require greater degrees of accountability, binding agreements will be required. These agreements will be specific to circumstances and it is beyond the scope of this document to describe all the possibilities. Therefore it is important that Legal advice is sought at an early stage before entering into any formal Partnership agreement.

Partnerships are often over seen by a steering group in which case a Terms of Reference (ToR) document is required to define the scope, purpose, membership, meeting arrangements and authority of the steering group. Partnerships which use funds provided by third parties may also be subject to the specific funding conditions imposed. E.g. Moors for the Future and EU funding.

Whatever the level of integration it is also good practice to produce a detailed risk register when embarking on joint projects to prevent adequate safety measures being overlooked through omissions and assumption.

If you require any further information or advice please contact: Emily Fox (Head of Strategy and Performance) or for specific legal advice contact Andrea McCaskie (Head of Law).