



## Standards Committee

<b>Date:</b>	<b>Monday 30 March 2009</b>
<b>Time:</b>	<b>6.00 pm</b>
<b>Venue:</b>	<b>Committee Room 1 - Wallasey Town Hall</b>

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## AGENDA

### 1. DECLARATIONS OF INTEREST

The members of the Committee are asked to consider whether they have a personal or prejudicial interest in connection with any item on this agenda and, if so, to declare it and state the nature of that interest.

### 2. MINUTES (Pages 1 - 4)

To approve as a correct record the minutes of the previous meeting, held on 27 January.

### 3. ETHICAL GOVERNANCE 2008/09 - DRAFT REPORT AND COMMENTS (Pages 5 - 28)

### 4. REGULATION OF INVESTIGATORY POWERS ACT 2000 - USE OF POWERS (Pages 29 - 100)

### 5. PARTNERSHIP GOVERNANCE FRAMEWORK AND TOOLKIT (Pages 101 - 200)

### 6. REGISTERING OF GIFTS AND HOSPITALITY (Pages 201 - 210)

### 7. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES (Pages 211 - 212)

### 8. NORTH WEST INDEPENDENT MEMBERS FORUM (Pages 213 - 216)

**9. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

**10. STANDARDS BOARD DECISION NOTICE (Pages 217 - 218)**

**11. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR**

## STANDARDS COMMITTEE

Tuesday 27 January 2009

<u>Present:</u>	Mr	Brian Cummings (Chair)	
	Councillors	C Blakeley WJ Davies K Hayes AR McLachlan C Meaden	L Rowlands A Taylor C Tegg P Williams
<u>Independent Members:</u>	Messrs	Ken Harrison MBE (Vice-Chair)	Alex Nuttall

### 27 DECLARATIONS OF INTEREST

The members of the Committee were asked to consider whether they had a personal or prejudicial interest in connection with any item on the agenda and, if so, to declare it and to state the nature of such interest. No declarations were made.

### 28 MINUTES

**Resolved – That the minutes of the previous meeting, held on 1 December 2008, be accepted as a correct record.**

### 29 CODE OF CORPORATE GOVERNANCE

The Director of Law, H.R. and Asset Management sought the Committee's views on the proposed Code of Corporate Governance for the Council, which had been endorsed by the Audit and Risk Management Committee the previous evening. The new Code was in line with the 'CIFPA/SOLACE Delivering Good Governance in Local Government Framework', published in July 2007.

The Framework replaced the previous corporate governance guidance and required local authorities to undertake specific actions and have in place principles that should underpin the governance of each local government body from 2007/08. That should ensure that the Council complied with the Framework and, accordingly, the statutory requirements of the Accounts and Audit Regulations. Paragraph 3.2.set out the six core principles, developed by the Independent Commission on Good Governance in Public Services, and supported by the Department for Communities and Local Government and CIFPA, that ought to underpin the governance of each local government body. The Council had to produce an Annual Governance Statement to show how well it performed in each year, the latest having been submitted to the Audit and Risk Management Committee on 30 June 2008 (minute 6 refers).

**Resolved – That the proposed Code of Corporate Governance be endorsed as far as this Committee is concerned.**

### 30 ETHICAL GOVERNANCE DIAGNOSTIC

The Director of Law, H.R. and Asset Management suggested that members might want to comment on any issues raised at the interviews that had taken place earlier that day as part of the Ethical Governance Diagnostic.

The Chair stated that so far involvement by the co-opted members had been limited and there was a need to strengthen their role. He himself had been in discussion with the Chief Executive with a view to raising awareness of the Committee's role generally, and he felt it would be appropriate for the Committee to go through the Audit Commission's report in detail once it was available.

The Committee went on to discuss the issue of training in governance issues, which was regarded as a high priority within the Members Development Programme; the need to develop a work programme for the Committee, which should include regular reviews of codes and protocols and anything else that might contribute to good governance; and ways of involving co-opted members more in the operation of the Council, particularly training opportunities.

**Resolved – That in the first instance arrangements be made to include co-opted members of this and other committees in the Member Development Programme.**

### 31 OMBUDSMAN CASES - PERFORMANCE UPDATE

The Director of Law, H.R. and Asset Management reported on the current level of performance in dealing with complaints made to the Local Government Ombudsman. For the quarter 1 September to 31 December 2008, the Council received 8 complaints, and the average time taken to respond to the Ombudsman had been 41 days (against a target of 28 days), which was considered very disappointing given the previous significant improvements in response times.

He explained that that was attributable mainly to two cases where there had been a significant delay, and he related the circumstances of each. It was still hoped that the strong performance over the first half of the year and an improved performance in the final quarter would enable the overall target to be met. Using the experience of the two cases, all staff involved would be reminded of the need to ensure that complaints were given the appropriate priority and more senior staff would be involved in the process. In response to members' queries, he undertook to look into whether the authority's view on the reasons for one of the delayed cases had been conveyed to the Ombudsman and to review the protocol in place for handling complaints referred by the Ombudsman.

**Resolved – That the report be noted and the Director report back on the matters now raised.**

### 32 DECLARATION OF GIFTS AND HOSPITALITY - UPDATE

The Director of Law, H.R. and Asset Management reported on current work taking place on the process for registering gifts and hospitality. He referred to the Council's new software programme for its democratic processes, which had been in operation

since October 2008. Development of the system and its uses was progressing, and the register of member's interests was in the process of being transferred from the paper system on to the computer system. That would enable members to update their own entry on the register and it would be accessible via the Council's website to the public. Members would be sent an automatic reminder every three months of the need to update any changes to their interests. It was intended that declarations of any gifts and hospitality received would also be entered directly on to the system in the same way, which it was hoped to complete by 31 March.

The Director referred to the question of members being offered gifts or hospitality in their capacity as members of other authorities or boards to which they had been appointed by the Council, for example the Police Authority, the Fire and Rescue Authority or Merseytravel. The issue had been discussed at the Merseyside District Secretaries meetings (attended by the Chief Legal Officers and their deputies for the constituent authorities and the joint authorities). Guidance had also been sought from the Standards Board for England. The conclusion was that such offers should be registered with both authorities, and all members would be informed accordingly. They would also be reminded that the obligation to register rested with themselves.

Members suggested that any guidance should be supported by training, to include illustrations of best practice; queried the extent to which a paper record might still be necessary; and noted the Director's view that offers of gifts and hospitality that were declined should also be registered.

**Resolved – That the report be noted and the Director submit a further report to the next meeting on guidance to members on the declaration of gifts and hospitality and the implementation of the new system for registration.**

33 **DATE OF NEXT MEETING**

Further to minute 26 (1/12/08),

**Resolved – That enquiries be made about the possibility of changing the date of the Audit and Risk Management Committee in March in order to avoid a clash with this Committee.**

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# Ethical Governance

Wirral Council  
Audit 2008/09  
Date

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The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



# Summary report

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## Introduction

- 1 Confidence in local democracy is a cornerstone of our way of life. It can only be achieved when elected and co-opted members of local authorities are seen to live up to the high standards the public has a right to expect from them.
- 2 In recent years there has been an increased emphasis on standards and conduct in public life. The findings of the Committee on Standards in Public Life, the Local Government Act 2000 and the introduction of the Standards Board for England (SBE) are all factors in the current weighting being given to the need for strong ethical governance in local councils. This was also reinforced by the Chief Executive of the SBE in his November 2006 letter to local authority Chief Executives where he stressed the roles of Chief Executives and leading members in influencing organisational culture and supporting the ethical environment.
- 3 High ethical standards are the cornerstone of good governance. They are an integral part of good corporate governance arrangements and can lead to increased confidence in local democracy and better public services. Setting high ethical standards is an important building block for councils in developing their community leadership role and improving services to the community. Councils are also becoming involved in increasingly complex partnerships and poor ethical standards may adversely affect these arrangements.
- 4 Ethical governance is an area of great interest to the national and local press, particularly when things go wrong. Local authorities and individual members face a number of risks, including investigation for alleged breaches of the Code of Conduct, sometimes leading to the disqualification of members, loss of confidence and trust in individual members, councils and local democracy and poor decision making.
- 5 On average nationally, one member a week was removed from office in 2006. Other sanctions have included formal censure and suspension from using council facilities. Issues included bullying behaviour, misuse of council resources, bringing a council into disrepute and using the position as a member for personal gain. The high number of disqualifications has now reduced but it is important that the spotlight stays on high ethical governance standards. The economic recession, for example, has placed added pressure on members and officers to proactively manage the Council's finances and other resources, particularly where costs and demands for services are increasing.
- 6 One of the common aspects of governance failures is not the absence of frameworks, controls and arrangements but the absence of appropriate behaviours and values amongst members and officers. This audit therefore looks at Wirral Council's compliance with statutory requirements and also at behaviour, culture and values.

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## Background

- 7 This work is based on the requirements of Part III of the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007. Every local authority is required to adopt a Members' Code of Conduct that sets out the rules governing the behaviour of its members. A new model Code of Conduct was issued by the government in April 2007. Wirral Council adopted the revised Code in its model form in May 2007. The Code covers areas of individual behaviour such as members not abusing their position or not misusing the Council's resources. In addition, it includes rules governing disclosure of interest and withdrawal from meetings where members have relevant interests. Members must also record their financial and other interests.
- 8 All councils were required to establish, by May 2002, a Standards Committee to promote and maintain high standards of conduct for members. One of their roles is to create a sense of 'ethical well-being' in the authority. A new locally based system for dealing with complaints about local authority members' conduct came into force in May 2008. The new framework gives Standards Committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions. This is except where cases cannot be handled locally because of their highly sensitive nature.
- 9 Wirral Council has 66 councillors. The Conservative Group is the largest party with 24 seats; Labour has 21 and the Liberal Democrat Group has 20, with 1 Independent councillor. A Leader and Cabinet of Labour and Liberal Democrat Councillors govern the Council. The governance arrangements also include ten Overview and Scrutiny Committees and a Standards Committee whose terms of reference cover the model framework.
- 10 The Council's net revenue budget (2008/09) was £298.7 million. Services are delivered by seven departments: Adult Social Services; Children and Young People; Corporate Services; Finance, Law, Human Resources and Asset Management; Regeneration; and Technical Services.

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## Audit approach

- 11 The aim of this work is to assess how far:
  - the Council complies with Part III of the Local Government Act 2000 and the relevant sections of the Local Government and Public Involvement in Health Act 2007;
  - the Council ensures that the Standards Committee has access to the right information and support to enable it to do its job properly;
  - members and officers understand and are aware of ethical issues;
  - members abide by the Code of Conduct; and
  - members and officers have training needs in this area.
- 12 This work covers four key lines of enquiry:

## Summary report

- Balancing rules and trust: supporting the genuine motivation of people while ensuring that those who do breach the rules are challenged.
- Independent overview: monitoring, developing and promoting the Council's approach to the ethical agenda and how far this is delivering improvement.
- Leadership: encouraging good conduct in the Council, including in relation to the equalities and diversity agenda.
- Transparency: ensuring transparency in the way that the Council carries out its business.

### 13 The work comprised:

- an electronic survey of members, senior managers and Democratic Services officers in the Council; and
- an assessment of how well the Council's ethical governance arrangements are working. - including document review, interviews and focus groups.

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## Main conclusions

### 14 The Council has a good understanding of the key ethical governance issues that it faces and the action needed to promote and maintain standards. Positive features include:

- the Members' Code of Conduct is generally operating effectively and the behaviour of members and officers is mostly appropriate;
- members and officers work well together to achieve the Council's common goals;
- the membership of the Standards Committee complies with the legislation - the Chair and Vice-chair are independent members;
- the Council has a good approach to promoting equality and diversity in its policies and services;
- both the Leader and Chief Executive are considered to be role models in promoting the ethical agenda; and
- the Council is taking active steps to encourage good conduct by members and officers and to improve transparency in the way that it carries out its business.

### 15 Although the survey findings are encouraging - and more positive than the average in many areas - they also pinpoint issues where further work and clarity is needed. In particular the findings suggest that some members and officers could be helped to develop a better understanding of ethical governance in the Council. For example, members and officers have different perceptions about how members abide by the Code of Conduct and the extent to which communication between them is constructive. The survey results suggest that greater communication about the ethical framework and a wider understanding of each other's role would strengthen working relationships and improve delivery of the ethical agenda.

### 16 Other areas for development include:

- raising the profile of the Council's Standards Committee through proactive work and ensuring that all members of the Committee have access to the right information to carry out all its functions effectively;
  - reviewing the level of training for members and officers on the ethical agenda;
  - creating a culture in which members and officers can:
    - make allegations of misconduct by a member or an officer without fear of reprisal and be confident in the action they should take;
    - challenge member recommendations and council decisions to improve openness and transparency; and
    - be assured that inappropriate behaviour is suitably dealt with.
  - clarifying the use of council resources for political and non-political purposes;
  - raising trust and confidence in local government and democracy; and
  - increasing awareness of the Whistleblowing Policy and re-enforcing assurances that reporting through this mechanism can be done without fear of reprisal.
- 17 The Council also needs to consider whether it is satisfied with results that are more generally positive than the other comparator councils or whether it aspires to higher standards.
- 18 An action plan has been agreed with council officers (Appendix 2) to address the issues arising from this review. The report and action plan are presented to the Standards Committee to agree the content and comment on the action plan before being finalised. The report, survey results and action plan provide the members of the Standards Committee with a baseline assessment of where the Council is now and a positive framework for strengthening ethical governance arrangements to result in increased confidence in local democracy and better outcomes for local people.

# Detailed report

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## Balancing rules and trust

- 19 The Members' Code of Conduct is generally operating effectively. Our surveys show that around 90 per cent of members report that they 'always or usually' abide by the Code. Officers' perception is much less - at 67 per cent - although a third of officers don't know.
- 20 The behaviour of members and officers is mostly appropriate and consistent with findings from other surveys. Around 85 per cent of members, compared with 68 per cent of officers report that members perform their duties with honesty, integrity and impartiality. A small number of complaints about members' behaviour also suggest that the Code is generally working effectively. Only in isolated instances have allegations been made that - if substantiated - could reasonably be regarded as behaviour bringing their office or authority into disrepute.
- 21 The relationship amongst members is similar to that in other councils. Forty nine per cent of members say that members always or usually trust each other and 39 per cent say 'sometimes'. Sixty eight per cent of members say that they treat other members fairly. Occasionally insulting comments are made by members about other members in a public meeting. It is important that members recognise a balance between proper, political debate and forthright exchange of views and how their behaviour is perceived.
- 22 The behaviour of officers is generally appropriate and well regarded. The Council has approved a code of conduct for officers. This code covers honesty, integrity, impartiality and objectivity; accountability; respect for others; personal interests; openness; and the use of the internet and electronic mail facilities. Our survey found that 88 per cent (above average) of members and 96 per cent (average) of officers say that officers perform their duties with honesty, integrity, impartiality and objectivity. Eighty four per cent of officers say that officers always or usually trust each other. Where behaviour is allegedly not appropriate action is generally taken, including internal or external investigations.
- 23 The Council has integrated the Members' Code of Conduct in its equality policies and schemes. The Code - in line with the model Code and the ten general principles of public life - requires members not to do anything which may cause the Council to breach any of the equality enactments. They should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. These principles are reflected in the Council's Equality and Diversity Policy and Strategy.
- 24 The trust between members and officers is about average. Both groups agree on how fairly officers treat members but how members treat officers, uphold their impartiality and listen to their advice is perceived differently. The Council has adopted a protocol on member and officer relations. In particular it defines the roles of officers and members, officer advice to party groups, briefings for Cabinet and committees and members' access to information. Our survey also found that:

- 63 per cent of members and 59 per cent of officers say that officers and members trust each other but a quarter say only 'sometimes';
  - 88 per cent of members compared with 76 per cent of officers say that members always or usually listen to the advice of officers;
  - 85 per cent of members compared with 76 per cent of officers say that members treat officers fairly; and
  - 88 per cent (above average) of members and 76 per cent of officers (above average) say that members always or usually uphold the officers' impartiality.
- 25** Appropriate confidences are mainly considered to be kept by officers and members but to varying degrees. Seventy five per cent of members compared with 59 per cent of officers say that they are always or usually kept by members. Seventy six per cent of members and 84 per cent of officers say that they are kept by officers. However, occasional leaks of confidential information to the media do occur. In certain circumstances such disclosure of, for example, a potential development can create a risk of public anxiety and compromise negotiations with the Council.
- 26** Members and officers work well together to achieve the Council's common goals. But, again, working together and amongst each other are perceived differently:
- 64 per cent (above average) of members and 79 per cent (average) of officers say they work well together to achieve common goals, but 31 per cent of members say 'sometimes';
  - 44 per cent (below average) of members and 52 per cent (above average) of officers say that members always or usually work well together, but 44 per cent of members and 32 per cent of officers say 'sometimes'; and
  - 70 per cent (average) of members and 90 per cent (average) of officers say officers work well together to achieve common goals.
- Whilst members will have differing political opinions and priorities a high level of collaboration means that it is more likely that councils will improve outcomes and the quality of life for local people.
- 27** Members are not totally convinced that they make allegations of member or officer misconduct appropriately or can do so without fear of reprisal. Our survey found that understanding was similar to that in other councils and that always or usually:
- 61 per cent of members make allegations of member misconduct appropriately;
  - 56 per cent make such allegations without fear of reprisal but 23 per cent don't know and
  - 54 per cent of members consider that they can make an allegation of officer misconduct without fear of reprisal but 32 per cent don't know.
- 28** These findings are consistent with how confident officers consider that they can make an allegation of member misconduct without fear of reprisal. Officers are more confident (79 per cent) about making an allegation about misconduct by another officer than by a member making such an allegation against another member (56 per cent). However, 34 per cent of officers don't know if they can make an allegation of member misconduct without fear of reprisal.



## Detailed report

### Recommendation

- R1** Emphasise to members and officers that they can:
- make allegations of misconduct by a member or an officer without fear of reprisal; and
  - be confident in the actions they should take as individuals if they become aware of such misconduct.

### Independent overview

- 29** The Standards Committee is operating appropriately and members are keen to develop arrangements to ensure it operates more proactively. Guidance, information and training are provided for councillors on the Committee but have been limited for Independent members.
- 30** The membership of the Standards Committee complies with the requirements of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. It has 12 members including 3 independent members - 2 of which are the Chair and Vice-chair of the Committee - and 3 members from each political party. Independent members are important for increasing public confidence in local government. They bring a wider perspective from their own experiences and can provide a clear signal that the Committee acts fairly, impartially.
- 31** Independent members were appointed following an advertisement in a local newspaper. In addition vacancies were drawn to the attention of local people who receive the Wirral Governor newsletter, are on the Older People's Parliament distribution list and are members of the Wirral Council for Voluntary Services and the Chamber of Commerce. Applicants were asked to declare any political interests - this is good practice and helps to increase public confidence in the fairness of the Committee. They were interviewed by the spokespersons of all three political parties and the Council approved their recommendation. The recruitment process helps to attract members with a keen interest in standards in public life and a wish to serve the local community and uphold local democracy.
- 32** The terms of reference of the Standards Committee are included in the Council's Constitution, which is published on its website. They include:
- promoting and maintaining high standards of conduct by members;
  - assisting them to observe the Members' Code of Conduct, advising the Council on the adoption or revision of the Code and monitoring its operation;
  - advising, training or arranging training for members on the Code;
  - dealing with reports from a case tribunal, the Monitoring Officer and Local Government Ombudsman; and
  - monitoring and reviewing the operation of whistleblowing procedures.
- 33** The terms of reference of the Standards Committee are set out in full at Appendix 1. The Constitution also details the terms of reference and membership of the Standards Initial Assessment, the Standards Review and the Standards Hearings panels. It specifies the assessment criteria - for considering whether or not a complaint should be investigated or no further action should be taken - and

the protocol for dealing with complaints of an alleged breach of the Members' Code of Conduct.

- 34 The Committee's governance role also includes, for example, receiving reports from the Local Government Ombudsman and advising the Council on the appointment of independent members. Giving the Committee wider-reaching responsibilities is a positive step. It also provides a workload which is regular and interesting and should aid the retention and recruitment of independent members.
- 35 Members of the Standards Committee demonstrate a commitment and willingness to maintain and enhance ethical standards across the Council. But much work needs to be done to raise awareness of the Committee. Opportunities exist for development particularly in explaining how its role supports the ethical agenda and ensuring the required standards of behaviour by members and officers. Our survey shows that more than three quarters of officers and members say that the work of the Committee adds value to the Council:
- 39 per cent of members and 52 per cent of officers don't know if it is making a positive difference to the way people outside the Council view the organisation; and
  - 22 per cent of members and 40 per cent of officers don't know if the Standards Committee or Monitoring Officer monitors member behaviour against the Members' Code of Conduct.
- 36 Further opportunities exist for the Committee to be proactive. It could, for example, undertake an assessment of standards in the Council and consider the effectiveness of the codes of conduct and complaints and whistleblowing policies. Its work has largely been to receive officers' reports and - in a few instances - to consider alleged inappropriate behaviour by members. However, the Chair is currently attending Council and committee meetings to observe member behaviour. This is a positive step. It is intended that the Monitoring Officer will discuss with the Chair if any action is needed to improve compliance with the Code. Periodic ethical audits highlight any systemic weaknesses.
- 37 The Committee does not have a workplan, nor does it produce an annual report on the ethical health of the Council and on its work. It does not consider how, for example, the work of internal audit and scrutiny and select committees, reports on complaints and whistleblowing cases and from external bodies like the Audit Commission, could inform its own agenda. A work programme prevents ethics slipping off the agenda. The Committee can provide a useful structure for learning from the experiences and cases in other authorities. In particular it can provide support to officers when faced with a highly politicised environment.



### Recommendation

**R2** Raise the profile of the Standards Committee by:

- developing a work programme and action plan;
- undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate;
- learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and
- communicating its work to a wider public.

- 38** Standards, codes of conduct and ethical protocols are regularly reviewed or updated following new legislation or revised national guidance. The terms of reference of the Standards Committee were amended in July 2008 and the member and officer protocol was amended in 2007. The revised Members' Code of Conduct allows greater participation by members with prejudicial interests. Other changes included:
- allowing the disclosure of confidential information if it is reasonable and in the public interest to do so, and if disclosure is made in good faith and in compliance with the reasonable requirements of the Council;
  - strengthening the obligation to have regard to any relevant advice given by the Monitoring Officer and the Section 151 Officer; and
  - adding a new personal interest where it is likely to affect the interests of any person from whom at least £25 worth of gift or hospitality has been received.
- 39** The Standards Committee has a limited role in ensuring that members and officers receive appropriate guidance, including training and information on the requirements of the ethical agenda. One of its terms of reference is 'to advise, train or arrange to train councillors' but training and guidance on ethical behaviour are provided by officers. Members have received written statements and guidance of how they should perform their duties, the ethical standards to which they are required and expected to adhere and examples of possible transgressions that could precipitate problems. A commentary on the Code is included in the Members Handbook.
- 40** Members of the Standards Committee are provided with guidance issued by the SBE. Training has included a presentation from the Monitoring Officer, a question and answer session and a seminar on constitutional issues and the Member's Code of Conduct. The Chair of the Standards Committee and the party spokespersons have attended the SBE Annual Conference. However, our survey found the majority of officers don't know if guidance and training on ethics and conduct is mandatory or included in induction for members. Similarly, half of members don't know if such guidance is included in induction for officers.
- 41** Training and guidance for independent members of the Standards Committee has been limited. As a result they are not as well-informed and supported as they could be to fulfil their roles effectively.

### Recommendation

**R3** Review the level of training for members and officers on the ethical agenda and:

- use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and
- introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council.

**42** The Council has the resources needed for carrying out local investigations supported, where appropriate, by an external, independent case officer.

Processes are in place to:

- receipt and assess complaints such as the alleged inappropriate behaviour of a member;
- review decisions to take no action over complaints;
- consider the Monitoring Officer's final investigation reports considering determination hearings; and
- consider whether any allegation of misconduct should be referred to the SBE for investigation.

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### Leadership

**43** Overall members are seen as a focus for positive change. Sixty six per cent (average) of members and 51 per cent (above average) of officers say so although 29 per cent of members and 27 per cent of officers say 'sometimes'.

**44** An integrated approach to equality, diversity and human rights is reflected in decision making, policies and practices for both service delivery and employment. The Council is developing a new Single Equality Scheme and action plan, which incorporates all six equality strands. It uses its statutory duties well to promote equality. Equal opportunities and human rights implications are considered in reports to members. Work is in progress to achieve level 3 of the Equality Standard for Local Government ('achieving') and the Council is due to be externally assessed in March 2009.

**45** Progress towards equal opportunities in employment is demonstrated by the Council's workforce profile. The percentages of the top-paid 5 per cent of staff who are women or who have a disability are amongst the highest 25 per cent of councils. However, top earners and all employees from an ethnic minority community and employees with a disability are below the medians. Our survey also found that:

- over 90 per cent of members and officers say that the Council seeks to meet the needs of its diverse communities;

## Detailed report

- 69 per cent of members, compared with 81 per cent of officers say that the Council seeks to attract officers from diverse backgrounds, although almost a quarter of members don't know; and
  - 73 per cent of members and 81 per cent of officers say that the Council ensures that staff are appropriately skilled to meet the needs of its diverse communities.
- 46 Members and officers have a different perception and understanding about guidance that is provided on equalities and human rights issues: Eighty nine per cent of members, compared with 64 per cent of officers, say that the guidance is appropriate. But 31 per cent of officers don't know if it is appropriate. Although 93 per cent of officers compared with 65 per cent of members say that appropriate guidance is provided for officers, 32 per cent of members don't know.
- 47 Communication of ethical standards is considered to be good. But again members and officers do not have a full understanding about the information that each receives to promote high standards:
- 73 per cent of members and 86 per cent of officers say that the Council's approach to promoting high ethical standards is encouraging appropriate behaviour;
  - 83 per cent of members and 62 per cent of officers say that the importance of high ethical standards is always or usually communicated to members; and
  - 66 per cent of members and 90 per cent of officers say that it is communicated to officers, but 32 per cent of members don't know.
- 48 The Council's Chief Executive is considered to be a positive role model and proactive - by 88 per cent of members and 92 per cent of officers - in promoting the ethical agenda both inside and outside the Council. Eighty three per cent of members and 85 per cent of officers say that the Chief Executive always or usually promotes the importance of the ethical agenda. These figures are above average. He sets high personal standards, promotes appropriate behaviour and takes action where an issue could potentially undermine the reputation of the Council.
- 49 The Leader of the Council is also considered to be a positive role model. Sixty per cent of members and 81 per cent of officers replied 'always or usually' to this question. The Cheshire Lines Public Interest Report - published by the Audit Commission in 2005 - followed a request by the Leader for a review of the events surrounding the acquisition and subsequent development of this building and to make appropriate recommendations to improve the Council's procedures. Sixty one per cent of members and 71 per cent of officers say that the Leader always or usually promotes the importance of the ethical agenda. All these findings are above average
- 50 The Monitoring Officer gives proactive advice both to individual members and corporately. Both the Monitoring Officer and Deputy Monitoring Officer and other officers are available to advise them at all reasonable times. Seventy eight per cent of members and 66 per cent of officers say that the Monitoring Officer promotes the ethical agenda but a third of officers don't know. Providing guidance proactively helps to avoid potential infringements and resolve misunderstandings.
- 51 The Council could do more to promote confidence and trust in local government and local democracy beyond treating users of services fairly. A high percentage

of members (95 per cent) and officers (73 per cent) say that members always or usually treat users of Council services fairly. Eighty seven per cent of members and 94 per cent of officers say that officers treat users fairly. Our survey found:

- 46 per cent (average) of members and 66 per cent (above average) of officers say that the Council's approach to promoting high ethical standards is helping to build public confidence in the Council but 22 per cent of members don't know; and
  - 68 per cent (above average) of members and 62 per cent (above average) of officers say that the importance of high ethical standards is communicated to local communities, but 20 per cent of members and 28 per cent of officers don't know.
- 52** Partners are not convinced that the importance of ethical standards is communicated to local partnerships. Three out of five partners who responded to the survey replied 'never' and one replied 'don't know'. In contrast 68 per cent (above average) of members and 66 per cent (average) of officers say that it is communicated to local partnerships although 22 per cent of members and 25 per cent of officers don't know. The partners were less complimentary about how the Council encourages good conduct.

### Recommendation

**R4** Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.

### Transparency

- 53** The Council's Publication Policy and Access to Information Procedure Rules are included in the Constitution and are published on its website and Intranet. The website includes an introduction to the Freedom of Information Act, classes of information and individuals' rights. The wide availability through the website - with free access available at the borough's libraries - means that the public do not need to make a specific request under the Act.
- 54** The members' and officers' codes of conduct and Standards Committee papers can also be accessed via the website. Alternatively users can obtain information at the Council's one stop shops and information points across the borough:
- 82 per cent of members and officers say that the public can access the Members' Code of Conduct, but 18 per cent of members and 28 per cent of officers don't know; and
  - 53 per cent of members and 70 per cent of officers say that the public can access the Officers' Code of Conduct, but 30 per cent of officers don't know;
- 55** Member protocols are generally clear. Members must, when using or authorising the use by others of the Council's resources (for example, ICT equipment), act in accordance with its reasonable requirements. They should do whatever they are able to do to ensure that the Council uses its resources prudently and lawfully:
- 92 per cent per cent of members compared with 72 per cent of officers say that council policies on the use of its resources by members are clear; and

## Detailed report

- 92 per cent of members compared with 65 per cent of officers say that the guidelines for members on their personal conduct are clear;
- 56 The use of council resources is not entirely clear. For example, the Members' Code of Conduct states that such resources should not be used improperly for party political purposes. Thirty five per cent of members and 20 per cent of officers say that members usually or sometimes use the Council's resources for party political purposes. Members would benefit from clear guidance on what constitutes improper use in such circumstances.

### Recommendation

**R5** Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.

- 57 The register of member interests is kept up to date and complete. Members are aware of the need to make appropriate disclosures of gifts, hospitality and pecuniary interests. They make appropriate disclosures in the register which is regularly reviewed. An annual reminder - to be replaced by a quarterly reminder - is sent to members to complete the information. They are also required to make a declaration even if there is 'no change' to their circumstances. Progress is being made in implementing and making available an electronic version of the register that is directly accessible via the Council's website. It is important that such disclosures are registered to avoid any perception by members of the public that decision makers could be unduly influenced when making a decision concerning a particular organisation.
- 58 Members are proactive in declaring personal and prejudicial interests at meetings. The Members' Handbook contains an explanation that a dispensation can be sought, allowing them to take part in meetings where they have a prejudicial interest. The minutes of Council, Cabinet and committee meetings show that interests are regularly declared by members and the rules appear to be well understood. They are recorded in the minutes and a record of each member's declaration is accessible on the website. No allegations of impropriety have been made with regard to the declaration of interests.
- 59 Not all members and officers are confident about challenging inappropriate behaviour although most say that the process for reporting is clear:
- 72 per cent (average) of members say that they feel able to challenge other members' inappropriate behaviour, but 20 per cent say 'sometimes';
  - 45 per cent of officers say that officers feel able to challenge members' inappropriate behaviour, but 37 per cent don't know;
  - 76 per cent of members (above average) say that they feel able challenge officers' inappropriate behaviour; and
  - 69 per cent (above average) of officers say that officers feel able to challenge other officers' inappropriate behaviour.
- 60 Most members and officers do not consider that inappropriate behaviour by members is addressed. Only 43 per cent (below average) of members and 28 per cent (average) of officers say that such behaviour is suitably dealt with. Officers are more confident (77 per cent) than members (47 per cent) that inappropriate



behaviour by officers is tackled. Members and officers have differing views on how bullying is tolerated in the Council:

- 60 per cent (below average) of members and 67 per cent (average) of officers say that bullying by members is not tolerated, but 29 per cent of members say 'sometimes'; and
  - 71 per cent (above average) of members and 88 per cent (above average) of officers say bullying by officers is not tolerated;
- 61** The Council listens to and learns from constructive challenge, internally or externally, from the public or from official bodies. Ombudsman's reports and actions arising are reported to the Standards Committee. External and Internal Audit reports and actions arising are reported through the Corporate Governance Group and the Audit and Risk Management Committee as appropriate. However, one in five members and officers consider that members only sometimes respond to constructive, external criticism. Furthermore, less than half of members and officers say that the Council learns from other councils to ensure that its ethical arrangements are appropriate.
- 62** Communication between members is mostly open and constructive. Seventy six per cent of members say that communication between members is open and 63 per cent say that it is constructive, although a third say that it is only sometimes constructive. Over 82 per cent of officers say that communication between them is open and constructive. Members and officers agree that communication between each other is open but members (84 per cent) consider that it is more constructive than officers (70 per cent). About one in five say that communication is sometimes open and constructive.
- 63** Members are more confident than officers and partners about challenging member recommendations. Two thirds of members and officers say that there is a culture in the Council which allows members to challenge Council decisions without fear of reprisal. But only 55 per cent of officers say that the culture allows officers to challenge without fear of reprisal compared with 65 per cent of members. More than a fifth of officers and members replied 'don't know' to these questions and to how the culture allows the public and partners to challenge council decisions without fear of reprisals - only one out of five partners gave a positive response to this question.

### Recommendation

**R6** Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council decisions and tackling inappropriate behaviour to create a culture of openness and transparency.

- 64** The Council's complaints system is accessible via the website and through One Stop Shops and Information Points. The website details the procedure for dealing with complaints about schools, social services, other council services and councillors. Users can download and complete a form to complain about an alleged breach of the Members' Code of Conduct. Members and officers both say that they treat complaints from the public seriously but their perceptions are different:

## Detailed report

- 97 per cent of members and 85 per cent of officers say that members take complaints from the public seriously; and
  - 87 per cent of members and 99 per cent of officers say that officers take complaints from the public seriously.
- 65 The Council's Whistleblowing Policy is accessible to members and officers but it is not widely publicised to users. It cannot be easily accessed via the website - it is in fact included in a report to the Cabinet meeting of 3 April 2008. Following an internal governance review and subsequent comments by the Audit Commission a revised policy was introduced in 2008. The policy gives employees clear guidance on how to proceed if they have a concern and provides for more named officers within the Council that they will be able to approach in order to discuss their concerns.
- 66 During the last year the Audit Commission received details of an individual's concerns about contracts and charging in adult social services. Our review under the Public Interest Disclosure Act found the individual's concerns to be largely justified and we highlighted the failure of the Council's own systems for dealing with complaints and such concerns, including the whistleblowing procedure. A culture where employees can disclose allegations of malpractice internally is more likely to uphold the reputation of the Council, maintain public confidence and result in better outcomes for local people, than either such malpractice being disclosed to the public or it otherwise continuing to fester and harm the organisation.
- 67 But our survey did highlight some concerns about confidence in the whistleblowing arrangements. A third of members and officers don't know if the policy is being used appropriately or without fear of reprisal. This is a major gap in knowledge and weakens the ethical framework and the Council's approach to ensuring high standards of ethical governance.

### Recommendation

**R7** Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.

# Appendix 1 – Standards Committee - terms of reference

The terms of reference of the Standards Committee are:

- promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- assisting the Councillors and co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- advising the Council on the adoption or revision of the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- granting dispensations to Councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer; and
- monitoring and reviewing as necessary the operation of whistleblowing procedures.
- considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its members;
- to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority;
- approve the payment of compensation involving sums in excess of £5,000 (or less, if considered appropriate) to settle complaints of maladministration; and
- establishing such sub-committees as are required or allowed by the Standards Committee (England) Regulations 2008 to deal with the initial assessment, review and hearing of complaints made alleging that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members.



# Appendix 2 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
9	<p>R1 Emphasise to members and officers that they can:</p> <ul style="list-style-type: none"> <li>• make allegations of misconduct by a member or an officer without fear of reprisal; and</li> <li>• be confident in the actions they should take as individuals if they become aware of such misconduct.</li> </ul>	3				
11	<p>R2 Raise the profile of the Standards Committee by:</p> <ul style="list-style-type: none"> <li>• developing a work programme and action plan;</li> <li>• undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate;</li> <li>• learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and</li> <li>• communicating its work to a wider public.</li> </ul>	2				
12	<p>R3 Review the level of training for members</p>	3				

## Appendix 2 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	<p>and officers on the ethical agenda and:</p> <ul style="list-style-type: none"> <li>use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and</li> <li>introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council.</li> </ul>					
14	R4 Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.	2				
15	R5 Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.	2				
16	R6 Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council	2				

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	decisions and tackling inappropriate behaviour to create a culture of openness and transparency.					
17	R7 Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.	3				

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Wirral Council Ethical Governance  
Amendments post initial draft report

Paragraph	Comment	Amendment
17	Is around average the right standard for Wirral?	New paragraph added: The Council also needs to consider whether it is satisfied with results that are more generally positive than the other comparator councils or whether it aspires to higher standards.
old 17, new 18	The report, survey and action plan will help the Standards Committee in raising ethical standards	Added: The report, survey results and action plan provide the members of the Standards Committee with a baseline assessment of where the Council is now and a positive framework for strengthening ethical governance arrangements to result in increased confidence in local democracy and better outcomes for local people.
old 25, new 26	Maturity of member relationships – better outcomes for local people	Added: Whilst members will have differing political opinions and priorities a high level of collaboration means that it is more likely that councils will improve outcomes and the quality of life for local people
old 28, new 29	Acknowledge wish of stds Cttee to be more proactive	The Standards Committee is operating appropriately and <b>members are keen to develop arrangements to ensure it operates more proactively.</b>
old 30, new 31	Recognise declaration of political interests.	Guidance, information and training are provided for councillors on the <b>Committee</b> but have been limited for Independent members. Applicants were asked to declare any political interests - <b>this is good practice and helps to increase public confidence in the fairness of the Committee.</b>
old 34-37, new 35-38	Standards Committee: soften criticism, recognise the willingness of members, particularly independent members	Paragraphs amended as below:
old 34, new 35		<b>Members of the Standards Committee demonstrate a commitment and willingness to maintain and enhance ethical standards across the Council. But</b> much work needs to be done to raise awareness of the Committee.

old 35, new 36		Deleted
old 36, new 37		<b>Further opportunities exist for the Committee to be proactive. It could, for example, undertake an assessment of standards in the Council and consider the effectiveness of the codes of conduct and complaints and whistleblowing policies. Its work has largely been to receive officers' reports and - in a few instances - to consider alleged inappropriate behaviour by members. However, the Chair is currently attending council and committee meetings to observe member behaviour. This is a positive step. It is intended that the Monitoring Officer will discuss with the Chair if any action is needed to improve compliance with the Code. Periodic ethical audits highlight any systemic weaknesses.</b> Added: The Committee can provide a useful structure for learning from the experiences and cases in other authorities. In particular it can provide support to officers when faced with a highly politicised environment.
old 37, new 38		Added: It is important that such disclosures are registered to avoid any perception by members of the public that decision makers could be unduly influenced when making a decision concerning a particular organisation.
old 57, new 58	Support to outside organisations, including where sponsorship (for example, Trammere) and receipt of 'gifts'	Priority of recommendations 2 and 4 changed from 3 to 2 to accentuate those left at 3.
Appendix 2	Recommendations – priority order	

**STANDARDS COMMITTEE - 30 MARCH 2009**

**AUDIT AND RISK MANAGEMENT COMMITTEE – 31 MARCH 2009**

**CABINET – 9 APRIL 2009**

## **REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT**

### **USE OF POWERS UNDER THE REGULATION OF INVESTIGATORY POWERS ACT (RIPA)**

#### **1. Background**

- 1.1. The Regulation of Investigatory Powers Act 2000 (“RIPA”) governs how public bodies use surveillance methods. Wirral Council, like other local authorities may use directed surveillance where doing so is in the public interest for the purpose of preventing or detecting crime or preventing disorder.
- 1.2 The Office of the Surveillance Commissioner (“OSC”) is responsible for overseeing the operation of RIPA. The Council has to account to the OSC on an annual basis on its use of RIPA. The Council has been the subject of 2 inspections by the OSC in July 2003 and July 2007. The Council’s use of RIPA was also the subject of a recent review by the Internal Audit Section. One of the recommendations of that review was that the Council’s Policy and Procedures on the use of RIPA be updated. The Policy was most recently reviewed in 2004.

#### **2. THE USE OF RIPA BY LOCAL AUTHORITIES**

- 2.1. There has been much debate in the last 12 months around the use of surveillance powers by local authorities. This has led the LGA to write to Leaders of all Councils. John Healey MP, the Minister for Local Government also wrote to all Chief Executives in November 2008 regarding the use of surveillance by local authorities. The Home Office has announced an intention to consult on the use of RIPA powers by public authorities in early 2009.
- 2.2. Unfortunately there has been a large degree of misreporting of the subject of surveillance. The Home Office has published on its website a document on some of the misconceptions. A copy is attached as Appendix 1 to this report.
- 2.3. The Council has used directed surveillance to support its enforcement activity since the passing of RIPA. In the year 2007/8 the Council granted 45 authorisations. These related to cases investigated by the Wirral Anti-social Behaviour Team (36) and the Trading Standards team (9). The use of these powers has assisted in legal action to tackle rogue traders and to obtain court orders to tackle anti-social behaviour. The Council has used surveillance evidence in numerous court actions and its use has never been challenged. In some cases surveillance evidence obtained by the Council under RIPA has been used by the police to secure criminal convictions.
- 2.4. The use of RIPA is overseen by the Office of the Surveillance Commissioner (OSC). The OSC carries out regular inspections of public bodies. The OSC last inspected the Council in July 2007. A copy of the report is attached as Appendix 2 to this report. It considers the previous report of the OSC in 2003 and concludes that:

*Whilst the actions taken by the Council have addressed many of the significant issues raised in the previous inspection report, more works need to be done to fully rectify the previous deficiencies.*

2.2 The report sets out a number of recommendations. These are set out below followed in italics by the actions taken to implement the recommendations:

(a) the Head of Legal and Member Services should ensure that the correct current forms are being used.

*The current versions of the forms have been circulated to all teams using or which may potentially directed surveillance*

(b) ;the Central Record should be regularly updated;

*A new procedure has been implemented to ensure that Departments update the central record immediately upon authorisation being granted*

(c) the Central Record should capture all the information required by the Codes of Practice;

*The new will system will ensure that this is done*

(d) the central record should be used more appropriately to provide central oversight and monitoring of authorisations;

*The new system will enable Legal and Member Services to have better access to the applications in a timely manner to monitor use of RIPA*

(e) a training needs analysis should be undertaken to identify any knowledge gaps and thereafter a corporate training event held to educate and inform all potential applicants and authorising officers;

*An assessment has been carried out and a training event took place on 7 October 2008 which was well attended. A further event is due to take place in April 2009. It will be a requirement that all authorising officers who have not received training in the past two years shall attend one of those sessions. It is intended that after the second event has taken place all applying officers will have received training. The training is specifically tailored to Wirral and will highlight the issues raised in the OSC report.*

(f) there is a need to attach a central unique reference to each application;

*The new system provides for this.*

(g) there should be an annual report to COMT on the use of RIPA;

*The first such report was received by COMT in June 2008 and further reports will be brought to COMT.*

2.3 A review of the use of RIPA has also been carried out by Internal Audit at the request of the Chair of the Audit and Risk Management Committee in December 2008. This identified a number of areas for improvement and an action plan was agreed. A copy is attached as Appendix 3.



2.3 The action plan identified the need for the Council's policy and procedure on the use of powers under RIPA to be updated. A draft policy is attached which has been considered by Chief Officers Management Team. It is also being considered by:

Standards Committee– 30 March 2009;  
Audit and Risk Management Committee – 31 March 2009; and  
Cabinet – 9 April 2009.

#### 4.0 RECOMMENDATION

4.1 Members endorse the Policy and Procedure appended to this report.

BILL NORMAN  
DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

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## **Misconceptions about RIPA**

Misunderstandings about RIPA and its use - your questions answered.

### **RIPA is an anti-terrorism legislation**

It's not. RIPA legislates for and regulates the use of a range of covert techniques for a range of purposes. The more intrusive of these powers (such as interception) are limited to law enforcement and intelligence agencies and can be used to investigate serious crime as well as terrorism.

Other less intrusive powers such as directed surveillance or access to communications data can be used by a greater number of public authorities for a wider range of purposes, including the prevention and detection of crime generally.

### **Local authorities and councils are wrongly using anti-terrorism powers**

Recent stories in the media have often misrepresented RIPA and what parliament agreed that local authorities can do under the legislation. Parliament gave permission to a range of public authorities to use covert investigatory powers under RIPA, where they need them to carry out their statutory functions.

Under RIPA, local authorities are able to use a far more restricted range of investigatory techniques than intelligence and law enforcement agencies.

They are limited to using the least intrusive types of communications data; directed surveillance (which means covert surveillance in public places) and covert human intelligence sources (such as informants), and only for detecting or preventing crime and preventing disorder where it is necessary and proportionate for them to do so.

For example, trading standards departments are responsible for investigating and prosecuting rogue traders and other scams. Local authorities also deal with people who are claiming housing benefits which they are not entitled to, in other words, people who commit benefits fraud. It is for individual authorities to decide in each case whether it is necessary and proportionate to make use of the powers in the specific circumstances.

Local authorities cannot carry out intrusive surveillance, or seek warrants for interception. Nor are they able to access the most intrusive form of communications data, namely traffic data.

### **RIPA powers can be used by local councils on 'trivial matters'**

There are strict rules to protect people from unnecessary or inappropriate intrusion and any use of the powers must be both necessary and proportionate to the crime being investigated. Where individuals believe powers have been used inappropriately, they can take their case to the Investigatory Powers Tribunal.

The Local Government Association and the Communities and Local Government Minister have each written to all local councils to ensure that their use of RIPA powers is necessary and proportionate as required by the legislation.

The Home Office and the Department for Communities and Local Government are working together to ensure all local authorities have a good understanding of RIPA and circumstances when it would be appropriate and when it would not be appropriate to use covert surveillance.

During 2009, the Home Office will be issuing a revised code of practice on the use of directed and intrusive surveillance for public consultation. This will then be considered by parliament before replacing the existing code.

### **Confusion over the difference between interception and communications data**

Many stories in the media confuse interception (for example, listening to someone's telephone conversations or reading an e-mail or letter) which can only be conducted by law enforcement and intelligence agencies with a Secretary of State warrant, with access to communications data (eg subscriber details or billing information ) which is available to a wider number of public authorities.

### **RIPA is another example of the erosion of our privacy and civil liberties**

RIPA is a pro-human rights law that, rather than 'giving' powers, controls activities that need to be regulated. It puts in place the proper mechanism to consider the key issues of necessity and proportionality. In fact, it did not create any new powers or techniques at all; nor did it permit any public authority to use powers which it could not have used prior to RIPA.



Office of Surveillance  
Commissioners

OSC/INSP/075

The Rt.Hon Sir Christopher Rose  
Chief Surveillance Commissioner  
Office of Surveillance Commissioners  
PO Box 29105  
London SW1V 1ZU

31<sup>st</sup> July 2007

**OSC INSPECTION REPORT – WIRRAL METROPOLITAN BOROUGH  
COUNCIL**

**Date of Inspection :** 30<sup>th</sup> July 2007

**Inspector :** Mr Richard Allsopp

**Address of Public Authority :** This report should be sent to Mr Stephen Maddox, Chief Executive, Wirral Metropolitan Borough Council, Town Hall, Brighton Street, Wallasey, Wirral, Merseyside CH44 8ED.

**REVIEW OF PROGRESS**

**Structures and Procedures**

1. The last OSC inspection of the Wirral Metropolitan Borough Council was conducted in June 2003 by an Assistant Surveillance Commissioner with the subsequent report dated 2<sup>nd</sup> July 2003. The overall structure of the Council remains as previously reported.
2. At the time of the last inspection the Council had no corporate guidance document covering the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) relying instead on various documents adopted by the departments involved in covert activity. A centrally retrievable record of authorisations had not been established and departments were keeping their own records. Acting on the advice of the Assistant Surveillance Commissioner, all the matters raised at the last inspection have been incorporated into a Council RIPA Policy and Employees Guide covering Directed Surveillance and the Use of Covert Human Intelligence Sources. It was published to all departments in December 2003 and revised in 2004 in order to reflect the changes brought about by Statutory Instrument 2003 No 3171.

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3. The latest version of the RIPA forms have been obtained from the Home Office but as yet they have not been brought into use.
4. Six Authorising Officers have been nominated covering the four departments actively using the powers vested in the Council, all of whom accord to the designation contained in latest Statutory Instrument. The specific responsibilities of the Chief Executive have been recognised.
5. The policy requires the Authorising Officer to forward details to the Head of Legal and Member Services for inclusion in the central record which is maintained on his behalf by Simon Goacher, a Solicitor in Legal Services. In practice, at quarterly intervals copies of all applications, authorisations, renewals and cancellations are called for and entered in the central record. The documents are in paper format and retained in folders, with an overview sheet for each department containing all the details required by paragraph 2.14 of the Covert Surveillance Code of Practice. A computerised system is under consideration. There is no corporate system for allocating the documents a Unique RIPA Reference Number. A limited amount of central monitoring is conducted by Mr Goacher. The Community Safety Solicitor meets the Anti Social Behaviour Team on a weekly basis to review their investigations and provide appropriate advice over the use of covert surveillance.

### Use of RIPA

6. Since the last inspection 96 authorisations have been granted for Directed Surveillance, the majority on behalf of the Anti Social Behaviour Team who deploy covert video recorders from the homes of complainants to capture images of anti social behaviour by neighbours. A private contractor is engaged to provide and deploy the equipment. Three other departments have obtained a small number of Directed Surveillance authorisations; Trading Standards, Planning Enforcement and the Insurance Section. The latter employs Private Investigators to conduct covert surveillance on its behalf.
7. Covert Human Intelligence Sources have not been used and no other Services have sought authorisations. None of the authorisations involved the possible acquisition of 'confidential information/material' or had been 'self authorised'.

### Previous Recommendations

8. The 2003 OSC inspection report contained nine recommendations.
  - (i) A corporate policy on RIPA applicable to all Departments should be introduced as soon as possible.
  - (ii) In that policy care must be taken to remedy the defects in the existing separate policy statements used by the Departments.

*Action: Suitable policy has now been published and adopted by all Departments.*

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(iii) Future training must ensure that the concepts of *necessity* and *proportionality* are fully understood by all staff likely to become involved in covert surveillance.

(iv) It is not advisable for Authorising Officers to grant authorisations without themselves receiving relevant training.

*Action: When RIPA was first introduced the then Authorising Officers undertook training on the subject and since then a number have received guidance from attending courses and seminars held by their own professional bodies or the Home Office. In 2006 the entire Anti Social Behaviour Team undertook a five day surveillance training course provided by the Merseyside Police which included RIPA as a component within it. The Applicant from Planning Enforcement has attended no less than three training courses on RIPA and the Trading Standards Manager attended a RIPA Review Stakeholder Forum organised by the Home Office in April of this year. As a result, he is currently working on developing a three day training course for all Enforcement Officers, an element of which will be RIPA. It is hoped that the course will be repeated regularly and will be modular in nature so that the RIPA element could be used as initial training for new Enforcement Officers and also refresher training for existing Officers.*

*Whilst various initiatives have been introduced, the Council has not adopted a corporate response to these two recommendations. In those applications examined, proportionality is still not described adequately and action plans to minimise collateral intrusion are not protecting innocent members of the public sufficiently. From interviews with Applicants and Authorising Officers, it is apparent that there are still gaps in the training provision and refresher courses are needed. A training needs analysis is long overdue to identify those members of staff requiring either initial or refresher RIPA training. Thereafter the Council should provide this training at a corporate level.*

(v) Care must be taken in all future applications for authorisation to ensure that any proposed course of action is fully described in order to avoid the possibility of errors made in *R v Sutherland & Others*.

*Action: Applicants are now more fully describing the surveillance activity they wish to carry out but Authorising Officers are not providing a comprehensive statement outlining the activity they are prepared to sanction. Instead they are relying on a pre-printed statement in the now outdated Home Office form which refers to the application for detail. It was pointed out to all Authorising Officers that the latest Home Office model authorisation form requires a number of points to be covered and they were strongly advised to use the form in any future authorisations. This is particularly relevant when outside agencies such as Private Investigators are employed to carry out the surveillance. A comprehensive authorisation statement should be provided to them to ensure their activity is within the parameters set.*

(vi) A system of regular reviews of authorisations should be introduced in order to ensure prompt cancellations.

*Action: The Council policy requires regular reviews of authorisations to be conducted but none of the authorisations inspected appeared to have been formally*

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*reviewed. In most cases the Authorising Officer failed to record a review date. It is accepted that informal reviews are being conducted, particularly within the Anti Social Behaviour Team which meets with a Solicitor on a weekly basis but the requirements of paragraph 4.21 of the Covert Surveillance Code of Practice are being overlooked, particularly the need to record the results of the review on the central record of authorisations. The Home Office RIPA review form should be taken into use as a matter of urgency. All but one case inspected had been properly cancelled.*

(vii) A central record of authorisations should be created in order to comply with the Code of Practice.

*Action: A central record is now being maintained but not in full accordance with the Code of Practice. The details contained in paragraph 2.14 are recorded but only on a quarterly basis, thus at any one time it could be significantly outdated. In discussions with Simon Goacher, the Solicitor responsible for its upkeep, the Inspector pointed out the requirement for the record to be regularly updated, whenever an authorisation is granted, renewed or cancelled. Reviews are not being recorded and there is no provision to highlight 'self authorised' cases as required by paragraph 4.14 of the Code.*

(viii) An appropriate officer of the Council should be designated as Monitoring Officer for RIPA and be responsible for the maintenance and safe custody of the central record.

*Action: The Head of Legal and Member Services has been delegated to carry out this role and a Solicitor in his department conducts the day to day work on his behalf. It is evident that insufficient central monitoring is being conducted, the record should be used more pro-actively to identify critical dates and ensure all the relevant documents are submitted and recorded. At present there is no reporting mechanism to members on the use of RIPA. It is proposed that there be an annual report to the Chief Officers Management Team and Cabinet on the use of RIPA.*

(ix) It is good practice to make copies of the Home Office Codes of Practice available at the Council's offices for consultation by members of the public on request.

*Action: The Council does not believe that it is likely that members of the public will need to access a paper copy of the Codes of Practice and has not adopted this practice. It has however ensured that all officers who deal with investigations do have copies and this was confirmed during the inspection. It is worthy of note that whilst the interim Codes of Practice advocated this approach, the substantive Codes have not thought it necessary to re-iterate this advice.*

9. Whilst the actions taken by the Council have addressed many of the significant issues raised in the previous inspection report, more work needs to be done to fully rectify the previous deficiencies.

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**SIGNIFICANT ISSUES**

10. Central record

The record needs to be regularly updated on a day by day basis rather than the present quarterly arrangement and contain the record of reviews and any self authorised cases. It should be used more pro-actively as a central management tool to ensure full compliance across all departments. There is no corporate system for the issuing of a Unique RIPA Reference Number (URN) to the various documents.

11. Training

A training needs analysis is long overdue to help identify knowledge gaps and a corporate approach to the provision of appropriate training is needed.

12. Directed Surveillance

- Applications are being drafted to a reasonable standard but Applicants are still unaware of the need to properly explain the proportionality of their intended surveillance activity and to provide an action plan to minimise collateral intrusion.
- Applicants within the Anti Social Behaviour Team are mistakenly submitting multiple applications covering a single operation. Typically, if they wish to place a covert video camera watching the front of a particular property and another covering the rear, they are submitting two separate applications and obtaining two authorisations for the same operation. It was pointed out to them that a comprehensive application could cover a multitude of appropriate tactics which the Authorising Officer could then consider within a single authorisation statement. However, they were cautioned against using fresh tactics at a later date which had not been initially authorised.
- Authorising Officers are not providing a comprehensive authorisation statement, relying on the pre printed statement on the now outdated Home Office forms. Effective start and end times are not being recorded.
- Reviews of authorisations are not being called for or documented.
- Ordinary authorisations are being granted for less than the prescribed three months, in some cases one month.
- In one case an authorisation was renewed after it had time expired in contravention of paragraph 4.24 of the Code of Practice.

13. Forms

The Council has recently acquired the latest version of the Home Office forms but has not yet introduced them. The Inspector is satisfied that many of the imperfections found in the earlier applications and authorisations inspected will be corrected by the

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use of the new forms because they prompt the author to provide the relevant information.

14. At the commencement of the inspection, the Inspector was courteously welcomed to the Council by Mr Mark Reaney (Head of Legal and Member Services). At the conclusion, it was pleasing that the Chief Executive Mr Stephen Maddox found time in his busy schedule to receive feedback. The Chief Executive was extremely knowledgeable and showed considerable interest in all matters affecting RIPA. The Inspector is grateful for all the facilities made available to him both before and during the inspection by Mr Simon Goacher and for the co-operation and openness of all the staff he met.

**RECOMMENDATIONS**

15. The Head of Legal and Member Service, in his RIPA monitoring role should ensure that the latest version of the Home Office model forms are used for authorising all future Directed Surveillance applications and that through the use of such forms, the imperfections found in the earlier applications and authorisations are not repeated (paragraphs 3 and 13).

16. The central record should be regularly updated and capture all the information required by the Codes of Practice. It should be used more effectively in order to provide central oversight and monitoring of all authorisations (paragraphs 8(vii), 8(viii) and 10).

17. A training needs analysis should be undertaken to identify knowledge gaps and thereafter a corporate RIPA training event held to educate and inform all potential Applicants and Authorising Officers (paragraphs 8(iv) and 11).

18. The issues and imperfections discovered during this inspection should be included in the curriculum of any future corporate RIPA training event (paragraphs 8(v), 8(vi) and 12).



**Richard Allsopp  
Surveillance Inspector**

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# **POLICY AND PROCEDURE ON THE USE OF POWERS UNDER THE REGULATION OF INVESTIGATORY POWERS ACT**

## **1. INTRODUCTION**

- 1.1 *"Surveillance plays a necessary part in modern life. It is used not just in the ~ targeting of criminals but as a means of protecting the public from harm and ~ preventing crime."*

From the Foreword to the Home Office's Code of Practice on Covert Surveillance

- 1.2 The use of covert surveillance by public authorities, particularly local authorities has been the subject of much recent debate. The use of covert surveillance is properly a matter of public concern. The purpose of this policy is set out exactly how the Council will use its surveillance powers and comply with best practice.
- 1.3 The Council uses cover surveillance to supports its enforcement activities. It has been used principally by the Regeneration Department in dealing with anti-social behaviour and trading standards cases. This has resulted in many successful cases being brought which might otherwise not have been possible bringing rogue traders to account and improving the lives of Wirral residents suffering from severe anti-social behaviour. In 2007/8 the Council used directed surveillance on 45 occasions, 35 in anti-social behaviour case and 9 in cases investigated by Trading Standards.
- 1.4 The Council approved a policy and procedure for the use of covert surveillance in 2004. The Council has been inspected twice by the Office of the Surveillance Commissioner in 2003 and 2007. The use of surveillance was also the subject of a review by the Council's Internal Audit Team in 2008. The need to revise and update the Council's Policy and Procedure was identified as part of that review.

## **2. RELEVANT LEGISLATION**

### **2.1 The Human Rights Act 1998 (HRA)**

- 2.1.2 The HRA gives effect to the rights and freedoms guaranteed under the European Convention on Human Rights and Fundamental Freedoms ("the Convention"). Article 8 of the Convention is relevant in the context of covert surveillance in that everyone has the right to respect for his/her private and

family life, home and correspondence. It is now clear from decided cases that this right extends to activities of a professional or business nature and so includes employees. Article 6 of the Convention is relevant in the context of covert surveillance in that everyone has the right to a fair trial, including internal procedures or hearings, and fairness extends to the way in which evidence is obtained.

2.1.3 Consequently, there is to be no interference with the exercise of these rights by any public authority including a local authority, except where:

Such interference is in accordance with the law and is necessary in a democratic society in the interests of:

- national security
- public safety
- the economic well-being of the country
- for the prevention of disorder or crime
- for the protection of health or morals
- the protection of the rights and freedoms of others.

2.1.4 The HRA can be found at:

[www.opsi.gov.uk/ACTS/acts1998/19980042.htm](http://www.opsi.gov.uk/ACTS/acts1998/19980042.htm)

**2.2 The Regulation of Investigatory Powers Act 2000 (“RIPA”) (and associated Regulations)**

2.2.1 RIPA was introduced shortly after the HRA to ensure that the use by public bodies of surveillance was codified. Prior to RIPA there was only limited regulation of the use by public bodies of surveillance. RIPA was passed to ensure a consistency of approach and to set in place safeguards to ensure that the use of surveillance is proportionate. RIPA was passed well before the terrorism attacks on September 11 and was not introduced to deal with terrorism. RIPA and its associated regulations also follow the philosophy of recent legislation in trying to strike a balance between community responsibilities, including effective law enforcement, and individual rights and freedoms.

### **3.0 COVERT SURVEILLANCE**

3.1 The term surveillance includes

- Monitoring, observing or listening to people, their movements, their conversations or their other activity or communication;

- Recording anything monitored, observed or listened to in the course of surveillance;
  - Surveillance by or with the assistance of a surveillance device.
- 3.2 **Covert** surveillance is surveillance that is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place. This needs to be contrasted with the deployment of **overt** surveillance. The use of such surveillance in places to which the public has access is increasingly commonplace. The Council has employed it in the form of CCTV monitoring of its offices, car parks and the town centres. CCTV monitoring is undertaken in accordance with the Council's Code of Practice for the operation of CCTV. CCTV is usually clearly marked through the use of signage.
- 3.3 RIPA applies where any covert surveillance of an identifiable or named person is carried out by a public authority carrying out an investigatory function. RIPA includes a local authority within the description of public authority.
- 3.4 Covert surveillance can be either
- (a) **intrusive**, that is, carried out in relation to anything that is taking place on any residential premises or in any private vehicle by an individual or a surveillance device on the premises or in the vehicle; or
  - (b) **directed**, that is, undertaken for the purposes of a specific investigation or operation and involving the observation of a person or persons in order to gather information about them.
- 3.5 Local authorities are **not** authorised to conduct **intrusive** surveillance.
- 3.6 **Directed** covert surveillance that is likely to result in obtaining private information about a person is permitted by RIPA and its associated regulations **if** such surveillance has been authorised in the manner provided by the Act, the Home Office Code of Practice and the prescribed standard forms. Private information is any information relating to a person's private or family life.
- 3.7 An authorising officer for a public authority may only grant authorisation to carry out directed surveillance if it is necessary in the interests of:
- national security;
  - preventing or detecting crime or of preventing disorder;
  - public safety;
  - protecting public health;

- assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or
  - is specified by regulations.
- 3.8 Local authorities may only authorise use of covert directed surveillance on the ground that it is necessary in the interests of **preventing or detecting crime or of preventing disorder**. The use of surveillance must also be proportionate to what is being sought to achieve.
- 3.9 Authorisation is not required to record things which are not planned but arise in the course of an investigation. For example if an enforcement officer is attending a property to visit a witness and observes a neighbour causing criminal damage he/she can record what they saw without authorisation.
- 3.10 Particular care needs to be taken when the surveillance may give rise to the obtaining of **confidential information**. In this context confidential information means:
- Where legal professional privilege applies;
  - Confidential personal information; or
  - Confidential journalistic material

**Legal professional privilege** will apply to oral and written communications between a professional legal adviser and his/her client made in connection with the giving of legal advice or in connection with or contemplation of legal proceedings.

**Confidential personal information** is information held in confidence about a person's physical or mental health or to spiritual counselling or assistance. The information must have been created or acquired in the course of a trade, business or profession or for the purpose of any paid or unpaid office.

**Confidential journalistic material** includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence.

If the purpose of the surveillance is to obtain confidential information then this will need to be approved by the Head of Legal and Member Services and the Chief Executive. If in the course of an operation confidential material is obtained through surveillance this must be notified immediately to the Head of Legal and Member services. It must be retained and provided to the inspector from the Office of the Surveillance Commissioner at the next inspection.

- 3.11 An applying officer wishing to use directed surveillance must complete **FORM RIPADS1** (all forms are attached to this policy). The applying officer must fully complete all parts of the form. The officer should refer as necessary to the Home Office Code of Practice, available as set out in paragraph 3.18 below.

- 3.12 The applying officer must consider the proportionality of the use of surveillance. The officer must consider the seriousness of the matter being investigated, the impact that any evidence obtained through the surveillance will have on the investigation and the level of intrusion which will be caused. The officer must take steps to ensure that any intrusion is kept to the minimum level necessary. Any intrusion in to the private life of persons not the subject of the investigation (e.g. family or visitors) should be kept to a minimum.
- 3.13 The completed form should be referred to an **authorising officer**. All Chief Officers may designate officers within their department as authorising officers for the purposes of RIPA. On receipt of the form the authorising officer will contact the Head of Legal and Member Services to obtain a unique reference number. The authorising officer must be a Head of Service or Service Manager. The authorising officer will place the form on the central register. The register is an electronic folder with access rights limited to authorising officers (for their area only) and the Head of Legal and Member Services or his/her nominated representatives (to all contents). When an authorising officer places a form on the register he/she will also separately notify the Head of Legal and Member Services by e-mail that this has been done. If the authorising officer does not have access to the register he or she will e-mail the form to the Head of Legal and Member Services who will arrange for it to be placed on the register. All forms for authorised applications shall be placed on the register immediately. All applications shall remain on the register for at least 3 years.

### 3.14 **Urgent Oral Applications**

- 3.14.1 It is possible to grant urgent oral authorisations. It is envisaged that this will be done very rarely, if ever. No authorisations have been granted in this way in the past 3 years. The Code of Practice states that this should not be done:

*unless the time that would elapse before the authorising officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation for which the authorisation was being given. An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or the urgency is of the authorising officer's own making.*

- 3.14.2 Where an urgent authorisation is granted the authorising officer must record as soon as is practicable the reasons for granting the authorisation urgently. An urgent authorisation will lapse after **seventy two hours**.

### 3.14 **Review/Cancellation**

- 3.15.1 Written authorisations will lapse automatically unless they are renewed after **3 months**. However, authorisations should be reviewed on a regular basis and cancelled when they are no longer required for the purpose for which they were granted. In each case the authorising officer within each public authority should determine how often a review should take place. This should be as

frequently as is considered necessary and practicable. On carrying out a review the authorising officer should complete a **Form RIPADS2**. Once completed the form should be placed on the central register immediately either by the authorising officer directly or via the Head of Legal and Member services. If the form is placed directly on the register the authorising officer must notify the Head of Legal and Member Services that this has been done by e-mail.

3.15.2 If upon review the need for directed surveillance no longer exists then the authorisation will be cancelled immediately. On cancellation the authorising officer shall complete **Form RIPADS3**. The completed form shall be placed on the central register either by the authorising officer directly or via the Head of Legal and Member services. If the form is placed directly on the register the authorising officer must notify the Head of Legal and Member Services that this has been done by e-mail.

### 3.16 **Renewal**

If the authorisation is due to lapse it may be renewed for a period of a further 3 months provided the need for the surveillance continues. If a renewal is required a **Form RIPADS4** shall be completed. If an authorisation is renewed for a further period of 3 months it should be reviewed during that period.

### 3.17 **Audit Checks**

The Head of Legal and Member Services shall carry out a regular audit of authorisations contained on the central register at least once every 3 months.

### 3.18 **Code of Practice**

The Home Office Code of Practice on the Use of Covert Surveillance can be viewed at: <http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/>

## 4.0 **COVERT HUMAN INTELLIGENCE SOURCES (CHIS)**

4.1 The use of CHISs is also regulated by RIPA. A CHIS is a person who establishes or maintains a relationship with someone in order to obtain information, to provide another person with access to information or to disclose information as a consequence of that relationship. Should an officer consider the use of a CHIS as necessary, they must liaise with the Head of Legal and Member Services. If the use of a CHIS is deemed necessary, special arrangements will be made for their use in accordance with the Home Office Code of Guidance on Covert Human Intelligence Sources (see paragraph 4.5 below). It is not anticipated that CHISs will be used often by the Council. However, if professional witnesses are used they may fall within the definition of CHISs.

4.2 If an investigating officer does believe that the use of a CHIS is necessary in the course of an investigation he/she should complete **FORM RIPACHIS1**. The officer must consider the safety and welfare of a person acting as a



source and must carry out a risk assessment before authorisation is granted. The use must be proportionate to what is intended to be achieved. The authorisation will lapse automatically if not renewed after a period of **12 months**.

4.4 Special considerations apply if the person to be used as a source is **vulnerable** or a **juvenile**. In such circumstances advice should be sought from the Head of Legal and Member Services. Authorisation may only be granted by the Chief Executive, as Head of Paid Service, or in his/her absence a Chief Officer.

4.3 The same procedures outlined above in respect of directed surveillance of:

- Maintenance of a central register
- Confidential information
- Review
- Cancellation
- Renewal; and
- Audit checks

Shall also apply to the use of CHISs. The following forms shall be used **FORM RIPACHIS2** (review), **FORM RIPACHIS3** (cancellation) and **FORM RIPACHIS4** (renewal)

#### 4.4 Code of Practice

The Code of Practice relating to the use of CHISs can be found at: <http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/>

## 5.0 COMMUNICATIONS DATA

5.1 Requests for communications data will be dealt with by **designated persons**. Those persons who are authorising officers for the purposes of directed surveillance and CHIS's shall also be designated persons for the purposes of obtaining communications data. Each local authority must have its own **Single Point of Contact (SPOC)**, to whom applicants can submit their requests for communications data. This is to ensure there is a specific point of accountability in each authority requesting data for reasons connected with RIPA and the HRA etc. The SPOC for Wirral Council is the Trading Standards Manager

5.2 It is important to note that we are not referring here to the interception of communications or the **content** of communications. The Council does not have power to intercept communications or acquire content.

5.3 There are 3 types of communications data;

- traffic data;
- service use data; and

- subscriber data.
- 5.4 More information on what constitutes these types of communication data is set out in the Home Office Code of Practice (see paragraph 4. 8 below). Advice can also be sought from the Head of Legal and Member Services. Local authorities are only able to seek disclosure under RIPA of service use data and subscriber data **not** of traffic data.
- 5.5 Applications may be made for service use data e.g. itemised bills or subscriber data e.g. whether a person uses a particular network, who is the user of a particular number. A request for such information can only be made where it is necessary for the purpose of preventing or detecting crime or preventing disorder. The request must be proportionate. The form for completion for disclosure of communications data including guidance on completion is attached as **FORM RIPACD 1**. An authorisation or notice remains valid for **one month**. A valid authorisation or notice may be renewed for a further period of one month.
- 5.6 An authorisation or notice must be cancelled as soon as it is no longer necessary for the service provider to comply with the notice or the conduct required by the notice is no longer proportionate to what was sought to be achieved.
- 5.7 The **Senior Responsible Officer** must be responsible for: the integrity of the process in place within the public authority to acquire communications data; compliance with Chapter II of Part I of the Act and with this code; oversight of the reporting of errors to the Interception of Communications Commissioners Office (IOCCO) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors; engagement with the IOCCO inspectors when they conduct their inspections, and where necessary, oversee the implementation of post-inspection action plans approved by the Commissioner. In Wirral the Senior Responsible Officer is the Head of Legal and Member Services.
- 5.8 In Wirral there has been very limited use of these powers. In the year 01/01/08 – 31/12/08 there were only 2 requests made for subscriber data by the Council.
- 5.9 The Home Office Code of Practice on the use of Communications Data can be viewed at: <http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/acquisition-disclosure-cop.pdf>

## 6.0 REPORTING AND REVIEW

- 5.1 The Council recognises the public interest in the use by it of these powers. It is essential that it regularly monitors and reviews the use of these powers. Therefore, this policy and procedure shall be subject to a review on at least an annual basis. The Head of Legal and Member Services shall report annually to the Chief Officers Management Team on the use of these powers and the

Director of Law, HR and Asset Management shall report annually to the Cabinet and the Audit and Risk Management Committee.

## 7.0 **COORDINATION AND TRAINING**

- 7.1 All Departments that use or may use the Council's powers under RIPA shall nominate a Departmental Coordinator under this Policy. The Departmental Coordinators shall meet at least once a quarter to review the operation of this policy, share best practice and consider training needs. Those meetings shall be chaired by the Head of Legal and Member Services or his/her nominated representative. Appendix 1 shows the list of Departmental coordinators.
- 7.2 The Council shall ensure that adequate training is provided to officers in the use of the powers. A training register shall be maintained and all authorising/designated officers will receive training at least every 2 years. A copy of the register is attached as Appendix 2. If an authorising/designated officer has not attended any training for a period of 2 years they shall **automatically cease** to be a responsible/authorised officer.

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**Appendix 1**

**RIPA CO-ORDINATORS GROUP**

Department

Representative

Department of Law, HR and Asset  
Management

Simon Goacher

Department of Finance

Malcolm Flanagan

Department of Regeneration

John Malone/Lucy

Pritchard

Department of Technical Services

Phil Black

Department of Children's Services

N/a

Department of Adult Social Services

N/a

Department of Corporate Services

N/a

## Appendix 2

### **RIPA REGISTER OF AUTHORISING AND APPLYING OFFICERS AND TRAINING**

#### **Authorising Officers**

<u>Department</u>	<u>Officer</u>	<u>Date Appointed</u>	<u>Most Recent Training*</u>
Regeneration	John Malone Caroline Laing Lucy Pritchard		
Finance	David Smith Malcolm Flanagan Stephen Rowley		
Technical Services	Dave Green		

#### **Applying Officers**

<u>Department</u>	<u>Officer</u>	<u>Date Appointed</u>	<u>Most Recent Training*</u>
Regeneration	Alison McFarland Jean Booth Andy Pike Andy O'Rourke Carolyn Richley Zhara Jones John Sebborn Louise Alexander Mike O'Brien Andy Bushell		
Finance	Kris Ng		
Technical Services	Lee Walsh		

\* - all authorising officers must have received training within the last 2 years

Last updated 19/03/09

Unique Reference Number	
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## Part II of the Regulation of Investigatory Powers Act 2000

### Authorisation Directed Surveillance

Form RIPADS1

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED		
<b>Name of Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			
<b>Investigating Officer (if a person other than the applicant)</b>			

<b>DETAILS OF APPLICATION</b>	
<b>1.</b>	<b>Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003; No. 3171.<sup>1</sup></b>
<b>2.</b>	<b>Describe the purpose of the specific operation or investigation.</b>
<b>3.</b>	<b>Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.</b>
<b>4.</b>	<b>The identities, where known, of those to be subject of the directed surveillance.</b>
	<ul style="list-style-type: none"> <li>• Name:</li> <li>• Address:</li> <li>• DOB:</li> <li>• Other information as appropriate:</li> </ul>
<b>5.</b>	<b>Explain the information that it is desired to obtain as a result of the directed surveillance.</b>

---

<sup>1</sup> For local authorities: The exact position of the authorising officer should be given. For example, Head of Trading Standards.



**6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete those that are *inapplicable*. Ensure that you know which of these grounds you are entitled to rely on. (SI 2003 No.3171)**

- In the interests of national security;
- For the purpose of preventing or detecting crime or of preventing disorder;
- In the interests of the economic well-being of the United Kingdom;
- In the interests of public safety;
- for the purpose of protecting public health;
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;

**7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]**

**8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.]**

**Describe precautions you will take to minimise collateral intrusion**

9. Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means? [Code paragraph 2.5]

10. Confidential information. [Code paragraphs 3.1 to 3.12]

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

<b>Unique Reference Number</b>	
--------------------------------	--

<b>11. Applicant's Details.</b>			
<b>Name (print)</b>		<b>Tel No:</b>	
<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			
<b>12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box. ]</b>			
<p>I hereby authorise directed surveillance defined as follows: [<i>Why is the surveillance necessary, whom is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?</i>]</p>			
<b>13. Explain <u>why</u> you believe the directed surveillance is necessary. [Code paragraph 2.4]</b> <b>Explain <u>why</u> you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 2.5]</b>			

<b>Unique Reference Number</b>	
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**14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with Code paragraphs 3.1 to 3.12**

--

<b>Date of first review</b>	
-----------------------------	--

**Programme for subsequent reviews of this authorisation: [Code paragraph 4.22]. Only complete this box if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.**

--

<b>Name (Print)</b>		<b>Grade / Rank</b>	
---------------------	--	---------------------	--

<b>Signature</b>		<b>Date and time</b>	
------------------	--	----------------------	--

**Expiry date and time [ e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59 ]**

Unique Reference Number	
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**15. Urgent Authorisation [Code paragraphs 4.17 and 4.18]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.**

--

**16. If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer**

--

<b>Name (Print)</b>		<b>Grade/ Rank</b>		
<b>Signature</b>		<b>Date and Time</b>		
<b>Urgent authorisation Expiry date:</b>		<b>Expiry time:</b>		
<i>Remember the 72 hour rule for urgent authorities – check Code of Practice.</i>	e.g. authorisation granted at 5pm on June 1 <sup>st</sup> expires 4.59pm on 4 <sup>th</sup> June			

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## Part II of the Regulation of Investigatory Powers Act 2000

### Review of a Directed Surveillance authorisation

Form RIPADS2

<b>Public Authority</b> (including address)	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Operation Name</b>		<b>Operation Number*</b> <small>*Filing Ref</small>	
<b>Date of authorisation or last renewal</b>		<b>Expiry date of authorisation or last renewal</b>	
		<b>Review Number</b>	

**Details of review:**

<b>1. Review number and dates of any previous reviews.</b>	
<b>Review Number</b>	<b>Date</b>

<b>2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.</b>
--

<b>Unique Reference Number</b>	
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<b>3. Detail the reasons why it is necessary to continue with the directed surveillance.</b>
--

--

<b>4. Explain how the proposed activity is still proportionate to what it seeks to achieve.</b>
---

--

<b>5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.</b>
--

--

<b>6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.</b>
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<b>7. Applicant's Details</b>			
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<b>Name (Print)</b>		<b>Tel No</b>	
<b>Grade/Rank</b>		<b>Date</b>	



<b>Unique Reference Number</b>	
--------------------------------	--

<b>Signature</b>	
------------------	--

<b>8. Review Officer's Comments, including whether or not the directed surveillance should continue.</b>

<b>9. Authorising Officer's Statement.</b>
I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal][it should be cancelled immediately].
<b>Name (Print)</b> ..... <b>Grade / Rank</b> -----
<b>Signature</b> ----- <b>Date</b> -----

<b>10. Date of next review.</b>	
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Unique Reference Number	
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## Part II of the Regulation of Investigatory Powers Act 2000

### Cancellation of a Directed Surveillance authorisation

Form RIPADS3

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Name of Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			

**Details of cancellation:**

**1. Explain the reason(s) for the cancellation of the authorisation:**

--

<b>Unique Reference Number</b>	
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<b>2. Explain the value of surveillance in the operation:</b>

<b>3. Authorising officer's statement.</b>
--

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

**Name (Print)** .....

**Grade** .....

**Signature** .....

**Date** .....

<b>4. Time and Date of when the authorising officer instructed the surveillance to cease.</b>
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<b>Date:</b>		<b>Time:</b>	
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<b>5. Authorisation cancelled.</b>	<b>Date:</b>	<b>Time:</b>
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Unique Reference Number	
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**Part II of the Regulation of Investigatory Powers Act 2000**

**Renewal of a Directed Surveillance Authorisation**

Form RIPADS4

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Name of Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			
<b>Renewal Number</b>			

**Details of renewal:**

<b>1. Renewal numbers and dates of any previous renewals.</b>	
<b>Renewal Number</b>	<b>Date</b>

---

**2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.**

**3. Detail the reasons why it is necessary to continue with the directed surveillance.**

**4. Detail why the directed surveillance is still proportionate to what it seeks to achieve.**

**5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance.**

**6. Give details of the results of the regular reviews of the investigation or operation.**

**7. Applicant's Details**

<b>Unique Reference Number</b>	
--------------------------------	--

<b>Name (Print)</b>		<b>Tel No</b>	
<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			

<b>8. Authorising Officer's Comments. <u>This box must be completed.</u></b>

<b>9. Authorising Officer's Statement.</b>				
<p>I, [insert name], hereby authorise the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing.</p> <p>This authorisation will be reviewed frequently to assess the need for the authorisation to continue.</p>				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><b>Name (Print)</b> .....</td> <td style="width: 50%;"><b>Grade / Rank</b> - - - - -</td> </tr> <tr> <td><b>Signature</b> - - - - -</td> <td><b>Date</b> - - - - -</td> </tr> </table>	<b>Name (Print)</b> .....	<b>Grade / Rank</b> - - - - -	<b>Signature</b> - - - - -	<b>Date</b> - - - - -
<b>Name (Print)</b> .....	<b>Grade / Rank</b> - - - - -			
<b>Signature</b> - - - - -	<b>Date</b> - - - - -			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;"><b>Renewal From:</b></td> <td style="width: 33%;"><b>Time:</b></td> <td style="width: 33%;"><b>Date:</b></td> </tr> </table>	<b>Renewal From:</b>	<b>Time:</b>	<b>Date:</b>	
<b>Renewal From:</b>	<b>Time:</b>	<b>Date:</b>		

<b>Date of first review.</b>	
<b>Date of subsequent reviews of this authorisation.</b>	

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CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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## Part II of the Regulation of Investigatory Powers Act (RIPA) 2000

### Application for authorisation of the conduct or use of a Covert Human Intelligence Source (CHIS)

**Form RIPACHIS1**

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED		
<b>Name of Applicant</b>		<b>Service/Department /Branch</b>	
<b>How will the source be referred to? i.e. what will be his/her pseudonym or reference number</b>			
<b>The name, rank or position of the person within the relevant investigating authority who will have day to day responsibility for dealing with the source, including the source's security and welfare. (Often referred to as the Handler)</b>			
<b>The name, rank or position of another person within the relevant investigating authority who will have general oversight of the use made of the source. (Often referred to as the Controller)</b>			
<b>Who will be responsible for retaining (in secure, strictly controlled conditions, with need-to-know access) the source's true identity, a record of the use made of the source and the particulars required under RIP (Source Records) Regulations 2000 (SI 2000/2725)?</b>			

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
--	--

Investigation/Operation Name (if applicable)	
--	--

<b>DETAILS OF APPLICATION</b>
<b>1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003; No. 3171. <sup>1</sup> Where appropriate throughout amend references to the Order relevant to your authority.</b>
<b>2. Describe the purpose of the specific operation or investigation.</b>
<b>3. Describe in detail <u>the purpose</u> for which the source will be tasked or used.</b>
<b>4. Describe in detail the proposed covert conduct of the source or <u>how</u> the source is to be used.</b>
<b>5. Identify on which grounds the conduct or the use of the source is <u>necessary</u> under Section 29(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (eg. SI 2003 No.3171)</b>

<sup>1</sup> For local authorities: The formal position of the authorising officer should be given. For example, Head of Trading Standards.

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).

- In the interests of national security;
- For the purpose of preventing or detecting crime or of preventing disorder;
- In the interests of the economic well-being of the United Kingdom;
- In the interests of public safety;
- for the purpose of protecting public health;
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.

**6. Explain why this conduct or use of the source is necessary on the grounds you have identified [Code paragraph 2.4]**

**7. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.]**

**Describe precautions you will take to minimise collateral intrusion and how any will be managed.**

**8. Are there any particular sensitivities in the local community where the source is to be used? Are similar activities being undertaken by other public authorities that could impact on the deployment of the source? (see Code 2.9)**

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
--	--

**9. Provide an assessment of the risk to the source in carrying out the proposed conduct. (see Code 2.9)**

**10. Explain why this conduct or use of the source is proportionate to what it seeks to achieve. How intrusive might it be on the subject(s) of surveillance or on others? How is this intrusion outweighed by the need for a source in operational terms, and could the evidence be obtained by any other means? [Code paragraph 2.5]**

**11. Confidential information. [Code paragraphs 3.1 to 3.12]  
Indicate the likelihood of acquiring any confidential information.**

References for any other linked authorisations:

**12. Applicant's Details.**

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
--	--

<b>Name (print)</b>		<b>Grade/Rank/Position</b>	
<b>Signature</b>		<b>Tel No:</b>	
<b>Date</b>			

**13. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW – in this and the following box.] THE AUTHORISATION SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE, NOT THE TRUE IDENTITY.**

**14. Explain why you believe the conduct or use of the source is necessary. [Code paragraph 2.4]  
 Explain why you believe the conduct or use of the source to be proportionate to what is sought to be achieved by their engagement. [Code paragraph 2.5]**

**15. (Confidential Information Authorisation.) Supply details demonstrating compliance with Code paragraphs 3.1 to 3.12**

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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<b>16. Date of first review:</b>	
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<b>17. Programme for subsequent reviews of this authorisation: [Code paragraphs 4.19 and 4.20]. Only complete this box if review dates after first review are known. If not, or inappropriate to set additional review dates, then leave blank.</b>
---

--

<b>18. Authorising Officer's Details</b>
--

<b>Name (Print)</b>		<b>Grade/Rank/Position</b>	
<b>Signature</b>		<b>Time and date granted*</b>	
		<b>Time and date authorisation ends</b>	

*\* Remember, an authorisation must be granted for a 12 month period, i.e. 1700 hrs 4<sup>th</sup> June 2006 to 2359hrs 3 June 2007*

<b>19. Urgent Authorisation [Code paragraphs 4.17 and 4.18]: Authorising Officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.</b>
--

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<b>20. If you are entitled to act only in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully designated Authorising Officer</b>
--

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
--	--

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21. Authorising Officer of urgent authorisation			
<b>Name (Print)</b>		<b>Grade/Rank/Position</b>	
<b>Signature</b>		<b>Date and Time</b>	
<b>Urgent authorisation expiry date:</b>		<b>Expiry time:</b>	

*Remember the 72 hour rule for urgent authorisations – check Code of Practice [Code Paragraph 4.18].  
e.g. authorisation granted at 1700 on 1<sup>st</sup> June 2006 expires 1659 on 4<sup>th</sup> June 2006*

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Unique Operation Reference Number* (*Filing Ref)	
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## Part II of the Regulation of Investigatory Powers Act (RIPA) 2000

### Review of a Covert Human Intelligence Source (CHIS) authorisation

Form RIPACHIS2

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Applicant</b>		<b>Unit/Branch</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Pseudonym or reference number of source</b>			
<b>Operation Name</b>		<b>Operation Number*</b> <small>*Filing Ref</small>	
<b>Date of authorisation or last renewal</b>		<b>Expiry date of authorisation or last renewal</b>	
		<b>Review Number</b>	

<b>Unique Operation Reference Number*</b> (*Filing Ref)	
---	--

**Details of review:**

**1. Review number and dates of any previous reviews.**

<b>Review Number</b>	<b>Date</b>

**2. Summary of the investigation/operation to date, including what information has been obtained and the value of the information so far obtained.**

**3. Detail the reasons why it is necessary to continue with using a Covert Human Intelligence Source.**

**4. Explain how the proposed activity is still proportionate to what it seeks to achieve.**

**5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.**

<b>Unique Operation Reference Number*</b> (*Filing Ref)	
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**6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.**

**7. Give details of the review of the risk assessment on the security and welfare of using the source.**

**8. Applicant's Details**

<b>Name (Print)</b>		<b>Tel No</b>	
<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			

**9. Review Officer's Comments, including whether or not the use or conduct of the source should continue?**

**10. Authorising Officer's Statement. THE AUTHORISATION SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE NOT THE TRUE IDENTITY.**

<b>Name (Print)</b>		<b>Grade / Rank</b>	
<b>Signature</b>		<b>Date</b>	

<b>Unique Operation Reference Number*</b> (*Filing Ref)	
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<b>Date of next review:</b>	
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Unique Operation Reference Number\* (\*Filing Ref)



**Part II of the Regulation of Investigatory Powers  
Act (RIPA) 2000**

**Cancellation of an authorisation for the use or conduct of a  
Covert Human Intelligence Source**

Form RIPACHIS3

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Name of Applicant</b>		<b>Unit/Branch</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Pseudonym or reference number of source</b>			
<b>Investigation/Operation Name (if applicable)</b>			

<b>Unique Operation Reference Number*</b> (*Filing Ref)	
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**Details of cancellation:**

**1. Explain the reason(s) for the cancellation of the authorisation:**

**2. Explain the value of the source in the operation:**

**3. Authorising officer's statement. THIS SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE NOT THE TRUE IDENTITY.**

<b>Name (Print)</b> .....	<b>Grade</b> .....
<b>Signature</b> .....	<b>Date</b> .....

**4. Time and Date of when the authorising officer instructed the use of the source to cease.**

<b>Date:</b>		<b>Time:</b>	
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Unique Operation Reference Number* (*Filing Ref)	
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## Part II of the Regulation of Investigatory Powers Act (RIPA) 2000

### Application for renewal of a Covert Human Intelligence Source (CHIS) Authorisation

(Please attach the original authorisation)

Form RIPACHIS4

<b>Public Authority</b> <i>(including full address)</i>	Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral. CH44 8ED
--	--

<b>Name of Applicant</b>		<b>Unit/Branch</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Pseudonym or reference number of source</b>			
<b>Investigation/Operation Name (if applicable)</b>			
<b>Renewal Number</b>			

**Details of renewal:**

**1. Renewal numbers and dates of any previous renewals.**

**Unique Operation Reference  
Number\*** (\*Filing Ref)

<b>Renewal Number</b>	<b>Date</b>

**2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.**

**3. Detail why it is necessary to continue with the authorisation, including details of any tasking given to the source.**

**4. Detail why the use or conduct of the source is still proportionate to what it seeks to achieve.**

**5. Detail the use made of the source in the period since the grant of authorisation or, as the case may be, latest renewal of the authorisation.**



**Unique Operation Reference  
Number\*** (\*Filing Ref)

--

--

**6. List the tasks given to the source during that period and the information obtained from the conduct or use of the source.**

--

**7. Detail the results of regular reviews of the use of the source.**

--

**8. Give details of the review of the risk assessment on the security and welfare of using the source.**

--

**9. Applicant's Details**

<b>Name (Print)</b>		<b>Tel No</b>	
---------------------	--	---------------	--

<b>Unique Operation Reference Number*</b> (*Filing Ref)	
---	--

<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			

<b>10. Authorising Officer's Comments. <u>This box must be completed.</u></b>

<b>11. Authorising Officer's Statement. THE AUTHORISATION SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE NOT THE TRUE IDENTITY.</b>
--

--

<b>Name (Print)</b> .....	<b>Grade / Rank</b>
<b>Signature</b>	<b>Date</b>
<b>Renewal From:</b>	<b>Time:</b>
	<b>Date:</b>
	<b>End date/time of the authorisation</b>

***NB. Renewal takes effect at the time/date of the original authorisation would have ceased but for the renewal***

<b>Date of first review:</b>	
<b>Date of subsequent reviews of this authorisation:</b>	

# Acquisition and Disclosure of Communications Data

Guidance for the Layout of a  
Chapter II Application Form and  
Guidance for Applicants and  
Designated Persons Considering  
Necessity and Proportionality

**HOME OFFICE**  
November 2007

**DATA COMMUNICATIONS GROUP**  
November 2007

## Introduction

This paper has been produced jointly by the Home Office and the Data Communications Group (DCG)\*, in consultation with the Interception of Communications Commissioner's Office (IOCCO), to clarify what information should be included in an application for the acquisition of communications data in accordance with the Regulation of Investigatory Powers Act 2000 ("the Act") and the code of practice approved by Parliament under section 71 ("the code").

Where appropriate, the **GUIDANCE** set out in this paper should be included within a public authority's application process to assist applicants and designated persons.

The layout of this specimen document is for a paper based administration and has been prepared in **Microsoft Word 2002** using **Verdana** text.

Sections of the form can be amended to suit the working practice of the public authority whether managed on paper or on a database. However, changes must be in accordance with the Act and the code.

If you are viewing the specimen form in something other than Microsoft Word 2002, the colours and pagination may differ from the original.

\*The Data Communications Group comprises representatives of ACPO, ACPO(S), HMRC, SOCA, other public authorities and senior members of communication service providers and their trade associations.

# Application

An application, comments by the single point of contact (SPoC), considerations of the designated person, authorisations and notices may be made in writing (“paper”) or electronically (“database”).

---

***Insert name of your public authority here***

**Chapter II of Part I of the Regulation of Investigatory Powers Act 2000**

## **Application for Communications Data**

<b>1) Applicant's Name</b>		<b>4) Unique Reference Number</b>	
<b>2) Office, Rank or Position</b>		<b>5) Applicant's Telephone Number</b>	
<b>3) Applicant's Email Address</b>		<b>6) Applicant's Fax Number</b>	
<b>7) Operation Name (if applicable)</b>		<b>8) STATUTORY PURPOSE</b>	
		<b>Click here for options:-</b>	

Subject to the restrictions upon public authorities, the Statutory Purposes for which communications data can be required are as follows (see paragraph 2.2 of the code);

- In the interests of National Security S22 (2)(a)
- For the prevention and detection of crime or preventing disorder S22 (2)(b)
- Economic well being of the United Kingdom S22 (2)(c)
- In the interests of public safety S22 (2)(d)
- For the purpose of protecting public health S22 (2)(e)
- For the purpose of assessing or collecting tax, duty levy or other imposition, contribution of charge payable to a government department S22 (2)(f)
- For the purpose, in an emergency, of preventing death or injury or damage to a persons physical or mental health or of mitigating any injury or damage to a persons physical or mental health S22 (2)(g)
- To assist investigations into alleged miscarriages of justice Article 2(a)
- For the purpose of assisting in identifying any person who has died otherwise than as a result of crime or who is unable to identify himself because of a physical or mental condition, other than one resulting from crime Article 2(b)(i)

- For the purpose of obtaining information about the next of kin or other connected persons of such a person or about the reason for his death or condition Article 2(b)(ii)

The police may use all the statutory purposes listed except for S22 (f) and Article 2(a).

Some of the statutory purposes have restrictions as to when it may be appropriate to use them (see footnotes 13, 14 and 15 of the code)

The drop down menu **STATUTORY PURPOSE** has been drafted for police use - other public authorities must amend the drop down menu appropriate to the statutory purposes permitted for their authority.

There is a restriction on the acquisition of communications data for S22 (d), S22 (e) & S22 (f). Only communications data within the meaning of S21 (4) (c) may be acquired for these purposes (see paragraph 2.3 and 2.4 of the code).

---

#### **9) COMMUNICATIONS DATA**

**Describe the communications data required, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s)**

*This text box can be made bigger or smaller, it is not set out to indicate how much should be written*

---

It may be appropriate for the section **COMMUNICATIONS DATA** to include 'text boxes' to enable the applicant to set out the:

- telephone number, email address, etc;
- where appropriate the 'between times / dates' of the data set required;
- type of data required, for example subscription details, outgoing calls, incoming calls.

An application may contain several requests for various 'data sets' relating to a specific investigation or operation. However, consideration should be given as to how this may affect the efficiency of the public authority's processes and the impact of managing disclosure issues before, during and after a criminal trial.

---

## 10) NECESSITY

### State the nature of the investigation or operation and how it relates to a purpose at question 8

Give a short explanation of the crime (or other purpose), the suspect, victim or witness and the phone or communications address and how all these three link together.

*This text box can be made bigger or smaller, it is not set out to indicate how much should be written*

---

## GUIDANCE

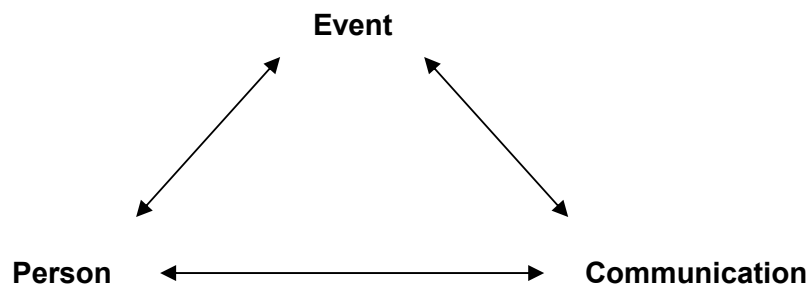
**NECESSITY** – In order to justify the application is necessary the applicant needs to cover three main points:

- crime / offence / circumstances (“the **event**”) under investigation;
- suspect(s) / offender(s) / witness(es) / victim(s) (“the **person**”) and how the person(s) is/are linked to the event;
- telephone number(s), IP Address(es) etc (“the **communication**”) and how this/these relate or link the person and the event.

Sensitive sources of intelligence or covert investigation techniques may be referred to in the application but the applicant must be mindful of the appropriate security handling of the application once completed. It may be sufficient to refer to an intelligence reference number within the body application dependant on the security issues involved.

The information given by the applicant (which includes ‘background information’ or the ‘intelligence case’) should be set out within an application under the headings of **Necessity** and **Proportionality** (which includes the consideration of meaningful collateral intrusion). This will minimise the need to repeat information within an application and enable the process to be streamlined.

In essence, necessity should be a short explanation of the a) **event**, b) the **person** and c) the **communication** and how these three link together.



The applicant must establish a link (which may, where justified, include an inferential link) between the three aspects to be able to demonstrate the acquisition of communications data is necessary for the statutory purpose specified.

A brief description of the investigation or operation may assist the designated person better understand the reason for the application.

In a long term or complex investigation or operation it is important to set the application in context with the overall investigation or operation and set the scene and background, which then leads into the applicant's specific investigative or operational requirements (which should be covered in the proportionality section).

Necessity does not entail explaining, 'what will be achieved by acquiring the data' or 'why specific time periods have been requested' – these points are relevant to proportionality and should be covered in the relevant section to stop repetition.

---

### 11) PROPORTIONALITY

**State why obtaining the communications data is proportionate to what you are seeking to achieve**

*Outline what is expected to be achieved from obtaining the data and explain how the level of intrusion is justified when taking into consideration the benefit the data will give to the investigation. When considering the benefits to the investigation or operation, can the level of intrusion be justified against the individual's right to privacy? Explain why you have requested the specific date/time periods i.e. how these are proportionate.*

*This text box can be made bigger or smaller, it is not set out to indicate how much should be written*

### 12) COLLATERAL INTRUSION

*Consider and, where appropriate, describe any meaningful collateral intrusion – the extent to which the privacy of any individual not under investigation may be infringed and why that intrusion is justified in the circumstances*

*If you have identified any meaningful degree of collateral intrusion, explain what it is.*

*This text box can be made bigger or smaller, it is not set out to indicate how much should be written*

---

## GUIDANCE

**PROPORTIONALITY** - Applicants should outline how obtaining the data will benefit the investigation or operation. The two basic questions:

- “What are you looking for within the data to be acquired?”
- “If the data contains what you are looking for, what will be your next course of action?”



The relevance of any time periods requested must be explained outlining how these periods are proportionate to the event under investigation.

An explanation as to how communications data will be used, once acquired, and how it will benefit the investigation or operation will enable the applicant to set out the basis of proportionality.

An investigation or operation which is seeking to acquire several sets of traffic data or service use data should engage with the SPoC to develop strategies (or collection plans) to obtain the communications data and the detail of that strategy may be included within the application (see paragraph 3.17 of the code).

**COLLATERAL INTRUSION** forms part of the **PROPORTIONALITY** considerations and becomes increasingly relevant when applying for traffic data or service use data and applicants should outline specifically what collateral intrusion may occur, how the time periods requested impact on the collateral intrusion, whether they are likely to obtain data which is outside the realm of their investigation and outline their plans for managing it, for example during the course of an investigation and to establish certain facts it may be necessary and proportionate for an investigator (applicant) to require access to communications data that relates to witnesses as well as the associates of a suspect or target.

The question to be asked is, "Will the data set to be acquired result in collateral intrusion to persons outside the line of enquiry the data is being obtained for? For example, due to the very specific nature of telephone subscriber check/s, collateral intrusion on a person other than the subscriber detail/s will be consistently absent whereas itemised billing on the subject's family home will be likely to contain calls made by the family members.

Applicants should not write about a potential or hypothetical 'error' and if the applicant can not identify any meaningful collateral intrusion that factor should be recorded in the application i.e. "none identified".

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<b>13) TIMESCALE</b>	
----------------------	--

<b>Identify and explain the timescale within which the data is required</b>	
---	--

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## GUIDANCE

**TIME SCALE** - Completion of this section assists the SPoC to prioritise the request.

DCG has an agreed Grading System that indicates to the CSP any urgent timescales, which is synchronised with the Urgent Oral Process (see footnote 40 and paragraph 3.56 of the code).

---

**14) APPLICANT**

**I undertake to inform the SPoC of any change in circumstances that no longer justifies the acquisition of the data**

<b>Applicant's Signature</b>		<b>Date</b>	
----------------------------------	--	-------------	--

---

**GUIDANCE**

If the application is being recorded within a database (or other electronic format), and is attributable to the applicant, a signature is not required.

## Considerations of the SPoC

An application, comments by the single point of contact (SPoC), considerations of the designated person, authorisations and notices may be made in writing (“paper”) or electronically (“database”).

15) ASSESSMENT BY ACCREDITED SPoC.	
<b>How much will the acquisition of the data cost?</b>	
<b>Are there other factors the DP should be aware of?</b> <i>For example, the requirement:</i> <ul style="list-style-type: none"> <li>• <i>is NOT reasonably practical for the CSP to do;</i></li> <li>• <i>will cause an adverse cost or resource implication to either your public authority or the CSP (for instance does the investigation or operation have the analytical capacity to undertake analysis of the communications data once acquired);</i></li> <li>• <i>will produce excess data to that required.</i></li> </ul>	
<b>Name of Accredited SPoC</b>	

16) AUTHORISATION (Completed by Accredited SPoC when appropriate)	
Specify the reason why the collection of communications data by means of an authorisation is appropriate:	
<input type="checkbox"/> There is an agreement in place between the public authority and the CSP relating to the appropriate mechanisms for the disclosure of the data ♦	
<input type="checkbox"/> The designated person considers there is a requirement to identify to whom a service is provided (for example subscriber check) but a CSP has yet to be conclusively determined as the holder of the communications data ♦	
<input type="checkbox"/> CSP is not capable of obtaining or disclosing the communications data ▲	
Describe the communications data to be acquired specifying, where relevant, any historic or future date and/or time periods sought.*	
Describe the course of conduct required to obtain the data.	<input type="checkbox"/> ♦Traffic or Service Use data – acquisition by SPoC directly from CSP <input type="checkbox"/> ♦Subscriber Information – acquisition by SPoC or, where SPoC can not acquire data directly from CSP, serve assurance of the Authorisation on CSP <sup>1</sup> <input type="checkbox"/> ▲Other conduct – specify
<i>The statutory purpose for which the conduct may be authorised is set out at section 8 of this form.</i> <i>The office, rank or position of the designated person should be recorded within section 17 of this form together with a record of the date &amp; time the granting of an authorisation is made.</i>	

\*The question, “Describe the communications data to be acquired specifying, where relevant, any historic or future date and/or time periods sought”, is appropriate where

<sup>1</sup> See paragraph 3.30 of the code

the communications data sought by the applicant may need refinement by the SPoC, for example incoming calls to a telephone number held by a CSP that does not keep a data set that can reveal such calls. The SPoC would state that several Authorisations and Notices will need to be undertaken with CSPs that can reveal calls instigating from their networks to the telephone number in question.

The designated person, having considered the comments of the SPoC, may decide the acquisition is not justified because of the significant resources required by the CSP to retrieve and disclose the data or it will be impractical for the public authority to undertake an analysis of the data.

It will also be appropriate for the SPoC to comment where the data sought by the applicant will require the acquisition of excess data, specifically where it is not practicable for the CSP to edit or filter the data, for example a specific incoming call in a data set with outgoing calls and cell site contained in it. If the designated person considers this to be necessary and proportionate for the acquisition of the specific incoming call then the Authorisation or Notice must specifically include the acquisition of the outgoing call, incoming calls and cell site.

## Considerations of the Designated Person

An application, comments by the single point of contact (SPoC), considerations of the designated person, authorisations and notices may be made in writing (“paper”) or electronically (“database”).

17. DESIGNATED PERSON			
<p><b>The designated person considers the application and if approved records their considerations:</b></p> <ul style="list-style-type: none"> <li>• Why do you <b>believe</b> acquiring the communications data is necessary for one of the purposes within section 22(2) of the Act;</li> <li>• Why do you <b>believe</b> the conduct involved in obtaining the data is proportionate to the objective(s)? In making that judgement you should take in consideration any additional information from the SPoC. If the applicant has identified any <u>meaningful degree of collateral intrusion</u>, why you <b>believe</b> the request remains justified and proportionate to the objective(s)?</li> </ul>			
<p><b>My considerations in approving / not approving this application are:</b></p> <p><i>This text box can be made bigger or smaller, it is not set out to indicate how much should be written</i></p>			
<p><input type="checkbox"/> I authorise the conduct to be undertaken by the SPoC as set out in section 16 of this form.</p> <p><input type="checkbox"/> I give Notice and require the SPoC to serve it on (insert name of CSP) . The Notice* bears the unique reference number</p>			
<b>Name</b>		Office, Rank or Position	
<b>Signature</b>		<b>Time and Date</b>	

### GUIDANCE

The **DESIGNATED PERSON** must be able to show he or she has understood the need for the application and considered necessity and proportionality to a standard that will withstand scrutiny.

The designated person should tailor their comments to a specific application as this best demonstrates the application has been properly considered.

If the designated person having read the application considers the applicant has met all the requirements then he or she should simply record that fact. In such cases a simple note by the designated person should be recorded.

There may be circumstances where the designated person having read the case set out by the applicant and the considerations of the SPoC will want to comment why it is still necessary and proportionate to obtain the data despite excessive data being acquired.

If the designated person does not consider the case for obtaining the data has been met the application should be rejected and referred back to the SPoC and the applicant.

\*A Notice must include a unique reference number that also identifies the public authority. This can be a code or an abbreviation. For police services it will be appropriate to use the Police National Computer (PNC) force coding. See also paragraph 3.37 (and footnote 53) of the code.

If the designated person is recording their considerations within a database (or other electronic format) and is attributable to the designated person, a signature is not required.

**AUDIT AND RISK MANAGEMENT COMMITTEE - 30 MARCH 2009**

**STANDARDS COMMITTEE - 31 MARCH 2009**

**CABINET - 9 APRIL 2009**

**REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT**

**PARTNERSHIPS FRAMEWORK AND TOOLKIT**

## **1. Background**

1.1. The Council like other bodies increasingly provides services through partnerships with other bodies. Partnership working brings great opportunities to enhance the offer to citizens. However, it can also bring risks, particularly in terms of possible lack of clarity over governance arrangements and accountability.

## **2. PROBITY AND PARTNERSHIPS**

2.1. The Audit Commission carried out a review of the Council's governance arrangements for partnerships in 2003/4. As a result an action plan was developed and the following actions were taken;

- The Head of Legal and Member services drew up partnership guidance and a checklist which was approved by COMT and referred to Audit and Risk Management Committee;
- The Head of Legal and Member Services created a partnership register based on information provided by Chief Officers which recorded details of each of the Council's Partnerships;
- A risk review was carried out of the partnerships of which the Council was a member; and
- A partnership risk toolkit was developed.

2.2. The Audit Commission has recently carried out a further review of the Council's arrangements for partnerships. It is anticipated that the outcome of that review will be reported very shortly. It is anticipated that the report will highlight the need for the Council to strengthen its arrangements for ensuring that the council's partnership arrangements are strong.

2.3. The Head of Legal and Member Services has been working for some time on a Partnership Framework and Toolkit aimed at strengthening the Council's partnership arrangements. A draft has now been circulated and is attached to this report as Appendix 1.

2.4 The document provides a framework for ensuring that the Council's partnership arrangements are clear and transparent. It ensures that the Council will only enter in to partnerships or remain in them where there is clear added value and the benefits outweigh any risks or drawback. It recognises that the Council should focus its limited resources on those partnerships which will contribute towards meeting the Council's LAA improvement targets, strategic objectives or statutory responsibilities.

2.5 It is intended that the framework will be submitted to the following bodies:

- Standards Committee – 30 March 2009;
- Audit and Risk Management Committee – 31 March 2009;
- Cabinet - 9 April 2009; and
- Council – 27 April 2009

- 2.6 It is intended that the framework will then be included within the constitution of the council to reinforce the importance of governance within partnerships.
- 2.7 The Framework requires that the Council identify for each partnership a link officer and a responsible Head of Service. There will be a review of all existing partnerships to ensure that there is business case in respect of each. A risk assessment will also need to be carried out in respect of each. It is intended that these reviews will be completed within 6 months. All partnerships will then need to be reviewed at least annually. There will also need to be a business case made out before the Council enters in to any new partnership and the process identified in the framework will need to be followed in each case.
- 2.8 The Council will need to ensure that those officers that are involved in partnership working have sufficient training to operate the framework and toolkit effectively. Therefore, it is proposed that a process of raising awareness of partnership working is undertaken over the 2-3 months after the framework is approved.
- 2.9 Chief Officers will also need to ensure that the existing register (appended to the framework and toolkit) is comprehensive and includes all partnerships. This is being progressed currently.

### 3. **Financial and Staffing Implications**

- 3.1 There are already a number of staff engaged in partnership work. Whilst the initial review of partnerships will result in increased work it is anticipated that this will not be extensive and can be managed within existing resources. At this stage it is proposed that the costs of implementing the new system are closely monitored, with a view to containing them within existing budgets.



4. **Local Member Support**

There are no implications for individual wards arising directly from this report.

5. **Equal Opportunity Implications**

There are none arising directly from this report.

6. **Human Right Implications**

There are none arising directly from this report.

7. **Local Agenda 21 Implications**

There are none arising directly from this report.

8. **Community Safety Implications**

There are none arising directly from this report.

9. **Planning Implications**

There are none arising directly from this report.

10. **Background Papers**

There are no background papers which are not appended to this report.

11. **Recommendation**

- 11.1 That the Partnership Framework and Toolkit be endorsed and referred to Council for Approval and inclusion within the constitution.

BILL NORMAN  
DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

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**WIRRAL COUNCIL  
PARTNERSHIP GOVERNANCE FRAMEWORK  
AND TOOLKIT**

**February 2009**

**(Version 2 at 27 Feb 2009)**

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## Foreword

Welcome to Wirral Council's Partnership Governance Framework and Toolkit. This document has been developed to guide elected members and officers of the Council when working with partnerships. It allows our partners to see the key principles and quality standards that we are committing to, and how we are putting collaboration and co-operation at the heart of the Council.

The promotion of effective partnerships with other organisations is the key to achieving our shared vision for Wirral of a:

**"more prosperous and equal Wirral, enabling all communities and people to thrive and achieve their full potential."**

This commitment is demonstrated, for example, through our leadership and involvement in the Wirral Local Strategic Partnership. Partnership is the key to Wirral's future success, as well as to that of the wider region we support. Wherever possible we will use partnerships to achieve shared priority outcomes that create and sustain a better quality of life for all the people of Wirral.

This toolkit has been developed considering Audit Commission Guidance and other examples of best practice. Particular thanks is given to Birmingham City Council for their assistance and permission to use parts of their toolkit.

[photograph of Leader]

Cllr Steve Foulkes,  
Leader of Wirral Council

[photograph of Chief Executive]

Steve Maddox,  
Chief Executive of Wirral Council

# **Section 1: Introduction and context**

## **1. Introduction: a partnership toolkit - why one is needed**

The Council has a long history of developing partnerships both within and outside the borough.

However, partnership working presents a number of challenges. It is important to recognise the support that partnerships need for delivering shared outcomes.

We need to adopt a way of working that will ensure consistency, and clearly show that the partnerships we are working with provide 'value for money' and 'added value'. The goal is better services for Wirral citizens.

## **2. The purpose of this toolkit**

The purpose of this toolkit is to help the Council work with its partners to identify if all the partnerships it is involved with have good systems of governance. By governance we mean the processes, procedures and policies that deal with and address issues like accountability, probity and audit.

Excellent performance flows from good governance. And all members of a partnership should conform to codes for the overall good of all involved. The Council recently adopted a Code of Corporate Governance committing itself to the principles of good governance and local accountability.

The toolkit will ensure that for each partnership:

- the Council is clear about its purpose and expected outcomes for the people of Wirral when entering into partnerships;
- the Council's own agreed priorities and objectives are being met;
- there is clarity about accountability and responsibility for outcomes;
- partnership activity and outcomes are monitored, reviewed and evaluated to make best use of resources;
- risks for the Council, and for the partnership, are assessed and the controls agreed;
- each partnership maintains a relevance to its agreed purpose during its lifespan and has in place an effective exit strategy;
- partnerships are properly empowered and their legal status understood;
- reviews are undertaken to evaluate success and further challenge progress and improve effectiveness.

## **3. Who will use this toolkit?**

Both officers and elected members of the Council will have access to this toolkit. The Council will also share this toolkit with its partners and prospective partners ensuring

that the procedures and guidance involved are understood, and the need for them accepted.

The toolkit gives detailed guidance for each stage in the life of a partnership:

- The partnership cycle: **Appendix 1**
- Making the business case – both prior to setting up a partnership and reviewing for continuing relevance: **Appendices 2 and 2a**
- Reviewing a partnership – the framework: **Appendix 3**
- Monitoring, reviewing and evaluating partnership governance and effectiveness: **Appendix 3a**
- Leaving partnerships: **Appendix 4.**

## 4. Defining a partnership

The word **partnership** is used with increasing frequency in both the public, private and voluntary sectors and can mean different things to different people. The Council's definition has been adapted from definitions used by the Audit Commission<sup>1</sup>.

In the context of local government, **a partnership is a joint working arrangement - which is not governed by the Partnership Acts - and where the partners:**

- **are otherwise independent bodies;**
- **agree to cooperate to achieve common goals and outcomes for the community;**
- **share accountability, risks, and resources;**
- **create an organisational structure with agreed processes and programmes.**

Some of our partnerships are more **significant** than others – in terms of the outcomes they seek to deliver, their profile/reputation and the resources that are put into them. The Council is not always the accountable body for its significant partnerships.

The Council has identified nine potential categories for partnerships. These are:

- 1) key partnerships;
- 2) procurement arrangements;
- 3) commercial or commissioned partnerships;
- 4) networking functions;
- 5) collaborative/shared service arrangements;
- 6) public private partnership / private finance initiative;
- 7) stock transfer Registered Social Landlords;
- 8) local management arrangements; and
- 9) grant funding systems.

**The Council's priority will be to address issues relating to key partnerships. The Council's definition of a key partnership is a partnership that:**

- **is a legal requirement or based on statutory guidance, or;**

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<sup>1</sup> *A fruitful partnership: effective partnership working*; Audit Commission, Nov 1998; and *Governing Partnerships; Bridging the Accountability Gap*; Audit Commission, Oct 2005



- **coordinates, commissions or delivers activities, at a borough-wide or local level, that *substantially* contribute towards our Local Area Agreement outcomes, the Council's corporate objectives or the objectives set out in the Sustainable Community Strategy.**

Please note that some partnerships have their own partnership families. In these cases only the *parent partnership* is regarded as a significant partnership. .

If you are unsure whether you are in a partnership arrangement or would like advice on whether a new arrangement should be formally established as a partnership, please contact the **Head of Legal and Member Services**.

## **5. Corporate and executive roles and responsibilities**

The **Deputy Leader** is the executive partnership champion. The **Director of Law, HR and Asset Management** is the corporate partnership champion and has overall responsibility for the Council's strategic approach to its partnership activity.

The **Chief Officers Management Team** has responsibility for monitoring the strategic impact of the Council's involvement in partnerships. This will provide for a coordinated approach across the directorates and constituencies.

**Appendix 5** provides an extensive list of the key roles and responsibilities.

## **6. Mapping the Council's partnership activity**

As part of the development of this framework the Council has developed a partnership register which includes all partnerships that the Council is part of. This has helped to:

- identify when the Council is in a partnership and what sort of partnership it is;
- provide an evidence-base for reviewing partnership arrangements.

A list of the type of preliminary data collected as part of that early consultation on partnerships is in **Appendix 7**.

One of the outputs of reviewing all the Council's significant partnerships will be a reliable baseline to populate a partnership database, available to officers, elected members, partners and the public.

## Section 2: Working in partnership

### 7. When is a partnership appropriate?

Partnership arrangements are appropriate when they have the potential to deliver:

- **value for money** – when available resources are used economically, efficiently and effectively
- **‘added value’** – delivering something that is unlikely to be achieved by another form of working arrangement
- **good governance** – they are consistent and well-managed. (This calls on the partnership to be ‘fit for purpose’).

A key feature of all partnerships is that all the parties involved agree to the need for the partnership in these terms.

Any other ways of working must be assessed to determine if a partnership arrangement is the most appropriate one.

The outcomes and expectations of any partnership must always be considered against the legal framework in which the Council has to operate. Put simply, is it within the Council’s powers to enter into such collaboration?

### 8. Making the business case for partnerships

The Council’s participation in all new partnership arrangements must be approved by the Cabinet or appropriate Regulatory Committee or, if required under the constitution or by law, by Full Council.

The Wirral Local Strategic Partnership (LSP) should be asked to endorse the creation of new partnerships to ensure continuity and cohesion. This includes local partnerships at constituency level.

All partnerships – both proposed and existing – need to demonstrate how Council participation will benefit the people of Wirral and the Council. This will be assessed by comparing the objectives and intended outcomes of the partnership with:

- the Council’s own priorities (as set out in the **Corporate Plan**);
- the priorities of the LSP (as set out in **Wirral 2025 – More Prosperous More Equal**);
- the **Local Area Agreement**.

Partnerships also need to demonstrate:

- fitness for purpose;
- value for money;

- added value.

Taken together, this will make the **business case** for a partnership. Initially, the business case needs to be approved by the accountable head of service. The template can be found in **Appendix 2a**.

Partnership governance and working arrangements will also need to be developed. **Appendix 3a** is the partnership review template that needs to be followed when developing working arrangements for a new partnership or negotiating arrangements when joining an existing one.

The business case process and the partnership development process must be dynamic and overlap. But, for new/proposed partnerships, the head of service **must** get 'in principle' agreement from the Chief Officers Management Team and/or Cabinet or the relevant regulatory committee as appropriate, before documents are signed and firm actions are taken that set in place operational partnership working arrangements.

These processes will culminate in the production of a partnership **Memorandum of Understanding**. This is a document that makes clear the:

- aims and principles of the partnership;
- roles and accountabilities of each of the bodies represented on the partnership;
- procedures under which the partnership will operate.

A model Memorandum of Understanding that exhibits all the attributes of best practice is in **Appendix 8**. This can be adapted to suit any circumstance. No area of this model should be omitted.

The **Head of Legal and Members Services** must advise on any report to Chief Officers' Management Team or governance arrangement before they are finalised. If development of a new partnership or entry into an existing partnership is approved, the accountable head of service will nominate Council officers for the partnership, including a **link officer**. The link officer's role and responsibilities will include:

- providing a point of contact between the Council and the partnership;
- annually reviewing the partnership's business case and its governance arrangements and effectiveness, reporting to the head of service;
- reporting on an exception basis to the head of service if any significant issues arise between annual reviews.

Cabinet, the appropriate Regulatory Committee or Full Council will approve nominations for elected members and, if considered necessary, officer appointments on partnerships.

**Appendix 1** gives an overview of this process.

## 9. Review and evaluation of continuing Council involvement in partnerships

### Review

All existing partnerships need to be reviewed annually for continuing relevance to the Council's priorities. There are two aspects to this:

1. Review of the partnership itself; providing assurance that proper systems are in place and that its outcomes and performance are monitored and evaluated.
2. The Council must decide whether its requirements are being met and be assured that the partnership is effective.

The business case for continuing a partnership needs to be confirmed annually. The review process should align with the Council's business planning process.

If a business case cannot be demonstrated then a report needs to be submitted to Cabinet or the appropriate Regulatory Committee (via the Chief Officers Management Team) stating this. (Further information on leaving partnerships can be found in **section 10**)

If the business case is made then the review should continue. **Appendix 3a** contains the review template. **Appendices 6** and **6a** give general guidance on reviews, review teams and reporting arrangements.

The review will show if the partnership has effective governance and delivery arrangements. It will also consider whether the risks involved in remaining in a partnership outweigh any benefits of doing so. If this is the case then the Council should leave the partnership.

It is the responsibility of heads of service to provide the Chief Officers'; Management Team with a formal annual report on a partnership's effectiveness and fitness for purpose, or more regularly if issues arise between the annual reports.

Issues relating to performance targets should be reported to appropriate directors or heads of service.

This exercise is not a substitute for the ongoing monitoring, evaluation, and the reporting responsibility of the partnership itself. **Appendix 3a** should be made available to partnerships.

Partnerships are responsible for their governance arrangements. But the Council also has a duty to ensure that adequate procedures and processes exist regarding the stewardship of public funds. For further guidance on this contact **Wirral Internal Audit**.

### Evaluation

The aim of this is to identify the impact of partnerships and whether they are achieving what they were set up to do. The report that heads of service produce as part of the review process must analyse if a partnership is achieving its' short, medium and long-term goals, and if it is not, what options exist.

After the individual annual reviews have been considered by the Chief Officers Management Team, the **Director of Law, HR and Asset Management** will produce an annual report for the Chief Officers Management Team, the Audit and Risk Management Committee, the Standards Committee and Cabinet on the overall impact of the Council's involvement in partnerships, with recommendations on any actions required.

## 10. Leaving partnerships

At some point, partnership arrangements, or the Council's involvement in a partnership, will come to an end. This could be for one or more of several reasons:

- the partnership achieves all that it set out to do;
- the priorities of the Council / LSP change;
- on review, the partnership is not delivering the outputs and outcomes it was set up to do and a new approach needs to be explored;
- the partnership is replaced by another partnership or working arrangement;
- external funding sources / resources cease;
- on review, an adverse level of risk of continuing the partnership is identified;
- the legal framework upon which the partnership was founded, changes.

Cabinet, the appropriate Regulatory Committee (or Full Council if it has constitutional implications) has the authority to determine if the Council's involvement in a partnership should cease. This does not necessarily mean that the partnership itself will cease.

All Memoranda of Understanding should identify how individual organisations can leave a partnership (see **Appendix 8**).

Within three months of the decision to leave a partnership, the **link officer** will complete the template in **Appendix 4** and submit it to the Chief Officers' Management Team and the **Director of Law, HR and Asset Management**. Any learning or best practice will be identified. Where significant issues are raised, eg system failures, results will be circulated as soon as they are known.

## 11. Risk assessment and risk management

As part of the business case evaluation, a full risk assessment must be carried out in accordance with the Council's **Corporate Risk Management Strategy**. The Council's **Risk and Insurance Manager** has also produced a specific **Partnership Risk Toolkit**. A copy of the toolkit is attached as **Appendix 9**. For any further information or guidance on risk management contact the **Risk and Insurance Manager**.

Risk management does not stop once an initial business case has been made. Good risk management is key to delivering successful outcomes. Stakeholders in the partnership should achieve a common understanding of:

- the potential adverse conditions or opportunities associated with achieving partnership objectives;
- their relative seriousness or where opportunities exist;
- how adverse conditions can be managed or opportunities exploited.

A designated member of the partnership board should be responsible for maintaining a risk register. It should specify those responsible for managing the action plan to reduce individual risks.

The partnership Memorandum of Understanding should mention the matter of shared risk assessment and risk management mechanisms. Other partnership documents need to identify in detail what systems are in place to monitor, review and evaluate risk and who is responsible for ensuring this is done.

The partnership board should ensure that effective risk assessment is undertaken in all key decision-making processes, and the partnership implements risk management plans to reduce identified risks, set clear deadlines and allocate responsible individuals for particular tasks.

Partnership working is often about accepting higher risks and sharing risk as part of developing new ways of working. This needs to be balanced against the organisation's statutory acceptable levels of risk. Partnership working can often offer additional ways of reducing risk or eliminating elements of it.

As well as risk management plans there need to be business continuity plans covering what actions will be taken if risks are realised.

It is important to note that as part of risk management, insurance is one way of transferring the level of risks. **Appendix 10** details a number of areas where insurance decisions may need to be taken by the partnership. Further advice and information can be obtained from the Council's **Risk and Insurance Manager**.

## **12. Developing skills for partnership working**

The Council recognises that partnership working requires particular skills and abilities, if it is to be effective. The Council will ensure that its training and development programme will include appropriate provision and opportunities for officers and elected members to develop the skills needed for partnership working.

**Appendix 11** gives general principles shown by successful partnerships. **Appendix 12** gives examples of skills and knowledge required by partnerships for successful working. The **Director of Law, HR and Asset Management** has responsibility for ensuring that resources are available to develop partnership working skills.

## **13. Protocol for elected members involved in any work with outside bodies**

Councillors should read and follow the protocol in **Appendix 13** when working as part of any partnership; either directly representing the Council, in an advisory capacity, or as part of an interest group. Any issues in this protocol that you do not understand or which require clarification should be discussed with the **Head of Legal and Member Services**, your political group leader or the Chief Executive.

Councillors need to observe, at all times, the relevant **Codes of Conduct** in the **Constitution**, paying particular attention to requirements for making declarations of interests.

If a Councillor serving on a partnership suspects that fraud is being committed, they should report those suspicions to **Wirral Internal Audit** and the **Head of Legal and Member Services** immediately – refer to the **Whistle Blowing Policy**.

## **14. Protocol for employees involved in any work with outside bodies**

Council employees should read and follow the protocol in **Appendix 14** when working as part of any partnership; either directly representing the Council in an advisory capacity, or as part of an interest group. Any issues in this protocol that you do not understand or which require clarification should be discussed with your line manager.

Officers need to observe, at all times, the relevant Codes of Conduct in the **Constitution**, paying particular attention to the requirements for making declarations of interests. For some higher level partnerships, Cabinet or Cabinet member approval will be required before any employee is allowed to represent the Council on a partnership.

If an officer serving on a partnership suspects that fraud is being committed, they should report those suspicions to **Wirral Internal Audit** and the **Head of Legal and Member Services** immediately – refer to the **Whistle Blowing Policy**.

Council staff must bear in mind that acceptance of a role as a charity trustee or company director (even if accepted as part of your work for the Council) is their personal responsibility. Responsibilities to the Charity Commission, as well as under company law, must be fulfilled. The duty to act in the best interests of the charity or company must be balanced with your duty to the Council as an employee, and as a representative within its community leadership role. If in any doubt about this, contact the **Head of Legal and Member Services**.

**Appendix 15** provides an appraisal of legal and procedural aspects of partnership working.

## **15. Complaints**

Clarity over the process for dealings with complaints about partnership activity can be problematic. This led to the Local Government Ombudsman to issue guidance on 2007<sup>2</sup>. This states:

*Complaint handling and redress need to be central in the governance of partnerships.*

*Local authorities need to establish rigorous, transparent and accessible complaint handling arrangements in the partnership settings in which they are involved.*

When entering any partnership or reviewing an existing one consideration must be given to the process for dealing with complaints about partnership activities.

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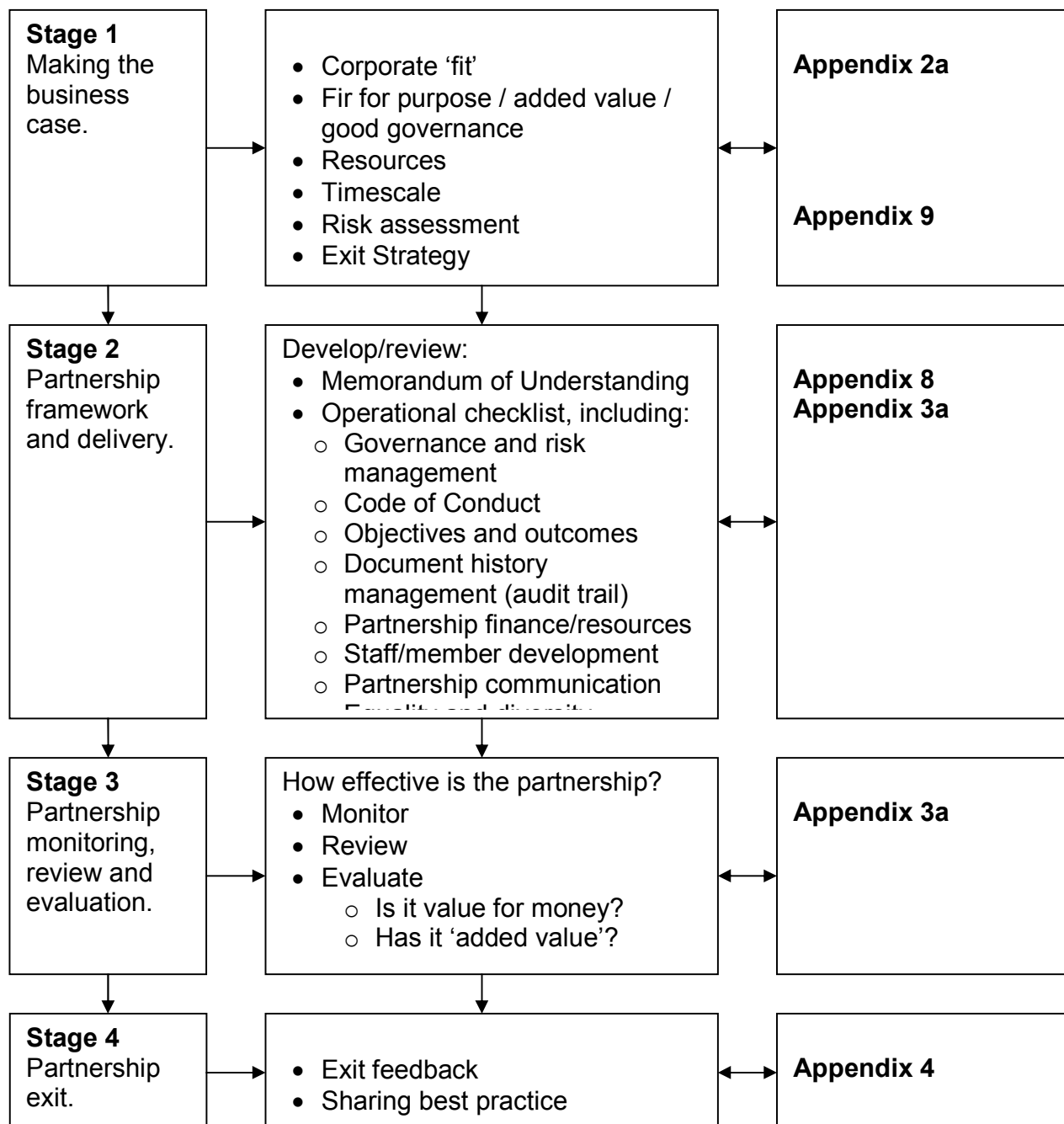
<sup>2</sup> *Special Report: Local Partnerships and Citizen's Redress*; Local Government Ombudsman, July 2007.



## Appendix 1

### The partnership cycle

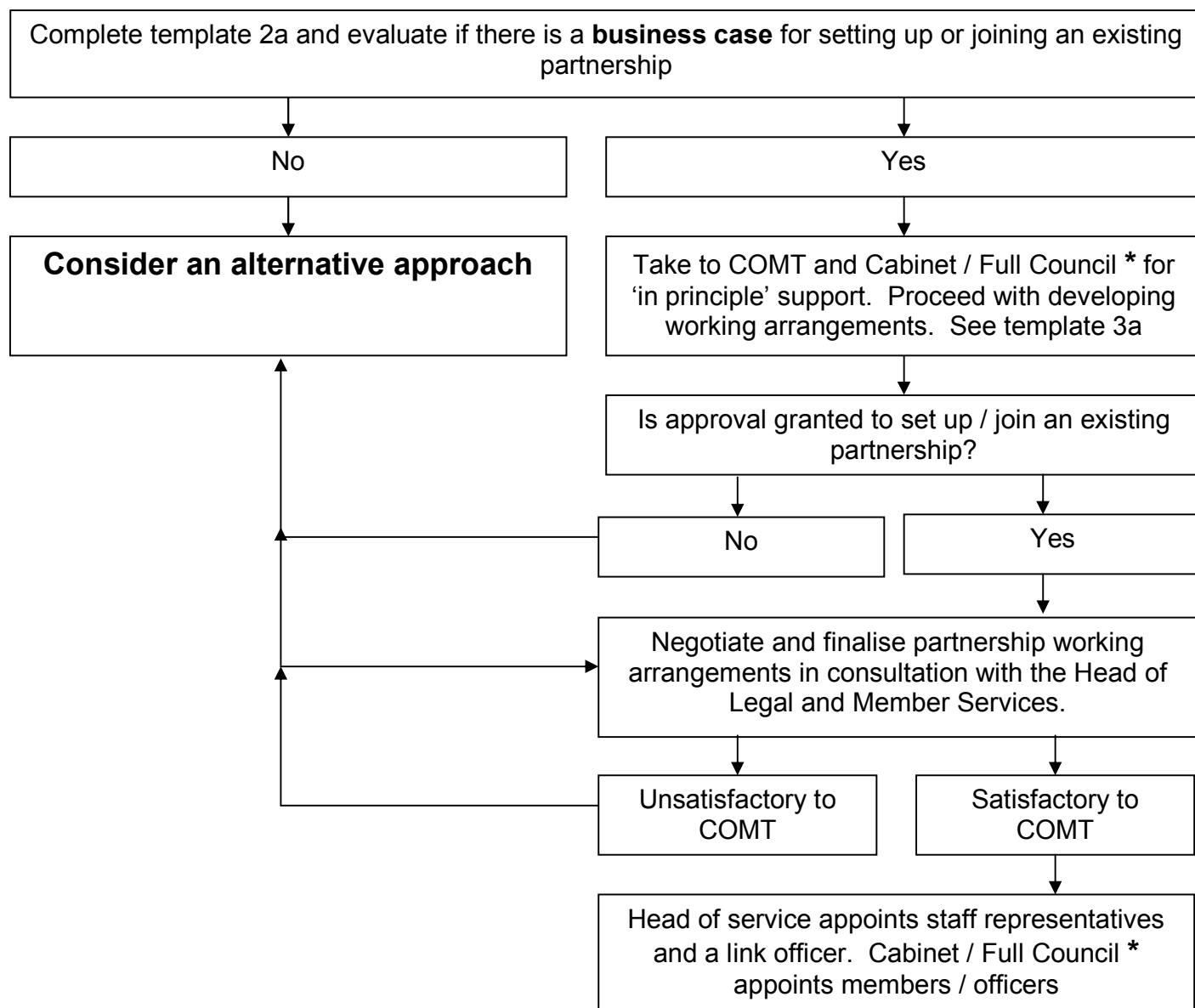
This diagram gives an overview of our approach to partnership governance and delivery through the life cycle of a partnership: forming, performing and ceasing.



## Appendix 2

### Making the business case for new partnerships

This flowchart guides the head of service through the business case stage of developing a new partnership or joining an existing one.



\* Approval for new partnerships is only required by Full Council where there are constitutional requirements.

## Appendix 2a

### Business case template

This is concerned with (tick appropriate box):

Setting up a new partnership	<input type="checkbox"/>	Joining an existing partnership	<input type="checkbox"/>	Reviewing an existing partnership	<input type="checkbox"/>
------------------------------	--------------------------	---------------------------------	--------------------------	-----------------------------------	--------------------------

Name of the partnership: \_\_\_\_\_

If the partnership is STATUTORY tick the box

Issue	Key questions	Evidence and evaluation
<b>Assessment of 'fit' with the Council and key policies</b>		
Corporate 'fit'	1. How does the partnership contribute to the: <ol style="list-style-type: none"> <li>a. <b>Corporate Plan?</b></li> <li>b. <b>Sustainable Community Strategy?</b></li> <li>c. <b>Local Area Agreement?</b></li> </ol>	
<b>Partnership - key information</b>		
Strategy	1. List the agreed / proposed objectives and SMART outcomes and targets 2. What is its intended lifespan? 3. What is the exit strategy?	
Membership	1. Which organisations make up the partnership? 2. Are there any key players <b>not</b> in the partnership? 3. If yes, which ones?	
Leadership and engagement	1. Who is the partnership accountable to? 2. What is the role of the Council?	
Risk management & equality impact assessments	Attach the completed: <ol style="list-style-type: none"> <li>1. <b>risk assessment</b></li> <li>2. <b>equality impact assessment (EIA)</b></li> </ol>	
<b>Excellence and efficiency</b>		
Excellence, Economy, Efficiency and	Give specific examples of how the partnership delivers: <ol style="list-style-type: none"> <li>a. <b>value for money;</b></li> <li>b. <b>'added value'.</b></li> </ol>	

Issue	Key questions	Evidence and evaluation
Effectiveness		

### Appendix 2a

Issue	Key questions	Evidence and evaluation
<b>Resources</b>		
Resources	What resources is the Council providing in terms of: <ol style="list-style-type: none"> <li>finance?</li> <li>staff?</li> <li>accommodation?</li> <li>legal?</li> <li>IT?</li> <li>administration?</li> <li>training?</li> <li>insurance?</li> <li>recruitment?</li> <li>payroll?</li> <li>health and safety?</li> <li>advice?</li> <li>communication tools?</li> <li>other?</li> </ol> [Answer all fields with details]	
Funding	<ol style="list-style-type: none"> <li>When is funding for the partnership due to end?</li> <li>If the Council leaves the partnership will any funding be lost to the borough?</li> <li>If yes, please give details</li> </ol>	
<b>Other considerations for existing partnerships</b>		
Reputation	<ol style="list-style-type: none"> <li>Is there the potential for reputation damage to the Council if it leaves the partnership?</li> <li>If yes, what is the risk and how can it be managed?</li> </ol>	
Accounting	<ol style="list-style-type: none"> <li>How will the partnership be treated for the purposes of the Council's accounts?</li> </ol>	

**MY OVERALL EVALUATION IS THAT THE BUSINESS CASE HAS / HAS NOT \* BEEN MADE FOR SETTING UP / JOINING / CONTINUING \* A PARTNERSHIP ARRANGEMENT.**

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Job title: Head of \_\_\_\_\_

Tel. No.: \_\_\_\_\_

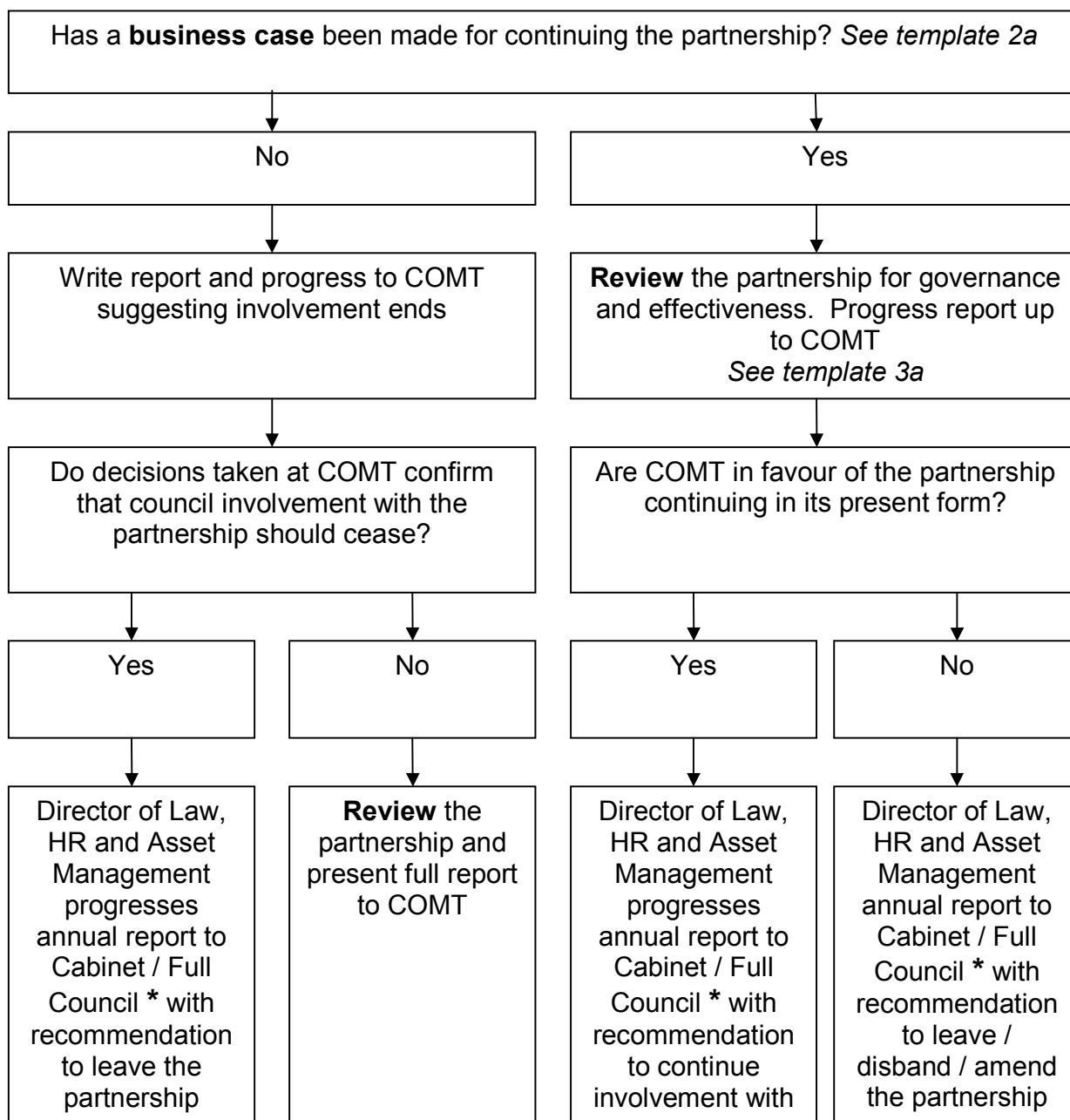
**Email:** \_\_\_\_\_

\* Delete as appropriate

## Appendix 3

### Reviewing a partnership

This flowchart guides the head of service and partnership link officer through the review stage of an existing partnership.



\* Approval is only required by Full Council where there are constitutional requirements

## Appendix 3a

### Partnership review template

Whether you are setting up a partnership, joining or reviewing an existing one, the issues that need to be considered for partnership effectiveness will be the same. This guidance is to be used by:

- the head of service as a checklist when setting up or reviewing the appropriateness of joining an existing partnership
- the link officer carrying out a partnership review

This guidance should also be made available to the partnership officer responsible for monitoring a partnership's governance, performance and effectiveness.

Completing the template should provide assurance that appropriate standards are being met.

**Name of partnership:** \_\_\_\_\_

**Head of service:** \_\_\_\_\_

**Link officer:** \_\_\_\_\_

Governance and finance		
<b>Formal status</b>		
1. Is there clarity on the <b>legal status</b> of the partnership?		
2. Is there an agreed <b>Memorandum of Understanding</b> or constitution, which sets out a clear purpose and clarity of expectation of the partnership members?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b>		
1.		
2.		
<b>Actions needed</b>		
.		

Composition		
1. Is the partnership realistically sized and resourced?		
2. Does it contain the right mix of <b>skills and knowledge</b> to get the work done?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b>		
1.		
2.		
<b>Actions needed</b>		

<b>Auditing and scrutiny arrangements</b>		
1. Are internal auditing arrangements for the partnership clear? 2. And are there agreed rights of audit access for each constituent member? 3. Does the partnership have any external review or monitoring mechanisms?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b>		
1. 2. 3.		
<b>Actions needed</b>		

<b>Finances and resources</b>		
1. Where does accountability lie for managing the spending of funds? 2. Are financial monitoring arrangements robust, clear and understood? 3. Have procedures for managing and monitoring pooled budgets and resources been developed? 4. Is there clarity over ownership and responsibilities? 5. Is there clarity over the accounting arrangements?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b>		
1. 2. 3. 4.		
<b>Actions needed</b>		

<b>Risk assessment &amp; management</b>		
1. Are systems in place to assess and manage partnership risk? 2. Are business continuity plans in place?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b>		
1. 2.		
<b>Actions needed</b>		



<b>Conduct and behaviour</b>		
1. Is there an agreed Code of Conduct for partners that is signed by all members and enforced by the Chair?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b> 1.		
<b>Actions needed</b>		

<b>Staffing</b>		
1. Are roles and responsibilities and expected behaviours clear and agreed? 2. Are there opportunities for training partnership staff and members, including: a. appraisal and approval procedures? b. equality and diversity? c. Code of Conduct?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b> 1. 2a. 2b. 2c.		
<b>Actions needed</b>		

<b>Equality and diversity</b>		
1. Has the partnership carried out an <b>Equality Impact Assessment (EIA)</b> on the way that it functions, on its policies and on what it delivers? 2. If no, an action plan needs to be drawn up to do so within the next 6 months		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
<b>Evidence</b> 1.		
<b>Actions needed</b>		

<b>Communication</b>		
1. Is the partnership communicating well with its partner agencies, stakeholders and communities?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
Evidence 1.		
<b>Actions needed</b>		

<b>Performance and Delivery</b>		
<b>Accountability</b>		
1. Does the partnership have an officer accountable for monitoring its performance?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
Evidence 1.		
<b>Actions needed</b>		

<b>Outcome-focused planning and performance management</b>		
1. Does the partnership have a credible evidence-base to inform its objectives, outcome-focused planning and SMART targets?		
2. Are there action plans in place to deliver these?		
3. Do partners share information so that they can effectively: <ul style="list-style-type: none"> <li>a. monitor performance, and</li> <li>b. appraise options?</li> </ul>		
4. And are sufficient joint mechanisms in place for effective monitoring and appraisal?		
5. Are findings and recommendations owned and acted upon?		
6. Are arrangements in place to tackle issues of non-performance?		
<b>Assessment</b>	[insert self-assessment]	1. NO – action required, 2. YES – but could be improved, 3. YES- working effectively
Evidence 1. 2. 3a. 3b. 4a. 4b. 5. 6.		
<b>Actions needed</b>		

**GLOSSARY AND ABBREVIATIONS USED**

**Completed by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Job title:** \_\_\_\_\_

**Organisation:** \_\_\_\_\_

**Tel No.:** \_\_\_\_\_

**Email:** \_\_\_\_\_

## Appendix 4

### Leaving a partnership

The link officer needs to complete this form within three months of the Council's decision to end its working arrangement with a partnership. It should be submitted to the Director of Law, HR and Asset Management.

ISSUE	COMMENTS
1. Name of partnership	
2. When was the formal decision taken to end the Council's working arrangement?	
3. From what date will / did active involvement end?	
4. Why was involvement ended?	
5. If failure to deliver was identified, was this a result of system failures?	
5a. If yes, what were they?	
6. Will the partnership continue without Council involvement?	
7. Is the Council looking to develop other working arrangements to succeed the partnership?	
7a. If yes, what are they?	
8. State up to 3 things that the partnership achieved	
9. State up to 3 examples of best practice exhibited by the partnership	
10. State up to 3 things that the partnership could have done better	

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Job title: \_\_\_\_\_ Tel. No. \_\_\_\_\_

Email: \_\_\_\_\_

## Appendix 5

### Roles and responsibilities

#### The role of the link officer is to:

- provide a point of contact between the Council and the partnership;
- assist the partnership work with the Council;
- support the Council's representative(s) on the partnership;
- alert relevant officers to arising issues eg **Internal Audit** and the Council's **Risk and Insurance Manager** on matters of risk, **Legal and Member Services** on matters of interpretation, etc
- undertake an annual review of the partnership's governance and performance effectiveness and submit a report to the head of service;
- report on an exception basis to their head of service if any issues arise between annual reports;
- ensure that quality standards with respect to the Council's governance framework are maintained.

#### The role of the head of service is to:

- evaluate the business case for proposed and existing partnerships;
- evaluate the annual partnership review and any exception reports, agree the reports and report to the Chief Officers Management Team;
- action any points arising from decisions taken at Cabinet/Chief Officers Management Team;
- identify any learning and ensure the Council benefits;
- coordinate with the link officer to troubleshoot any problems that arise in the day-to-day operation of the partnership that impacts on or involves the Council;
- refer any concerns to the Chief Executive, the Director of Finance, the Head of Legal and Member Services and/or Internal Audit.

#### The role of the Director of Law, HR and Asset Management is to:

- develop the partnership review programme;
- produce an annual report summarising partnership governance and effectiveness, the outcome of reviews and identifying any actions as necessary;
- ensure support and training is available to officers and elected members to serve on partnerships and carry out their duties effectively;
- ensure that the Council's partnership governance framework and toolkit is maintained and sustained;
- ensure that resources exist to sustain a database of partnership activity. produce an annual report summarising partnership governance and effectiveness, the outcome of reviews and identifying any actions as necessary;
- consider any evaluation report summarising Council involvement in partnerships, analyse and challenge outcomes, impact and direction;

## **Appendix 5**

- support the Chief Officers Management Team to identify and circulate learning and best practice from partnership working;

### **The role of the Chief Officers Management Team is to:**

- ensure that the partnership review programme is carried out and to timescales;
- challenge if partnerships are adding value/offering value for money;
- collate the results of partnership review activity and pass them to the Director of Law, HR and Asset Management;
- ensure that the Council's partnership database is maintained and sustained;
- make the Director of Law, HR and Asset Management aware of partnership training needs;
- circulate learning and best practice on partnership working around the organisation;
- provide a mechanism for the Council to coordinate and discharge its duties under this partnership governance framework;
- receive the joint annual summary report on the overall impact of the Council's involvement in partnerships and agree any actions which do not require an elected member decision;
- ensure that partnerships are properly supported and that resources are provided to allow partnerships to succeed;
- monitor the overall performance and effectiveness of partnerships and advise Cabinet on any further action required;
- evaluate whether partnerships 'act together' and make differences to people's lives.

### **The role of Cabinet is to:**

- agree Council involvement in new partnership working arrangements;
- appoint, substitute or remove elected members (and officers on higher level partnerships) on partnership bodies, or where appropriate make recommendations to Council;
- receive reports from the Director of Law, HR and Asset Management on the effectiveness of the Council's involvement in partnerships;
- agree future direction and/or any actions arising from evaluations;
- assess the Council's continued involvement in partnerships.

## Appendix 6

### The review

Although in practice, the day-to-day workings of the review are likely to be carried out by the link officer, how reviews are conducted will vary. This will depend largely on the working relationships between individuals/departments/organisations, etc

It is likely that link officers will know what works best in their partnerships when carrying out a review.

For smaller partnerships a link officer may have sufficient knowledge and expertise of a partnership to do a challenging desktop review.

For the larger and more significant partnerships, it may be appropriate to set up a small review team to give a steer to the officer(s) doing the groundwork. In these cases the nucleus of any review team should include:

- the accountable head of service for the partnership;
- the partnership link officer.

For the partnerships that sit under the LSP it may also be appropriate for a director to sit on the review team.

**Partnership reviews are not intended to be laborious and drawn out processes.** A quick but thorough and challenging examination should mean that most reviews should not take any longer than one month to complete the initial groundwork, with a further month to compile the report to COMT.

The review process itself should not be resource intensive, bureaucratic nor excessively time-consuming. In most cases, the information required will be to hand and will just needed pulling together in one place and evidencing.

In some cases it may be helpful to involve a *critical friend* in the review process.

## Appendix 6a

### Reporting to the Corporate Management Team

#### Report template

Name of partnership: \_\_\_\_\_

Area of focus	Findings and gaps	Evaluation	Recommendations
1. Are there adequate governance and financial management procedures in place?			
2. Is the partnership delivering the outcomes contained in the Local Area Agreement?			
3. Does the partnership adequately deal with risk?			
4. Does the partnership take its responsibilities regarding matters of equality of outcomes seriously?			
5. List up to 5 areas of best practice that is exhibited by the partnership			
6. Are there any other areas you wish to comment on that you think may improve the partnership's overall			



Area of focus	Findings and gaps	Evaluation	Recommendations
effectiveness?			
7. In your overall opinion and from the evidence you have reviewed, is the partnership: <ul style="list-style-type: none"> <li>a. fit for purpose?</li> <li>b. giving an 'added value, or is it likely to?</li> <li>c. providing value for money?</li> </ul>			

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Position(s): \_\_\_\_\_

Organisation(s): \_\_\_\_\_

Contact details: \_\_\_\_\_

**Appendix 6b**

**Improvement plan template**

**Name of partnership:** \_\_\_\_\_

<b>Outcome</b>	<b>Action</b>	<b>Issues/risks</b>	<b>Means of verification</b>	<b>Lead officer</b>	<b>Completion date</b>

**Monitored by:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Organisation:** \_\_\_\_\_

**Contact details:** \_\_\_\_\_

## Appendix 7

### Partnership Register

The Directorates and Chief Officers Management Team have overall responsibility for ensuring that the information on the database is accurate and maintained. The **Director of Law, HR and Asset Management** has responsibility for ensuring that the resources exist to sustain it.

The Council first compiled a Partnership Register for 2007/8. This was reviewed in 2008/9. A copy of the index of partnerships is attached as Appendix 17. This will be used as the baseline to populate the register. The following data has been sought in relation to partnerships:

- Name of partnership;
- Date established;
- Period of partnership;
- Purpose of partnership;
- List of partners;
- Wirral Council officer representatives;
- Wirral Council member representatives
- Annual revenue budget;
- Annual capital programme;
- Percentage of partnership funding from Wirral Council;
- Other bodies providing funding for the partnership;
- Is Wirral Council the accountable body;
- What are the arrangements for reporting to the Council;
- Is there a formal agreement;
- Is the partnership governed by Council Standing Orders?
- What ethical arrangements exist;
- Is there provision for declarations of interest at meetings;
- What training is carried out.

From the implementation of this framework and toolkit the following data will be held on the register and each directorate will be responsible for providing the Director of Law, HR and Asset Management with the necessary information for each partnership that they lead on to enable the register to be maintained and regularly updated:

- Name and type of partnership including any legal status, ie statutory or non-statutory.
- Partnership areas of work (geographical, theme and client groups).
- Membership of the partnership.
- Elected member contribution to the partnership.
- Organisation(s) that the partnership is accountable to.
- Head of service accountable for the partnership.
- Name of the partnership link officer and contact details.
- Start date and proposed end date of the partnership.

- How the partnership contributes to the Council Plan outcomes.
- How the partnership contributes to the Sustainable Community Strategy outcomes.
- How the partnership contributes to the Local Area Agreement outcomes.
- Funding sources available to the partnership.
- Council resources available to the partnership including:
  - finance;
  - staff;
  - accommodation;
  - legal;
  - IT;
  - administration;
  - training;
  - insurance;
  - recruitment;
  - payroll;
  - health and safety;
  - advice;
  - communication tools;
  - other.

## Appendix 8

### A model Memorandum of Understanding

**A Memorandum of Understanding must address the following headings since this model combines all the attributes of best practice.**

#### **Aims and Objectives of the Partnership**

List the aims and objectives of the partnership here. Good practice would be a separate paragraph with a short explanatory sentence for each aim and objective.

#### **Partnership Principles**

The following list should be included under this sub-heading. An explanatory sentence could follow each bullet point. This list is not exhaustive.

The members agree to work together actively to achieve the aims of the partnership, on the basis of:

- visible commitment and 'ownership' by the various member organisations and individual representatives;
- mutual trust and respect;
- openness and transparency;
- effective communication and accountability;
- shared ownership of resources, where appropriate;
- combined expertise;
- creative and innovative solutions to problems;
- identification and sharing of best practice, based on mutual learning;
- removal of barriers to equality of access and opportunity;
- clear purpose, clarity of expectations and agreed targets for action;
- effective decision-making;
- shared mechanisms for risk management, monitoring, evaluation, reviewing and reporting on performance, progress and success;
- allowing each constituent member unobstructed access to the audit records of the partnership, on request.

#### **Terms of Reference**

List the Terms of Reference (the purpose of the partnership) here. Good practice would be a separate paragraph with a short explanatory sentence for each Term of Reference.

#### **Roles and Responsibilities**

List the roles and responsibilities of each of the constituent members of the partnership here. It may be appropriate to talk more generally about what the voluntary and community sector, the business sector and the public sector members each bring to the partnership as groups, and the areas of the partnership activity that they will be responsible for delivering.

## **Appendix 8**

### **Membership and Terms of Office (including any special provisions for Council Members / Officers)**

List information like:

- the number of representatives from organisations in the public, private and the voluntary and community sectors, which are actively involved in the area. (Equal representation is not a requirement.) and why they were chosen;
- a list of the constituent members and the number of representatives they have on the partnership;
- who chairs and vice-chairs the partnership;
- how often the membership is reviewed and any time limits that an individual representative can serve on the partnership;
- how the membership of the partnership reflects the characteristics and aspirations of the area / people it has been set up to serve.

### **Equalities and Inclusion**

A statement on how the partnership will operate on the basis of principles that actively value the benefits of diversity and ensure fair treatment and equality of opportunity. This includes representation and participation on the partnership.

A statement on how and when the partnership will carry out Equality Impact Assessments on its functions, policies and services. The Equality Impact Assessment should be carried out within 6 months.

### **Accountability**

A statement on to whom and how the partnership is accountable and what that accountability includes.

A statement on the constituent members' accountability to each other including any expectations of behaviour.

### **Meetings**

A short statement/sentence on:

- the minimum number of meetings in a period
- posting of meetings – including if open or closed
- convening of extraordinary meetings
- responsibility for the setting of meetings, agendas, working papers, minutes, etc.
- venues – why and how they are chosen
- acceptability of meeting times
- representation and quorum
- expectation of behaviour in meetings
- replacements at meetings and any protocols to be followed
- Declarations of Interest and protocols on withdrawal from meetings.

This list is not exhaustive.

## **Appendix 8**

### **Disrepute and Conflict Resolution**

A statement on behaviour that could reasonably be expected to bring a partnership into disrepute. A short list could include:

Members of the partnership:

- must not use their position improperly, confer on, or secure for themselves or any other person, an advantage or disadvantage
- must ensure that activities are not undertaken for political purposes
- must not unduly influence any person in the paid employment of any of the partner agencies.

A statement on the systems and procedures that exist to resolve issues of conflict within the partnership.

### **Secretariat**

A short statement on which constituent member(s) will provide the secretariat function.

### **Termination of Partnership Involvement**

A short statement on written notification to the Chair and secretariat of the intention to leave the partnership. Also state any notice period required or any exceptions.

### **Review and Alteration to the Memorandum of Understanding**

A short statement on how often the Memorandum of Understanding shall be reviewed and protocols for changing/amending it.

## **Appendix 9**

# **Partnership Risk Management for the Public Sector and Public Service Organisations**

## **A Guide and Toolkit**

Public Risk Management Ltd  
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Newton Abbot  
Devon  
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Tel 01626 355333  
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1  
3  
4  
7

## 1 Introduction

In today's working environment, it is increasingly likely that your service will deliver at least some of its services in partnership with other organisations. This may be as a result of legislative requirements, or because you have identified a good business opportunity with another organisation.

Working in partnership usually means that organisations will commit resources, which may be significant, in terms of officer time or direct financial funding to develop and then deliver the desired outcome. It is therefore essential that all of the partners identify, understand and manage their role in the partnership in the most appropriate way. Part of this process should involve identifying the risks, or what might go wrong, preventing the partnership from achieving its objectives. If this is done properly, and at the start of the process, there is a much better chance that the partnership will be successful and all parties enjoy a win/win outcome. It doesn't matter if the partnership is small, involving only two parties, or a large and complex multi-agency arrangement: the same principles apply.

There are many different forms of partnership but partnerships generally fall into one of two distinct types: procurement partnership or mutually supportive partnership. This toolkit concentrates on the latter type of partnership, where two organisations come together in a mutually supportive manner, to work together to improve services. Typical examples are internal audit or revenues and benefits partnerships where all the partners are local authorities, albeit perhaps supported by a commercial organisation with which the partners have a contractual relationship. The former has a much stronger client: contractor split to the partnership where the gains for each partner differ (money for the contractor; services for the client). The risks facing this sort of partnership are outside the scope of this toolkit.

Risk management is not about risk avoidance – it is about taking managed risks. That is what modern life is based on, but we may forget how to do this in partnerships and other complex arrangements. You can use risk management as a common language for managing a partnership, checking that it's working, and ensuring that the service recipients are gaining from all your effort.

This guidance sets out some tools which you can use to determine the significance of the partnership to your organisation, identify and analyse the risks both of going into and staying out of the partnership, and manage those risks. IT IS NOT INTENDED TO BE A COMPLETE PANACEA as there are too many variables and complexities to set down in a summary toolkit such as this.

We recommend that you use as many, or as few, of the tools within this guidance as you need to help you and your partnership. The most important thing is to involve all the relevant people in the partnership in deciding which approach to use. This is because the successful management of risk will depend on the buy-in of the key players. All key players have to own the solutions, and be persuaded of the benefit of doing so.

As well as using risk management techniques, you should also consider using a stop/review/go-ahead process, sometimes called a Gateway Review<sup>3</sup>. This means that all partners identify the critical stages of the partnership, which will be transparent and reasonable, and make sure that time is taken to review the progress of the partnership against its objectives. Do not be afraid to stop the partnership altogether if it no longer seems to be the right approach to take or isn't working: that is better than progressing down a route which wastes public resource and your time for limited or no benefit.

---

<sup>3</sup> Office of Government Commerce - Best Practice OGC Gateway™ Reviews

Risk management should be seen as an integral part of the partnership process, which needs to have resources devoted to it, as with any other areas of work, if it is to be successful. Resources for managing the risks should be agreed at the outset, based on the risk prioritisation, and reaffirmed as part of the gateway review process that you agree between you all.

The techniques to identify risks and develop methods to record and manage them will depend on the type and complexity of the partnership, but it is vital that all partners are involved at the start. It is important to ensure that all partners' risks are recognised and included in joint risk registers, which are shared and regularly reviewed and updated by all the partners.

**RISKS OF THE PARTNERSHIP** – are things external to the partnership the partnership might impact on, for example a major change to people's jobs

Key partnership risks should be managed through your own internal risk process looking at both the risks TO the partnership and the risks OF the partnership. Risk registers should be drawn up both for the process of forming a partnership and for the live partnership. The risk register for the live partnership, however embryonic its form, is a vital document to consider as part of the decision to proceed, or not, with the partnership.

**RISKS TO THE PARTNERSHIP** – are risks internal to the partnership that can set the partnership off course and may even cause it to fail

Successes and achievement of the outcomes of partnerships should be celebrated and widely shared, particularly where you can show that a managed risk has been taken within a partnership which has led to savings in time and/or money.

Public Risk Management Ltd has devised this toolkit in conjunction with the London Risk Management Group. Copyright is owned by Public Risk Management Ltd. See the final appendix for copyright conditions, contact details and contributors.

What is a partnership?

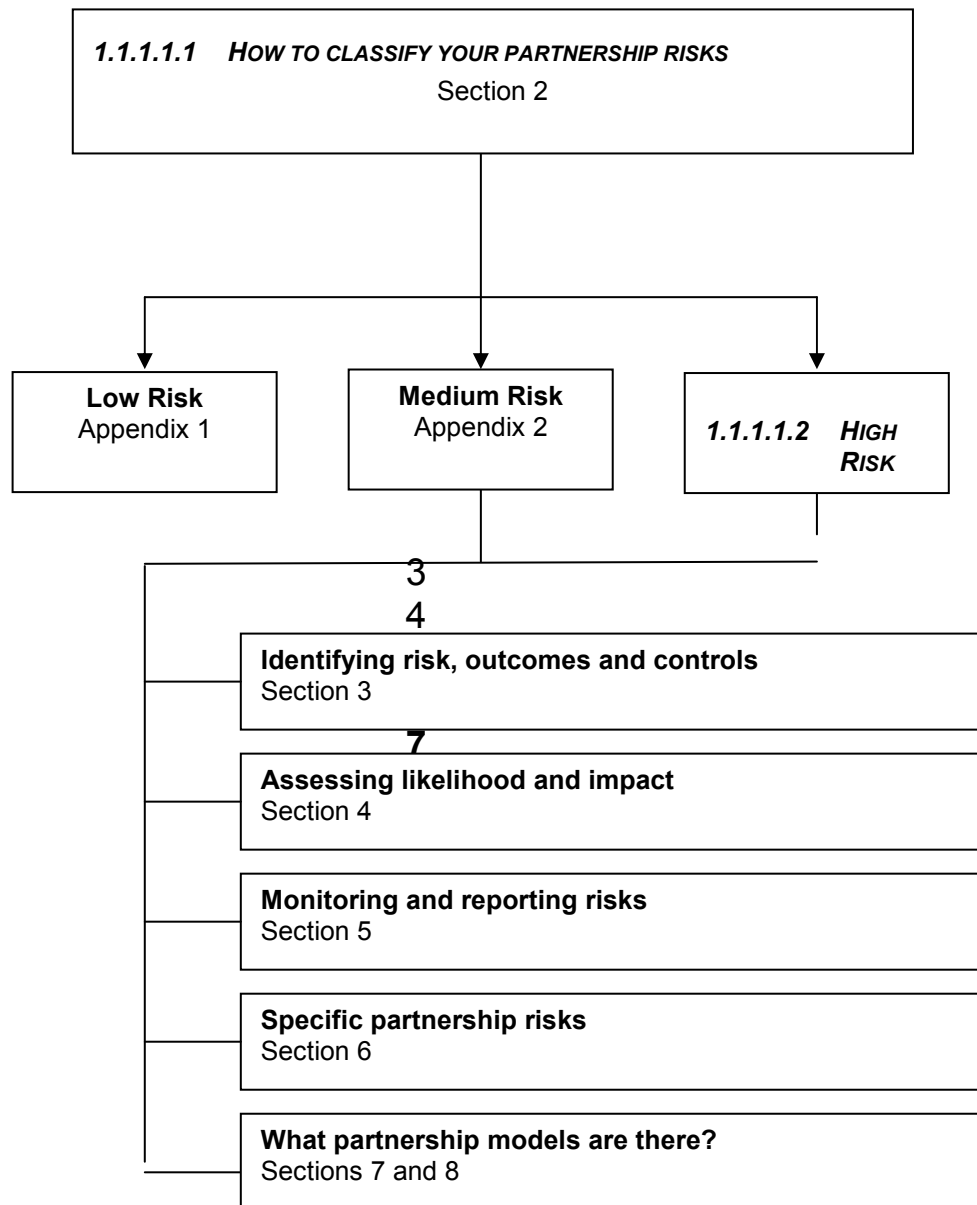
A suggested definition is where the partners;

- are otherwise independent bodies and
- agree to co-operate to achieve a common goal or
- create a new org structure or process to achieve the goal separate from own orgs or
- plan an implement a jointly agreed programme often with joint staff resources and
- share relevant information or
- might pool resources, risks and rewards
- and the partnership is not subject to the normal command and control management

## 2 Section 1: How to use this toolkit

If this is the first time you have used this document or you are new to thinking about partnership risk, it will be worthwhile reading the document all the way through.

To use this document as a tool, please go to Section 2 (page 4) and follow the partnership assessment to decide which the appropriate tool is.



## Section 2: How to classify your partnership risks

### 8



Partnerships can vary hugely in size and complexity, from a mutual coming together to solve a joint problem (for example, a recruitment gap) to a multi-agency partnership used to deliver a completely new set of services in a completely new way. From a risk management perspective, it is not necessarily appropriate to devote the same resources and attention to every partner or partnership, although the risks involved are not necessarily in proportion to the size of the partnership and will change as it develops and matures.

Two simple tools can help you identify how important the partnership is to your organisation and thus, where you are on the above spectrum. Risk management activities can then be proportionate to the risks associated with a particular partnership agreement.

Diagram 1 below shows a simple way of assessing the relative importance of different partnership activities against the size of the partner:

*Diagram 1 - Size of partner v impact of failure*

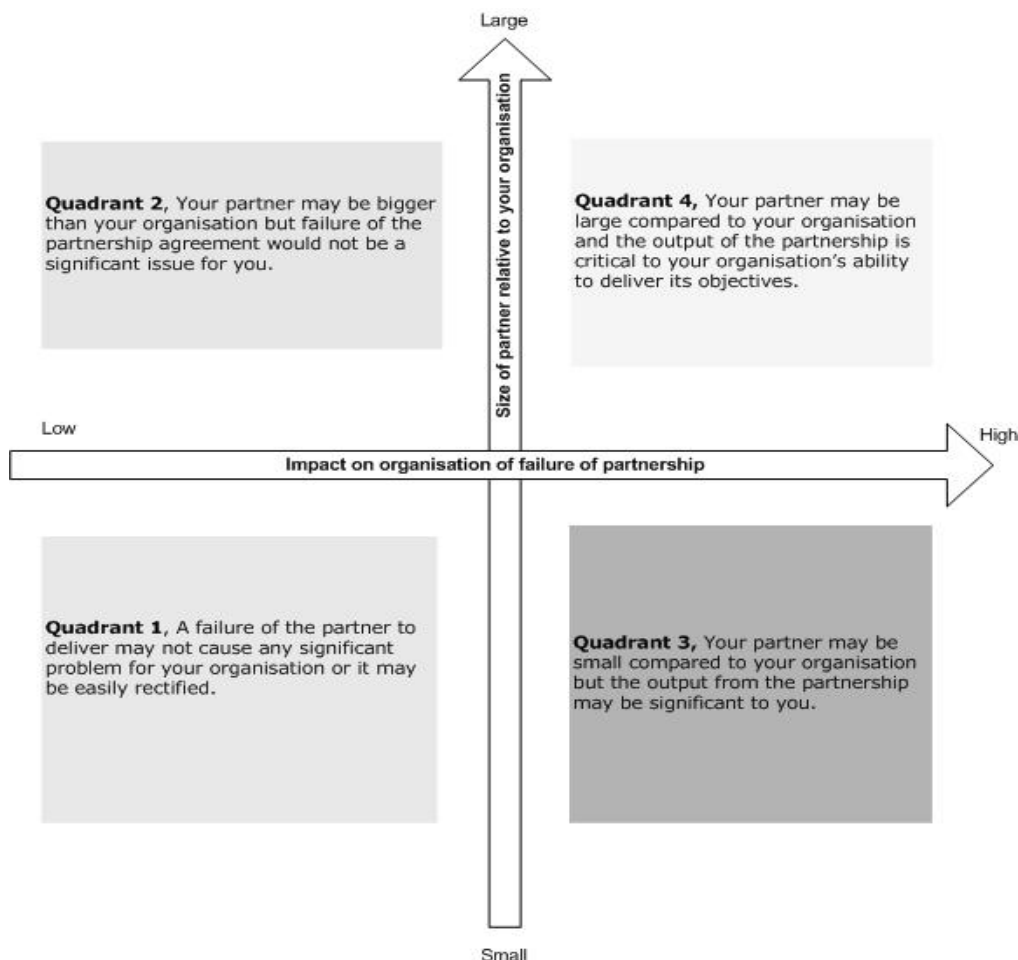
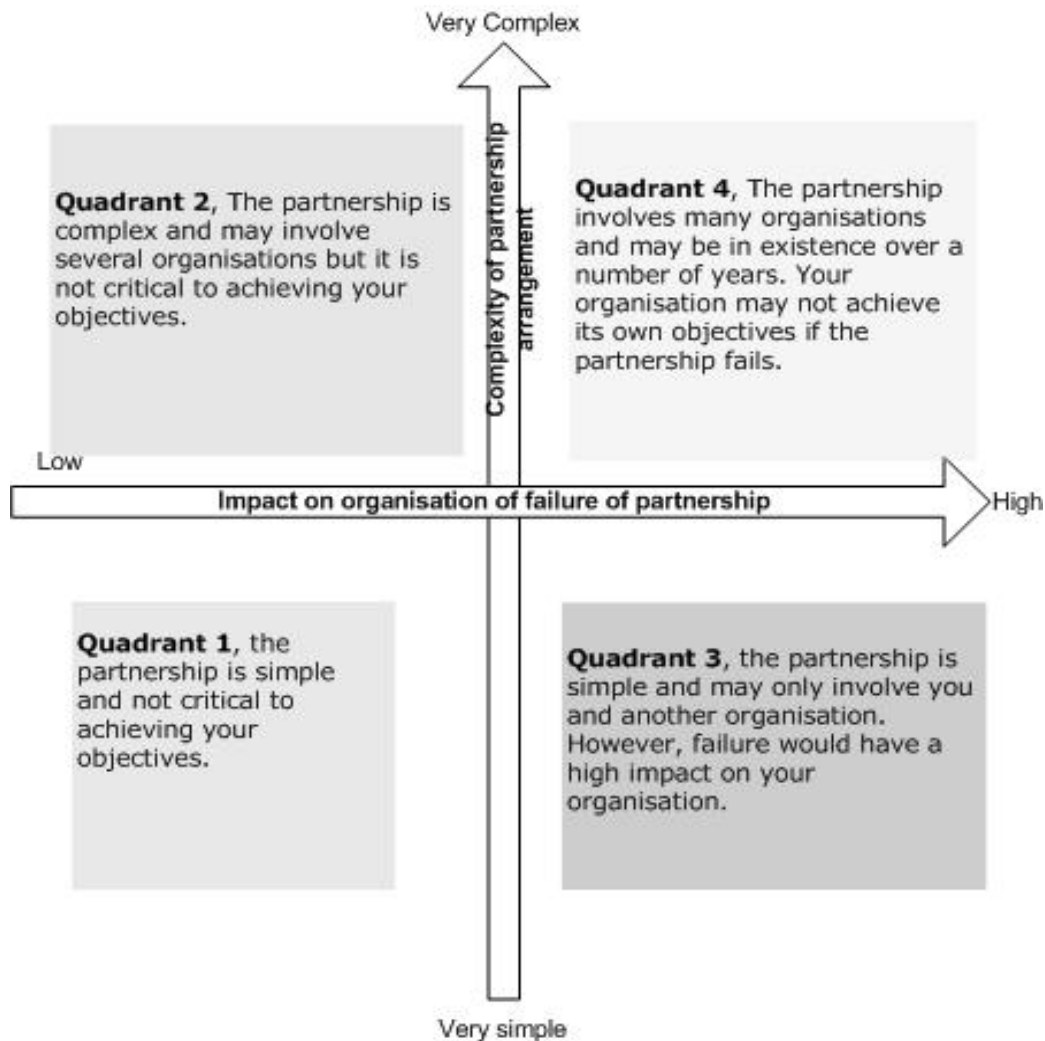


Diagram 2 shows a simple way of analysing the complexity of the partnership against the impact on your organisation of its failure.



Diagram 2 - Complexity v Impact of failure



**Identifying and assessing partnership risks**

Based on the above analysis, you can go on to allocate a risk score to your partnership.



Diagram 3 - Putting diagrams 1 and 2 together

IMPACT of failure of partnership	SIZE of partner relative to organization	COMPLEXITY of partnership	RISK	8.1.1.1.1 o To
High Risk	Large	High	High	8.1.1.1.1 A p p e n d i x 3
		Low		
	Small	High		
		Low		
Low Risk	Large	High	Low	Appendix 2
		Low		
	Small	High*		Appendix 1
		Low		

\* This category may be found where there are many partners and, while the partnership is critical to the organisation, individual partners are not. The whole process is about ensuring that your risk management efforts are prioritised towards the most critical areas first.

9

- 2 ADD ANOTHER MATRIX
- 3 You might want to add some more of your own matrices to prioritise the risk further, such as the availability of equivalent partners or competition for the partners.
- 4
- 5 The high risk might be where your potential partner is the only one that can provide that particular service combined with a high impact of failure.
- 6
- 7 The mutual need for each other

## 10 Section 3: Identifying risk, outcomes and controls



Before going on to analyse risk, here is a quick guide to the terminology. The five key terms are cause (some people refer to this as hazard), risk, outcome (or consequence), control and tolerance. A simple example helps explain. A hole in the road is a cause, leading to the risk that someone might fall into it, with the outcome that they hurt themselves. Putting barriers, signs and lights round the hole are all controls. Your tolerance for risk will determine quite how high the barriers are, how well lit the hole is and the nature of the signs that are put up.

At every stage of a partnership, from the moment it becomes more than just a bright idea, you need to ask the following questions:

- What are the risks?
- What is the balance between opportunity, innovation and risk? In other words, what risks can you tolerate because they are outweighed by the potential benefits or because they are highly unlikely to happen or because the cost of the controls exceeds the potential cost of the risk?
- What are the causes and likely outcomes of any risks?
- How likely are they to happen?
- What is the impact if they do?
- What controls are in place to manage the risk, reducing the likelihood or impact of it occurring?

## 11 When should risk identification be undertaken?

As mentioned on page 1 whenever a new partnership arrangement is being considered, part of the Business Case process should be an initial evaluation of the risks and opportunities which it presents.

As mentioned previously, risk can be thought of in 2 senses - risks of the partnership, that is, the uncertainties which the partnership itself can create for your service or even the Council as a whole – and risks to the partnership, by which we mean the uncertainties that outcomes for the partnership will differ from those we intend. The initial risk identification exercise should cover both of these aspects. Even if your partnership is already in existence, an initial exercise like this can provide you with a baseline picture of the risks.

Once a partnership is in operation, a formal review of the risks to it should be undertaken at least once a year. This could form part of the review of risks to your services which you carry out as part of the Council's service planning process.

In addition to the formal annual review, you should reconsider the risks to your partnership whenever there is a significant change, such as –

- moving into a new phase in the partnership's lifecycle;
- when there is a reorganisation or a change of staff;
- when agencies join (or leave) the partnership, and;
- when there are unforeseen changes to services and connected partnerships on which yours depend.

### 11.1.1 How to identify risks





Wirral Council's recommended process for identifying risks is through free-thinking sessions. In order to get the widest perspective on the risks to a partnership, representatives of all organisations involved should attend these.

Identifying the risks essentially involves answering three questions:

1. What are the objectives of the partnership?
2. What circumstances, actions, situations or events could frustrate or prevent the achievement of each of those objectives?
3. What are the consequences of each risk materialising?

Referring to the Council's standard risk categories (Appendix 5) will bring structure to this exercise. You can also use the list of specific partnership risks shown in Section 6 to generate ideas. However, the list is just a guide and should not be treated as exhaustive.

### How to describe your risks

It is good practice to include both the cause and the consequence(s). The following example should help to illustrate this and also explain what does and does not constitute a risk:

<b>Objective:</b> To travel by train from A to B for a meeting at a certain time.	
Missing the train causes me to be late and miss the meeting.	✓ - this is a risk which can be controlled by making sure I leave plenty of time to get to the station.
Severe weather prevents the train from running and me from getting to the meeting.	✓ - this is a risk I cannot control, but against which I can make a contingency plan.
Failure to get from A to B on time for the meeting.	✗ - this is simply the converse of the objective.
Being late and missing the meeting.	✗ - this is the impact of the risk, not the risk itself.
There is no buffet on the train so I get hungry.	✗ - this does not impact on the achievement of the objective.

(Crown Copyright 2004 – taken from HM Treasury's "The Orange Book")

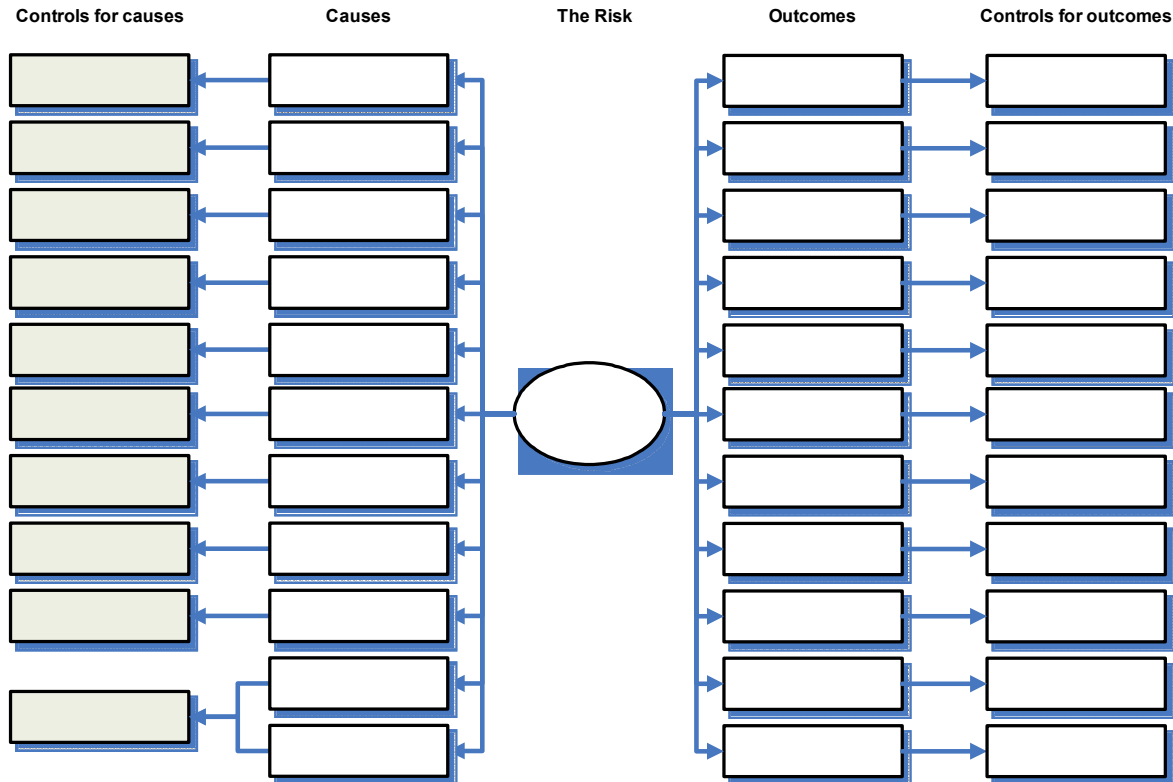
The most effective way to capture and manage the output from risk identification sessions is by creating a risk register for the partnership. This should be considered mandatory for each medium and high-risk partnership. A template for a risk register is shown in Appendix 4.

Where a risk to a partnership also constitutes a risk to the achievement of a sectional objective or a departmental aim, it should also be recorded on PIMS.

An alternative method of identifying the risks, the causes and controls is to tabulate them for each stage of the partnership's development. (See Appendix 2).

Once you have identified the risks, an approach which can be helpful in understanding them better is the "bow tie" method. This tool is increasingly used in assessing risks and determining controls. An example is shown in diagram 4 below.

Diagram 4 - The bow tie



In this example the risk is in the middle (that is what makes it a “bow tie”), but you can adapt the model to any shape, as long as you are specific about the causes and the outcomes so that you can create controls – current and required. In this example, the cause of a risk and any controls that are already in place to reduce or negate the impact of that cause are on the left of the diagram, while the outcomes of a risk and controls to reduce or negate the impact of those outcomes are on the right.

A particular control may relate to a single cause or outcome or may influence a number of causes or outcomes. The risk, if it occurs, may result in a number of outcomes that have been identified and there may be several controls that will act to reduce the outcomes. Again, a particular mitigating control may influence more than one of the potential outcomes.

If the “bow tie” method is used to analyse the risks in the different stages of a partnership, the information generated can be recorded on the table shown on page 25.

**Type of controls**

The section below indicates the types of controls that can be implemented. Typically, controls that affect causes will be those of elimination and detection, and controls that affect outcomes will be those of mitigation and contingency response.

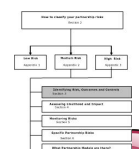
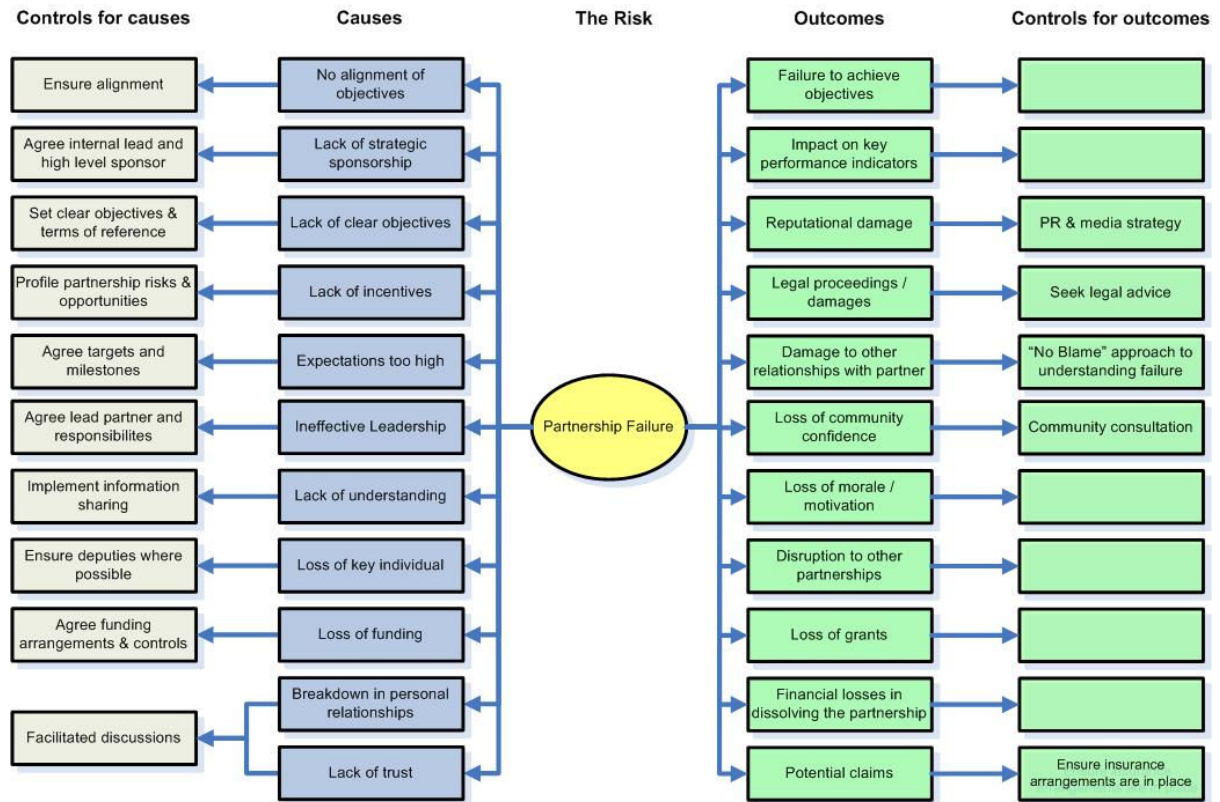


Diagram 5 – a sample of a partially completed Bow Tie



**Types of controls .....the four "Ts" .....**

All the above material in the "bow tie" analysis leads directly to the next question, which is "what do you do about the risk?" Below is a simplified list of control options that are available to an organisation that has worked out where controls are needed. You need to think about these options whether or not you are using the "bow tie" method.

**Terminate (or Avoid)**

Stop doing the risky activity or partnership. This in turn might lead to other risks or disadvantages, especially where you provide a statutory service, so use this control with caution.

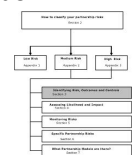
**Transfer**

Get someone else to take on the risk, either by making them responsible for it in a contract, insure it (insurance is an important risk control), or pass the risk on by some other method. Again this control needs to be used with caution, as the price of transferring the risk might be greater than the risk itself.

**Tolerate (or Accept)**

Put up with the risk. You might have worked out that you have no control over the risk, or doing something about it is out of proportion to the risk.

**Treat**



Do something about it. Here, we have another four options for you to select from:

## Treating the risk – the four options.....DDPC

### Directive

Stop the risk arising in the first place. Through your “bow tie” analysis you have worked out all the causes that need to be in place to make the risk happen. You may be able to find one particular cause which, if removed, would stop the risk from happening. For example, a fire needs heat, oxygen and fuel. Take one of those away and you don't have a fire. What are the equivalent areas in your risk?

Risk Area for working out Directive Controls      Three things needed for the risk to arise – take out any one of these and the risk DOES NOT ARISE

Fire	Heat	Oxygen	Fuel
Fraud	Means	Culture	Opportunity
Partner financial failure	Too much commitment	Inadequate Funding	Timing wrong

### Detective

Spotting the risk arising early enough to nip it in the bud perhaps with careful tracking of key performance indicators to make sure things are on target and to set alarm bells ringing early enough to correct the fault

### Preventive

It's started, but you can limit the damage. For example, one partner is having problems coping with delivery capacity, but through the arrangement you have set up, you can provide some intervention to help that partner, such as more funding or people resource.

### Corrective

It's all gone wrong, but you have a contingency plan. Business Continuity Management (BCM) is an important control area of risk control that is becoming more prevalent since the advent of the Civil Contingencies Act.

The private sector has used BCM as part of good governance for some time. The basic steps are to

- Work out what can go wrong
- Work out what you really need to do to keep the most important parts of your partnership working
- Pre-plan what you could do in advance, and at the time of things going wrong.

For example, you might keep up a relationship with another potential partner who wasn't interested in being part of the initial partnership but might be able or willing to step in at a later date.

## 12 Section 4: Assessing likelihood and impact



The next stage is to understand the risk in terms of its likelihood and impact. Wirral Council's uses a 5-point scale for assessing these.

Your partners will also have their own criteria for assessing impact and likelihood. It is therefore important to agree a common approach.

The diagram below shows Wirral Council's likelihood and impact matrix.

Diagram 6 - Likelihood and impact matrix

<b>Likelihood</b>	<b>5</b> Very High					
	<b>4</b> High				<b>HIGH</b>	
	<b>3</b> Medium	<b>LOW</b>				
	<b>2</b> Low				<b>MEDIUM</b>	
	<b>1</b> Very Low					
		<b>1</b> Very Low	<b>2</b> Low	<b>3</b> Medium	<b>4</b> High	<b>5</b> Very High
		<b>Impact/consequence</b>				

This process of assessment allows risk management actions to be prioritised. If there are risks that are assessed as being in the "High" area of the matrix, then these are where immediate attention and actions to reduce the risk should be focussed. Those risks in the "Medium" section of the matrix may warrant further attention to reduce the risk, but are not as critical as those in the red section.

Many of the risks in the "Low" section may warrant no further action as they have minor impact and are very unlikely to occur. There may also be some risks that are very unlikely to occur but that would have catastrophic consequences for the organisation and partnership if they do. For example, the complete failure of a major partner might be very unlikely, but if it were to occur, the impact could be disastrous.

The line between medium and low is the tolerance line: any risks below the line (and in the low area of the matrix) can be tolerated; any risks above the line need to be controlled in some way.

## Section 5: Monitoring and reporting risks



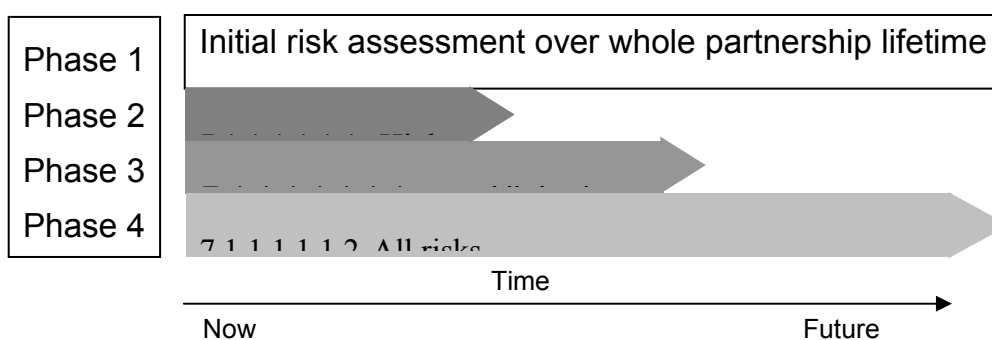
Depending on the size and complexity of your partnership, you may have a long list of potential risks. The impact and likelihood matrix will help you prioritise the risks that you will want to tackle first. Similarly, the risks with the highest scores are also those which should be monitored most closely.

The purpose of monitoring is to review progress in implementing control actions and to see whether they are having the intended effect. One way of doing this, is to study events, situations or changes (sometimes called 'trends'), which could potentially affect the risks you have previously identified. Reviewing relevant performance indicators can also be helpful in this respect. For example, if you have identified the absence of key members of staff as a potential risk, reviewing attendance figures could help you to understand whether this is an increasing or diminishing threat and whether the risk scores need to be amended.

Trends and indicators should be regularly and systematically monitored, ideally in regular meetings involving key members of each organisation in the partnership.

Monitoring is a long-term management challenge, and you need to set your risk priorities on the same timescale as the partnership. For example, in a three year partnership, you may select to spend the first six months concentrating on the top six<sup>4</sup> risks, then the next six and so on, constantly reviewing the changes in risk profile. Similarly, you will want to prioritise risk management during the partnership's implementation phase and in line with the implementation plan's timescales.

Diagram 7 - Sample Timeline for dealing with risk



The table below shows, for each level of risk, the maximum interval between each review.

13 Overall Level of Risk	14 Frequency
Red (High)	3 months
Amber (Medium)	6 months
Green (Low)	12 months

The risk register should be updated after each review.

### Managing partnership risks

<sup>4</sup> Choose the number you prefer – six is just included by way of illustration – but don't choose more than say 20 – the number has to be proportionate to the overall project importance and resources available.

The success of any project can be measured by how it achieves its objectives: in the case of a partnership the key success criteria will generally be whether the partners have achieved more together than they could have achieved separately. In aiming for this objective, however, it is vital that partners do not lose sight of the environment within which they operate and make sure that value for money is achieved; appropriate controls are in place so that expenditure is reliably recorded; that it complies with all relevant accounting requirements, authorities and regulations including the Partnership Directives of the European Communities; and that the risks of waste, impropriety and fraud are minimised. The range of partnership models, from a loose alliance to a multi-agency contract, means that the nature of the risks faced by a partnership will vary considerably. A comprehensive risk framework, with appropriate checks and controls, will help ensure that these issues are addressed.

In determining how to control risk, it is important that any proposed controls and the cost of applying them are proportionate to the risk. Apart from the most extreme undesirable outcome (such as loss of human life where the risk is greater than one in a million<sup>5</sup>) it is normally sufficient to select your controls to give a reasonable assurance that any possible loss can be tolerated by the partnership. Audit processes can make an important contribution by adopting a forward looking and constructive approach to:

- Reviewing how public bodies and agencies identify possible partnership opportunities and seek potential partners.
- Highlighting successful partnerships backed up by practical examples which could be more widely applied
- Supporting well managed risk taking and innovation that is likely to lead to sustainable improvements in both the efficiency and effectiveness of partnership and the quality of the service provided.
- Ensuring that public bodies and agencies have overall organisational and management capacity to undertake large, novel and/or contentious projects.

All activity by public bodies involves some risk, for example:

- Key outputs are not delivered on time, to budget and to the required quality;
- Financial impropriety, fraud and waste;
- An unexpected event, which knocks planned activities off course;
- An opportunity missed to do something better and more cost effectively.

Partnership is no exception and all of the above risks need to be considered in decisions relating to partnerships and managed where appropriate.

## 15 Reporting partnership risks

As mentioned in the Council's Partnerships Guidance and Checklist, there should be governance and performance management arrangements for each partnership in which the Council is involved. These should include the framework for reporting performance issues, including risks.

Good practice would be to present the latest version of the partnership risk register, highlighting any changes, to each meeting of the partnership board (if there is one) or whichever forum is responsible for scrutinising the performance of the partnership. For example, for a medium risk partnership affecting a single division of one department, it may be sufficient to report to the register to the management team of the department concerned.

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<sup>5</sup> HM Treasury *Managing Risks to the Public Appraisal Guidance* Oct 04, pp 25 & 29.

Where any risk associated with a given partnership is also considered to be a key risk for a particular Council department, progress in managing it should be reported to the relevant Overview and Scrutiny as part of that department's Quarterly Performance Monitoring Report.



## 16 Section 6: Specific partnership risks



The following<sup>6</sup> sets out the key partnership risks and how they might be addressed:

### Unnecessary partnering

Clearly justify the need for the partnership. The business case should be independently reviewed when outcomes are of significant value or strategic importance.

### Activity does not represent value for money

The partnership should deliver services more efficiently than the separate bodies could achieve and Gershon savings should be achieved. Benchmarking will help ensure that the partnership remains worthwhile.

### Partnership fails to deliver

Assess the financial viability of the partnership and the past performance of the separate partners. Each partner should draw up contingency plans for how they will ensure public services are delivered in the event of the partnership failing to deliver.

### Activity is not of the quality required

Ensure that each partner is aware of what is expected of them and that performance management is given sufficient emphasis. Formalise in the partnership agreement the approach to performance management.

### Impropriety and fraud

Have a fraud prevention strategy with separation of duties and regular independent review of the adequacy of internal systems to minimise the risk of fraud. Agree the process for internal and external audit to avoid duplication but also ensure full coverage.

### Missed opportunities

Remain alert to other opportunities, new partners and developing the partnership to bring in additional services.

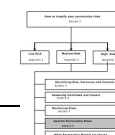
### Failure to stop a failing partnership

If the partnership is floundering, do not plough on regardless of failing performance, thus wasting public resource and time. Use gateway reviews<sup>7</sup> at critical points in the partnership to measure progress. This means that you:

- Determine beforehand where the natural review points occur in the lifespan of the partnership
- Agree in advance the key success criteria
- Agree in advance the level of failure that would mean that the partnership needs to be stopped, or readjusted for optimum performance
- Compare performance against those performance indicators
- Stop the partnership, go on, or put in place the adjustments for managing the risks.

### THE RISK OF SUCCESS

A group of successful professionals collaborated in a syndicate for the National Lottery. After several small wins, the partners could not agree between them how a large win would be shared, and the partnership disintegrated into negative bickering.



### Risk sharing

Partnerships can fail because there has been no up-front and transparent discussion and agreement on risk sharing, and no arrangements in place for dealing with such risk. For example, someone is injured as result of a decision by a partnership. Who pays? The worst possible outcome is that the injured party suffers several years of long and complicated wrangling between the respective insurance companies as to who pays. One solution is to set

<sup>6</sup> Adapted from OGC Guidance

<sup>7</sup> Office of Government Commerce - Best Practice OGC Gateway™ Reviews

up a limited company for the partnership, and buy insurance for it. Another is to purchase “difference in conditions, difference in limits (DIC/DIL)” insurance for the partnership from the main partners’ insurance companies.

### Sharing the risk of success

Who owns the intellectual property rights to the outcomes of the partnership? Agree an arrangement beforehand, which is signed off by all parties, for dealing with positive outcomes. The worst possible outcome is that the partnership flounders as success rears its head because the partners cannot agree who gets the benefit of the success.

### Design and construction risks

- Surveys and investigations fail to identify problems
- Construction lasts longer than expected
- Construction costs are higher than expected
- Inability to agree on a specification for accommodation
- Facilities are not provided to the required specification
- Need to avoid the perception of a take over (and, thus, an unequal partnership) if one partner moves in with the other
- Alternative service provision is required during the delayed completion

### Commissioning and operating risks

- Partner fails to meet agreed performance standards for service delivery
- Partner fails to make assets available for use
- Operating costs are more than expected
- Operating income is less than expected
- Assets underpinning service delivery are not properly maintained

#### Risks associated with Private Finance Initiative projects

Appropriate risk allocation between the public and private sectors is the key to achieving value for money on PFI projects. If the private sector is asked to accept responsibility for a risk that is within their control, they will be able to charge a price for this part of the deal which is economically appropriate.

However, if the organisation seeks to transfer a risk which the private sector cannot manage, then the private sector will seek to charge a premium for accepting such a risk, thereby reducing value for money.

### Demand risk

Demand risk is the risk that the level of demand assumed in a partnership business plan, proves to be incorrect and therefore the pricing or partner contributions vary from those anticipated. It is not always desirable to transfer or share demand risk since the level of usage required of an asset or service may not be within the public sector’s control. The partners should carry out, at an early stage, an appraisal of the likely demand for services before designing the specification for a specific project. This appraisal should include an assessment of the factors likely to influence demand for the services being supplied and an evaluation of the robustness of the assumptions made. Partners should have frank discussions with each other as part of the partnership planning process to agree their joint approach to demand risk.

### Residual value risk

Assets purchased, created or input into the partnership may have a residual value. You will need to be clear who will own this asset if the partnership should end and who is responsible for its ongoing maintenance.



### **Technology/obsolescence risk**

There is a risk that the quality of service delivery may be affected if the equipment or other assets used in the service delivery become out of date. Alternatively, there could be a need to make further financial investment in the project in order to introduce equipment or other assets which are based on new technology. This is an important factor in all long-term partnership projects and is likely to be particularly important in IT projects or those where services are dependent on other specialist equipment or software. Technological refresh should, therefore, be built into the agreement. All parties to the partnership should contribute an agreed amount to the refresh budget, allowing the partnership to remain up to date. This can apply to all manner of assets, including contractor methods, materials, vehicles and so on.

Where the partnership is contractual and there is a risk (as with an IT system) that an asset might become technologically obsolete by the end of the partnership agreement period, the organisation should consider the pros and cons of including a payment arrangement, which the partner only becomes entitled to if the asset is still usable at the end of the period. The organisation should weigh the likely benefit that may arise from encouraging the partner to keep the asset technologically up to date against any impact the existence of a transfer payment may have on subsequent competitions, as it may affect other suppliers' interests in bidding or their pricing strategy for a new partnership agreement once the initial one expires.

### **Regulation risk**

This is the risk that the balance of a deal may be affected by regulatory changes (such as changes in taxation type or rate), planning regulations, or other legal aspects. A major difficulty is that there are many different types of regulation which may affect a project. The approach to regulatory risk should be agreed in whatever way is deemed appropriate as part of the partnership agreement.

### **Financing risk**

Most partnerships are intended to be either cost neutral (better service; same cost) or to save money, but they may need some pump-priming to get them underway. The risks vary according to the source of those initial funds.

Where the partners fund the set-up costs from their own capital, the main risk is that the anticipated savings do not materialise and so the cost/benefit analysis is not accurate and the return on the investment is not as anticipated. The cost/benefit analysis and business case should be prudent, with a worst-case scenario included.

If the funding is external, there are two main areas of risk, depending, once again, on the source of the funds. Where pump-priming is provided by means of a grant, the risk is that the partnership is, in reality, financially reliant on that grant and cannot survive when the grant ends. If the funding is from debt, the risk is that the partnership cannot fund the debt repayments. Again, in both cases, prudent forecasting, a realistic business case and a rigorous cost/benefit analysis process should minimise the risk of these eventualities.



### **Risk of partner default**

Your partner may find that it has underestimated the work involved in forming and maintaining a partnership, or the organisation's leadership may lose its appetite for partnership leading to a default. Ensuring that the partnership is mutually beneficial and cheaper for both partners than operating independently is vital to reduce the likelihood of such an event occurring. A detailed partnership agreement will also reduce the risk and an exit strategy will minimise the impact should the worst happen.

### **Political business risk**

Each partner must take responsibility for the risks of political embarrassment or the risk to the delivery of their core business/service should the partnership fail to deliver.

**Reputation risk**

Each partner should also be aware that reputation risk can be transferred from one public sector body to another and that by coming together to deliver services your reputations are also coming together. The public and media are unlikely to differentiate between two public sector bodies if something goes wrong and it is important to agree a joint approach as part of the partnership development process.

**Partnership relationships**

The partnership relationship is a further vital element in managing partnership risk. The importance of good relationships is demonstrated in the diagrams below.

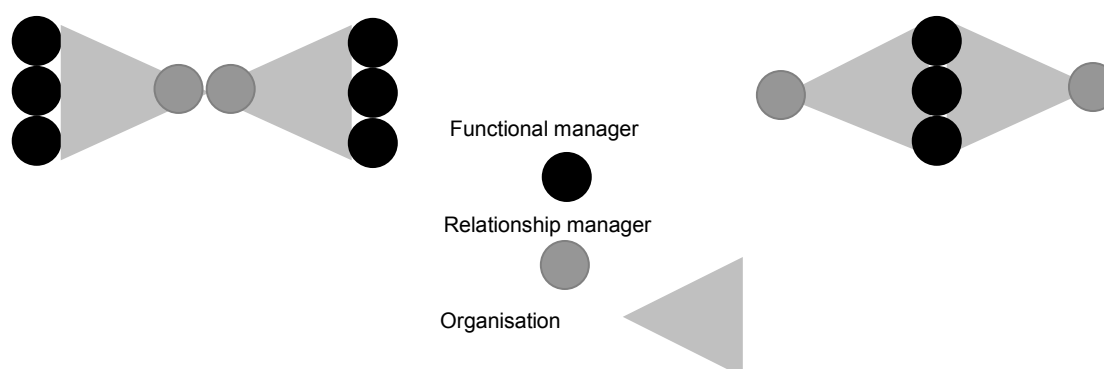
## 17 Section 7: Managing dual party partnerships



Model A	Model B
Shows the relationship focused solely through the partnership managers who are the only points of contact for their respective organisations. Could be phase 1 of designing the multi-agency relationship. An example is that of a single-function partnership, such as an internal audit partnership.	Shows the partnership agreement relationship managers at the apex of each organisation with functional relationships operating at several points at the interfaces of the relationship. Could be phase 2 of designing a multi-agency relationship. An example is that of a complex service partnership, such as a corporate services joint provision partnership.

Diagram 8 - Model A

Diagram 9 - Model B



<p><b>ADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• There is strong control focused on the relationship managers</li> <li>• Communication channelled through the relationship managers</li> <li>• This is a model to be used where absolute control is necessary, such as in respect of a very vulnerable person or issue</li> <li>• Change can be implemented quickly as there is only one point of contact</li> <li>• It is easy to exit this relationship</li> <li>• Potentially very speedy decision making and quick to implement</li> </ul>	<p><b>ADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• The relationship managers are mature in their relationship with each other and with their organisation.</li> <li>• Meetings can happen without them having to be present.</li> <li>• There is good feedback from their internal team, which is reviewed regularly with their opposite number in the other organisation.</li> <li>• The conversation between the relationship managers can concentrate on the achievement of the performance indicators for the relationship, quality of service and where value add can be improved using examples of where things have gone right, as well as areas that need to be adjusted for improvement</li> </ul>
<p><b>DISADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• The relationship managers hide their organisations from the other partner – they front up the relationship.</li> <li>• They rarely have a transparent conversation about quality of service.</li> <li>• This relationship is tense with pressure from the organisation focussed on the relationship manager.</li> <li>• Time with each other is curtailed.</li> <li>• Because of the pressure, the conversation mainly rests around things that are wrong with the relationship, rather than the things that are right and those that can be improved.</li> <li>• This could be a slow relationship to implement as the relationship managers act as a funnel for all aspects</li> </ul>	<p><b>DISADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Change is slow to implement as there are many points of contact</li> <li>• Communication can get out of control if there are not good feedback loops between the relationship managers and their functional management, and between the relationship managers themselves</li> <li>• It is difficult to exit this relationship</li> </ul>

## 18 Section 8: Managing risks in multiple partnerships

Model C	Model D
Strategically focused	Operationally focused

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Could be phase 3 of managing the relationship  
 An example is a Local Resilience Forum set up to manage community emergencies such as flood or foot and mouth disease.

Could be phase 4 of managing the relationship  
 An example is a Local Strategic Partnership

Diagram 10 - Model C

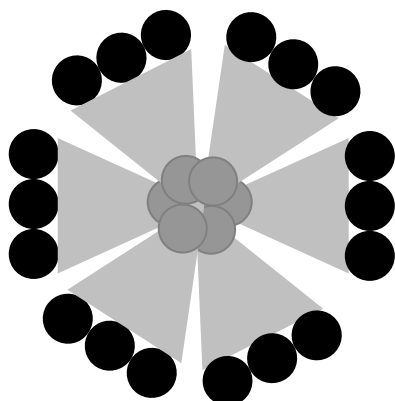
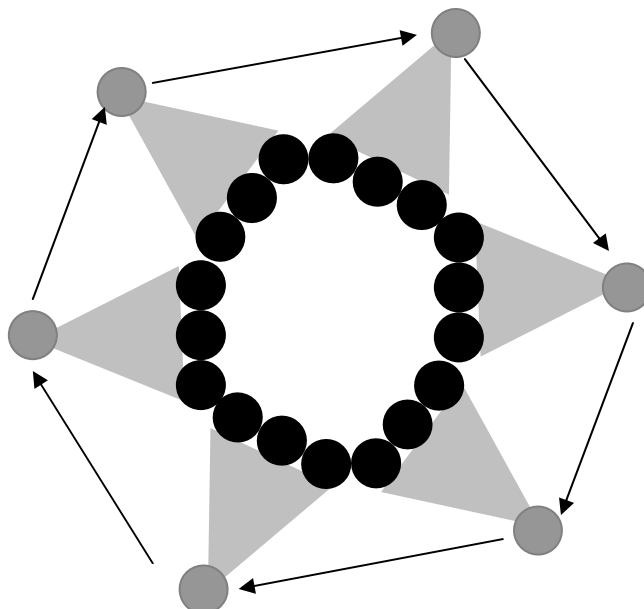


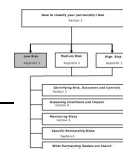
Diagram 11 - Model D



<p><b>ADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Strong central communication between relationship managers</li> <li>• Strong control at the centre</li> <li>• Confidential information can be managed properly</li> <li>• Communication plans can be well controlled</li> </ul>	<p><b>ADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Excellent communication between functional management</li> <li>• Better opportunity for sharing good practice</li> <li>• Good opportunity for making things happen from ground up</li> </ul>
<p><b>DISADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Functional management don't feel too involved</li> <li>• Communication between functional managers is limited, unless strong links are put in place – normally led by the relationship manager</li> <li>• The relationship manager becomes a barrier to change</li> </ul>	<p><b>DISADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Needs a good communication process between functional management and relationship managers</li> <li>• Needs a good communication process between relationship managers</li> </ul>

## 19 Appendix 1: How to manage low risk partnerships – key questions

If, in assessing your partnership (pages 4 and 5), most of your answers are in quadrants 1 or 2, then these are the key things you need to consider in the early stages:



Key tasks you need to consider	Is it needed?	Is it signed off/agreed?	Who is responsible?	Status
Formal partnership agreement (duration and gateway reviews)				
Define roles and responsibilities				
Governance arrangement in place				
Aims and objectives set out clearly				
Performance monitoring arrangements (including budget and VFM)				
Performance reporting arrangements (incl. budget & VFM)				
Insurance and risk sharing requirements				
Business continuity arrangements				
Human resource implications (health and safety, equality, pay and conditions, diversity and data protection and so on)				
How to deal with under or over achievement against targets				
Exit strategy and handover processes				
Risk management arrangements				

**20** However, within your plan for the lifetime of the partnership it would still be sensible to include a full assessment of the risks at some point. For example, in a 3 year partnership you might complete the checklist at the beginning and then carry out the full assessment in 18 months time.



## Appendix 2: Medium risk partnerships – risk assessment

In order to manage the risks in a medium risk partnership, it is worth breaking down the process into its component parts over time/maturity.

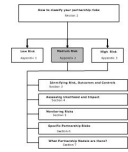
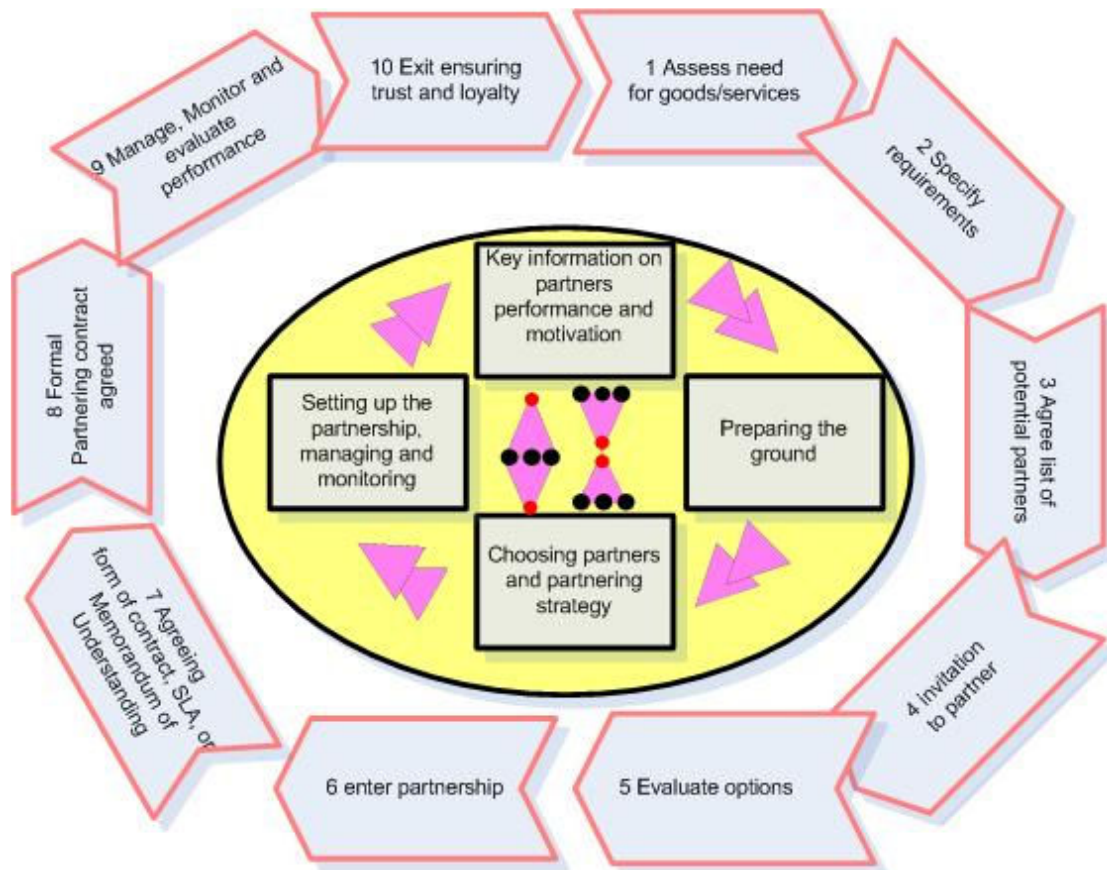


Diagram 12<sup>8</sup> - The Process



Once you have broken down the process into these component parts, then you can work out more precisely what the risks are and where they might occur, using the following checklist as a guide.

<sup>8</sup> Adapted from [http://www.ogc.gov.uk/sdtoolkit/reference/ogc\\_library/Partnership/vfmPartnershipguide.pdf](http://www.ogc.gov.uk/sdtoolkit/reference/ogc_library/Partnership/vfmPartnershipguide.pdf)





Appendix 2: Medium risk partnerships – risk assessment sample checklist	RISK/ISSUE	CAUSE	L		I		OUTCOME	L		I		CONTROLS
Assess the need for a partnership												
Specification of requirement and outcomes for the partnership												
Agree a list of potential partners												
Invitation to participate												
Agree criteria for potential partners												
Enter partnership												
Draw up business case and cost/benefit analysis												
Agreeing the form of partnership agreement												
Formal decision to proceed												
Managing, monitoring and evaluating the performance of the partnership												
Exit strategy												

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Example Completed Partnership Risk Assessment – Medium Risk Partnerships

	Risk/ Opportunity	Causes		Outcomes		Controlled risk rating	
		Detail	Controls	Details	Planned Controls	L	I
Assess need for goods/ service	Identification of "best areas" for partnership working	Political drive to partner at all costs	Justification of business case to be documented and agreed by all parties	Partnership unnecessary and wasting time and resource	Identify opportunities and base case BEFORE entering partnership		
	Option for selecting who and why to partner with	Legal reason Lack of internal resources/skills/ authority to deliver service	Find a partner who can deliver the service.	Compliance	Ensure that the partner has the resources to deliver the service(s)		
Specification of requirement	Agreeing shared scope and objectives	Lack of communication or misunderstanding	Suggested scope to be submitted	Inability to performance monitor the delivery of the partnership and/or know when the exit strategy should be initiated	Signed approval from all parties to the scope		
					Regular review to ensure there is no scope creep		
	Continuity arrangements of the partnership including governance procedures	Clear working arrangements for all partners	Guidance and structure information to be submitted with bid	Failure to meet legal requirements re governance	Constitution for partnership drawn up early in the implementation		
Agree list of potential partners	Unable to find a single partner to supply all areas of the specification	Scope is too big	Break down the scope into manageable proportions	Partnership complexity increased requiring additional resource	Re-scope internal resources Contract external resources		
	Internal issues with potential new partner	Unable to agree on suitable partners	Identify reasons for concerns with potential partner and address, discount or find an alternative partner	Time table could slip Fail to meet political imperative to partner Loss of grant funding Service suffers Uncertainty for staff	Communi-cation with all stakeholders		
Invitation to participate	Preferred partner isn't interested	Partnership option is not lucrative/ attractive	Obtain feedback from potential partners	Reappraise scope	Consult with all stakeholders		

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Example Completed Partnership Risk Assessment – Medium Risk Partnerships

	Risk/ Opportunity	Causes		Outcomes		Controlled risk rating	
		Detail	Controls	Details	Planned Controls	L	I
	Gap analysis between scope and agreement not carried out	Agreement that does not deliver requirements	Consult with wide range of stakeholders External review of tender	Signification scope changes required	Re-scope		
Agree criteria for potential partners	Potential partner doesn't agree with bid criteria or underestimates the impact of the criteria on their organisation	Undermines the relationship between the partners as it will not be on a mutually agreed basis	Carry out feasibility study of the partnership proposals and criteria	Failure to meet expectations of the partnership or fail to deliver what is needed	Re-visit partnership negotiations to ensure discussions are on an understood basis		
	Additional added value of the partnership	Reputation opportunities	Track record	Enhanced delivery of partnership	Ensure delivery of both sides of all aims and objectives		
Enter into the partnership	Clarity of exit strategy	Wasted public resource	Clarify partnership management	Scope change to include exit strategy	All partners to agree to exit strategy		
	Prospective partner reject agreement	Prospective partner does not have the resources to devote to the partnership or its development	To offer additional time for recruitment of resources. Reconsider structure and requirements of partnership	Time table issues Re-visit agreement	Communi-cation to all stakeholders Offer to another prospective partner(s) or re-negotiate		
Agreeing the form of partnership agreement	Short fall between agreement and expectations	Agreement that does not deliver requirements	Consult with wide range of stakeholders External review of initial scope	Formal new scope discussions Prospective partner pulls out	New scope signed off by all partner(s) Look for other partners		
	Agreement cannot be ratified	Shared objectives cannot be agreed	Mediation discussions	Formal new scope discussions Prospective partner pulls out	New scope signed off by all partner(s) Look for other partners		
Formal decision to proceed	Unable to proceed with formal signing with all partner(s)	Geographical/ lack of delegated authority/ timetabling	Timetable established to suit all partner(s)	Time delay	Formal apportionment to be held outside working hours		
	Prospective partner(s) internal issues/ ratification of agreement	Agreement issues identified	Communi-cation between partner(s) prior to formal	Formal new scope discussions	New scope signed off by all partner(s)		

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Example Completed Partnership Risk Assessment – Medium Risk Partnerships

	Risk/ Opportunity	Causes		Outcomes		Controlled risk rating	
		Detail	Controls	Details	Planned Controls	L	I
			agreement		Additional clause included		
Manage, monitor and evaluate performance	Agreed reporting arrangement by all partner(s)	Passive monitoring	Active monitoring to be set up including performance indicators	Objective are being met and reported	Not losing sight of aims and objectives		
	Not setting out escalation procedures could lead to relationship problems	Lack of communication	Medication discussions	Review monitoring arrangements	All partner(s) agreeing to new arrangements		
Exit strategy	Handover procedures to manage partnership closure	Professional closure enhances the reputation of all partners	To ensure that all partners have their exit agreed	New partnership approaches made	Reputation		
	Continuity of objectives achieved lost if exit plan is not controlled	Inadequacy of exit arrangements	Incentive included in original scope to manage the exit	Bad references/ media attention	Engage with public relations team to manage issues		
		Exit early due to irresolvable differences	Mediation				



## 22 Appendix 3: High risk partnerships – checklist

### Introduction

The attached checklist<sup>9</sup> is designed to facilitate an in-depth risk management exercise for complex and high risk partnership arrangements (PA). The complete set of answers to the questions raised here provides for an initial review of a MAJOR new partnership, a renewal of an arrangement, or a planned review, depending on which sections are completed. This review process should be used in full only on HIGH RISK PARTNERSHIPS, and should be conducted incrementally over a period of time. The matters raised in the checklist should be prioritised and any proposed PA should ensure that all high priority matters are dealt with before the PA starts. Partners should not, however, make failure to complete the entire checklist an excuse for not going ahead: all PAs involve a leap of faith at some point and there comes a stage when simply getting on with it is more important than finalising every last issue.

This is a “due diligence” process, a term used in the private sector for an acquisition of another company or any major legal change.

The prospective purchaser calls for an in-depth analysis of all aspects of the new arrangement, looking into past performance and gathering evidence as appropriate.

This checklist is a summarised version of a more complete “due diligence” process. A full copy can be obtained from Public Risk Management Ltd.<sup>10</sup>

The checklist is split into several sections to make it easier to use. Each partner in the partnership should satisfy itself that it has met the issues addressed in the checklist. The sections covered are:

- Preparation, set-up and engagement
- Commercial
- Finance
- Compliance and regulatory matters
- Human resources
- Information security
- Business continuity and disaster recovery
- Business trialling and modelling
- Performance
- Other

Each section also identifies, by means of a tick in the box, when each of the following three activities occurs:

- Inception or renewal of the arrangement
- A planned review
- Any significant material changes in the arrangement

No.	High risk partnerships – Suggested checklist	Inception or renewal Suggested areas	Planned review & material change
-----	--	---	----------------------------------

<sup>9</sup> Special thanks to the Isle of Wight Council for the use of this document which has been appropriately adapted.

<sup>10</sup> tel 01626 355333 or email [info@publicriskmanagement.co.uk](mailto:info@publicriskmanagement.co.uk)

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No.	High risk partnerships – Suggested checklist	Inception or renewal Suggested areas	Planned review & material change
<b>1.</b>	<b>Preparation, set-up and engagement</b>		
1.1	Is there a justified and proven need for a partnership arrangement?		✓
1.2	Is the PA approved?		✓
1.3	Was the PA planned or unplanned?	✓	
1.4	Have the needs to be met, aims and objectives of the PA been determined, defined and documented?		✓
1.5	Have the PA's aims and objectives been aligned with the strategy and policy for partnering <b>and</b> the strategy for the delivery of this service?		✓
1.5.1	Are the costs of the PA, the benefits and the value created consistent with the needs to be met		✓
1.6	What is the classification of the PA?		✓
1.6.1	Is the PA corporate or non-corporate?	✓	
1.6.2	Is the PA a separate company?	✓	
1.6.3	Is the PA a registered charity?	✓	
1.7	Who are the partners and the contact points?		✓
1.8	Who is the lead partner, if appropriate?		✓
1.9	What is the target/actual date for the commencement of the PA?	✓	
1.10	What is the planned duration of the arrangement?	✓	
1.11	What are the cessation/termination arrangements?	✓	
1.12	Which statutory, Local Government or other external governance framework applies?		✓
1.13	Which internal governance model was selected for this PA?		✓
1.14	Which constitutional model was selected for this PA?		✓
<b>22.1.1.2</b>	<b>Commercial</b>		
2.1	When was the last visit to the partners'/PA's premises/facilities?	✓	
2.2	What position does the PA occupy in the sector currently?	✓	
2.2.1	Has this position changed significantly since inception?		✓
2.3	Do the partners/PA have a website?	✓	
2.4	Has there been any press coverage; regarding the partners in relation to the PA; or the PA itself?		✓
2.4.1	What was the effect of the press coverage?		✓
2.4.2	What are the procedures for the review and approval of press releases?	✓	
2.5	What partner references are held on file?	✓	
2.6	Has the PA lost any clients due to poor service?		✓
2.7	Are role profiles/job descriptions/CVs available for PA managers/account managers and/or relationship managers?		✓
2.8	What is the current reporting structure for the partner/PA team?		✓
2.9	Do the partners have a business strategy/ business plan that supports this PA?		✓
2.10	Will the PA be taking on the totality of the service or will any part of it be delivered by other means?		✓
2.10.1	If so, what level of reliance will be placed on this arrangement?		✓
2.11	Does the PA (or a partner) pass on any of the service requirement to an outsourced arrangement?		✓
2.11.1	If so, what level of reliance is placed on this arrangement?		✓
2.12	When was the last walkthrough test of the PA capability undertaken?		✓
2.13	Have any references been taken from other clients of the partners/PA who have similar service arrangements?		✓
2.14	To which relevant professional bodies / professional organisations do the partners/PA belong?	✓	
<b>3.</b>	<b>Finance</b>		
<b>3.1</b>	<b>Finance – this section applies to the PA and/or the partners involved</b>		
3.1.1	Who is the financier of last resort?	✓	

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No.	High risk partnerships – Suggested checklist	Inception or renewal Suggested areas	Planned review & material change
3.1.2	Who is the PA banker?	✓	
3.1.3	Name of the PA bank accounts	✓	
3.1.4	Names of the PA cheque signatories	✓	
3.1.5	Will PA staff/partner staff be able to commit authority funds and resources?	✓	
3.1.6	Provide full details of the funds, funding, grants and concessions provided to the PA.		✓
3.1.7	What are the internal and external audit and non-financial audit arrangements for the PA?	✓	
3.1.7.1	Which is the accountable body?		✓
3.1.8	Have all voluntary funds in which the authority has an interest been registered with the Directorate of Finance and Information?	✓	
3.1.9	What are the VAT arrangements for the goods, works and services procured by the PA?		✓
3.1.10	Have the following been determined, defined and documented: <ul style="list-style-type: none"> <li>• Capital, leasing, expenditure and income plans</li> <li>• All sources of income</li> <li>• The conditions of any grants</li> <li>• On-going revenue liabilities where the grant was capital</li> <li>• Procedures for the return of funds not spent</li> <li>• Procedures for over-spends</li> <li>• Match funding</li> <li>• Responsibility for compliance with all funding and grant conditions</li> </ul>		✓
3.1.11	Does the PA have a financial plan, (a) specifically outlining the expenditure and income over the next financial year, (b) consistent with the delivery plan?		✓
3.1.12	What are the arrangements for taxation?	✓	
3.1.13	What are the arrangements for petty cash and reimbursement?	✓	
3.1.14	What are the arrangements for ordering goods and services (for the PA)?	✓	
3.1.15	What insurance cover is provided?	✓	
3.1.16	Detail the provision of separate accountancy codes	✓	
<b>3.2</b>	<b>Finance – this section applies to PAs that are companies and applies to contractors</b>		
3.2.1	Obtain a copy of the company and ultimate holding company last audited Director's Report and Financial Statements, and any more recent quarterly financials.	✓	
3.2.2	If available, obtain Credit Analyst's report	✓	
3.2.3	Run D&B and S&P check	✓	
3.2.4	Perform a Company Search	✓	
3.2.5	Financial results - cover:	✓	
3.2.5.1	What are the net assets of the company and how have they moved recently?	✓	
3.2.5.2	Are any of the assets "intangible" (e.g. capitalised software development costs, goodwill etc), how have they moved?	✓	
3.2.5.3	What are the liabilities and other commitments of the company and how have these moved?	✓	
3.2.5.4	Are there any "contingent liabilities" (e.g. court cases against the company)?	✓	
3.2.5.5	Is there a holding company?	✓	
3.2.5.6	What financial appraisal has been conducted over sub-contractors and other outsource service providers?	✓	
3.2.5.7	Are revenue and profits growing (turnover, margins, profitability, ROCE etc)?	✓	
3.2.5.8	Review the rate of growth and assess whether this results in any strain on resources	✓	
3.2.5.9	Can the company easily pay its liabilities as they fall due (liquidity)?	✓	
3.2.5.10	Is the company committed to this type of business?	✓	
3.2.5.11	Is the company too reliant on any particular customer, product, supplier, financing or other outsourcing arrangement?	✓	
3.2.5.12	What are analysts' views on the share price, business and the competition?	✓	
3.2.5.13	Are there any current events to consider that have had or will have a material impact on the business?	✓	
3.2.5.14	Perform ratio analysis and identify any adverse or positive trends.	✓	
3.2.5.15	Is a bond or parent company guarantee required?	✓	
<b>4.</b>	<b>Compliance and regulatory matters</b>		
4.1	Are the partners/PA regulated ?	✓	
4.1.1	If yes, regulated by which body?	✓	
4.1.2	Have there been any breaches or fines over the past three years?		✓

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No.	High risk partnerships – Suggested checklist	Inception or renewal Suggested areas	Planned review & material change
4.2	Who is responsible for compliance and who is responsible for following up actions?		✓
4.3	What is the status of any outstanding actions?		✓
4.4	Does the PA have formally documented procedures, which relate to the services provided?	✓	
4.5	Is the PA vired?		✓
4.6	If this is a service performed for other clients, are there any SAS480 type arrangements in place?	✓	
4.7	Has the PA been subject to a complete risk assessment?	✓	
4.8	Does the PA have a risk register?	✓	
4.9	Does the PA have a risk mitigation strategy?		✓
4.10	Are PA risk mitigation actions documented?		✓
4.11	Are actions regularly followed up?		✓
4.12	Is the risk register regularly updated?		✓
<b>5.</b>	<b>Human resources</b>		
5.1	Have any staff undergone a TUPE transfer to the PA?		✓
5.1.1	Are the procedures for this documented?	✓	
5.2	Is there an employee handbook?	✓	
5.2.1	When was it last updated?		✓
5.2.2	Does the PA have a formal grievance/disciplinary procedure?	✓	
5.3	Is the PA/are any of the partners an "Investor in People"?		✓
5.4	Are PA staff directly recruited by the PA?	✓	
5.4.1	What is the PA's recruitment policy?	✓	
5.4.2	Do all members of staff have a job description/role profile?		✓
5.5	Are employees put through a formal induction programme?	✓	
5.6	Is there a formal appraisal process?	✓	
5.7	Do all employees have a contract of employment?	✓	
5.8	How many people does the PA employ?		✓
5.8.1	What proportion of staff are permanent, temporary, contract?		✓
5.8.2	What is the level of staff turnover? How many current vacancies are there?		✓
5.9	Who is responsible for Health and Safety at work policy?	✓	
5.10	What is the PA's training and development policy?	✓	
5.11	How does the PA plan to absorb the staff/manage the culture shift for staff working on this arrangement (where seconded or TUPE'd)?		✓
5.12	Is there a manager/staff forum (possibly involving trade unions)?	✓	
<b>6.</b>	<b>Information security</b>		
6.1	Do the partners and/or does the PA subscribe to or use BS7799?	✓	
6.2	Does the PA have specific information security policies and procedures?	✓	
6.3	What are the procedures for dealing with information security breaches?	✓	
6.3.1	Have there been any breaches?		✓
6.4	Are the partners/is the PA registered with the Office of the Information Commissioner and is the registration up to date?		✓
6.5	What policies and procedures are in place to ensure that the partners/PA complies with all applicable parts of the Data Protection Act, including the classification of data.		✓
6.6	How frequently are information security practices reviewed or tested?	✓	
6.6.1	What was the outcome of the review?	✓	
6.7	Does the PA have record keeping and retention policy?	✓	
6.8	Where are records stored and archived?	✓	
6.9	Is there an information security education and awareness programme developed?	✓	
<b>7.</b>	<b>Business continuity and disaster recovery</b>		
7.1	Do the partners/does the PA have a contract (e.g. with SG-RS or Comdisco) for disaster recovery?	✓	
7.1.1	If no, what backup facilities exist?	✓	
7.2	Do the partners/does the PA have disaster recovery and business continuity planning standards.	✓	
7.3	Do the partners/does the PA have current DR and BCP plans, procedures and testing plans?		✓
7.4	Has the PA classified its processes and identified the critical processes?	✓	



No.	High risk partnerships – Suggested checklist	Inception or renewal Suggested areas	Planned review & material change
7.5	In respect of the critical processes, are maximum recovery times specified?	✓	
7.6	How frequently are the plans tested?	✓	
7.6.1	What was the result of the last test?		✓
7.7	Where is back up media stored?	✓	
7.8	What mechanisms are in place to advise clients of downtime?	✓	
7.9	Does the PA have backup power and UPS on site?	✓	
<b>8.</b>	<b>Business trialling and modelling</b>		
8.1	What business processes has the PA defined that should be tested before “go live” of the arrangement?		✓
8.2	Are relevant business processes tested and documented/signed off before “go live”		✓
<b>9.</b>	<b>Performance</b>		
9.1	Have service delivery performance criteria been specified for this PA?		✓
9.2	Has the management information (MI) been specified to support the measurement of the performance of the delivery of the service?		✓
9.3	What measurements are taken and when?		✓
9.4	Have performance targets been set for the delivery of the service?		✓
9.5	Are the performance measurement criteria, the MI and the measurements consistent with the Best Value Indicators, Quality of Life Indicators?		✓
9.6	What performance reports are produced?		✓
9.7	Has there been a BV inspection?		
9.8	Does the PA have procedures for responding to material changes in the performance of the delivery of the service?		✓
<b>10.</b>	<b>Other</b>		
10.1	Do the partners and the PAs have a money laundering, fraud and anti-corruption policy?		✓
10.2	Do the partners and the PAs provide money laundering, fraud and anti-corruption training regularly to all staff?		✓
10.3	Is a standard confidentiality clause inserted into all agreements?	✓	
10.4	What are the procedures for dealing with conflicts of interest?	✓	
10.5	Are regular Partnership meetings held?		✓
10.6	Are meetings minuted?		✓
10.7	How are members of staff chosen to represent the authority on a PA?		✓

### Appendix 4: Risk Register Template

<b>Partnership Name</b>		<b>Partnership Manager</b>		<b>Author</b>	
Version No.		Date			

### 22.2 Risk Register

Summary							Description				Controls			
Risk Number	Date Raised	Date Last Reviewed	Owner	Category	Status	Links to Other Plans/Projects	Description of Risk	Likelihood Score	Impact Score	Total Score	Description of Controls	Responsibility	Target Date	Status
										0				
										0				
										0				
										0				
										0				
										0				
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## 22.2.1 Appendix 5: Risk Categories

<p><b>STRATEGIC</b> 23 <i>Risks that relate to doing the wrong things</i></p>	<p><b>23.1 OPERATIONAL</b> <i>Risks associated with the nature of each service or activity</i></p>
<ul style="list-style-type: none"> <li>• Insufficient forward planning or horizon scanning</li> <li>• Incorrect strategic priorities</li> <li>• Community planning oversight or errors</li> <li>• Policy decisions based on incomplete or faulty information</li> <li>• Failure to exploit opportunities</li> <li>• Inappropriate capital investment decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Poor partnership working</li> <li>• Failure to continuously improve / innovate</li> <li>• Inadequate service continuity planning</li> <li>• Over-reliance on contractors / suppliers</li> <li>• Breakdown of work system</li> <li>• Poor project planning and management</li> </ul>
<p><b>23.2 INFORMATION / TECHNOLOGICAL</b> 24 <i>Risks that relate to the loss of or inaccuracy of data and the use of / reliance on technology</i></p>	<p><b>REPUTATION</b> 25 <i>Risks that relate to the organisation's image</i></p>
<ul style="list-style-type: none"> <li>• Systems and management data not up to date</li> <li>• Ineffective prediction of trends and poor forecasting</li> <li>• Breaches of security of network and data</li> <li>• Obsolescence of technology</li> <li>• Lack of network resilience</li> </ul>	<ul style="list-style-type: none"> <li>• Unfulfilled promises to the electorate</li> <li>• Ineffective PR / Media strategy</li> <li>• Association with unsuitable organisations</li> <li>• Poor standards of service</li> <li>• Failures in corporate social responsibility</li> </ul>
<p><b>25.1 FINANCIAL</b> <i>Risks that relate to losing monetary resources or systems of financial planning and control</i></p>	<p><b>PEOPLE</b> 26 <i>Risks associated with employees and the management structure</i></p>
<ul style="list-style-type: none"> <li>• Occurrence of fraud</li> <li>• Unreliable accounting records</li> <li>• Failure to prioritise, allocate appropriate budgets and monitor / report</li> <li>• Failed resource bids</li> <li>• Sustainability of time limited funding</li> </ul>	<ul style="list-style-type: none"> <li>• Over-reliance on key officers</li> <li>• Inefficient/ineffective management processes</li> <li>• Failure to recruit/retain qualified staff</li> <li>• Lack of investment in training</li> <li>• Poor absence management</li> </ul>
<p><b>REGULATORY / LEGAL / STATUTORY</b> <i>Risks related to the legal and regulatory environment</i></p>	<p><b>26.1 PHYSICAL</b> <i>Related to fire, security, accident prevention and health &amp; safety</i></p>
<ul style="list-style-type: none"> <li>• Compliance failures (e.g. procurement, LA 21)</li> <li>• Inadequate response to/failure to prepare for/ implement legislative change</li> <li>• Intervention by Regulatory Bodies and Inspectorates</li> <li>• Failure to meet targets agreed with / imposed by Central Government</li> <li>• Breaches of contract, failures in duty of care</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of intangible assets</li> <li>• Failures in health &amp; safety management</li> <li>• Loss of physical assets</li> </ul>

## Appendix 6: Further Information and Guidance

### 27 Associated Council Policies and Documents

- Corporate Risk Management Strategy
- Partnerships Toolkit
- Contract Procedure Rules and Financial Regulations

[http://10.107.1.50:8888/pp/Docs/Constitution\\_part4.pdf](http://10.107.1.50:8888/pp/Docs/Constitution_part4.pdf)

- Code of Corporate Governance

<http://10.107.1.50/Personnel/Forms/Code of Corporate Governance.doc>

### 28 Sources of Further Guidance

Improvement Network

<http://www.improvementnetwork.gov.uk/imp/core/page.do?pagelId=1006274>

Audit Commission 'Governing Partnerships'

<http://www.audit-commission.gov.uk/Products/NATIONAL-REPORT/1CDA0FEF-E610-463c-B3F3-220F607B1A2C/GoverningPartnerships26Oct05REP.pdf>

## 29 Acknowledgements

Liz Taylor, Author  
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Public Risk Management Ltd  
Public Risk Management Ltd

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Louise Brent  
Richard Ellis  
Simon Smith  
Susan Townshend

LB Haringey  
Isle of Wight  
Transport for London  
Association of London Government  
LB Ealing  
Met Police  
Met Police  
LB Harrow  
Bedfordshire & Luton NHS Trust  
LB Lambeth  
LB Tower Hamlets  
Royal Berkshire Fire and Rescue  
Three Rivers DC

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## 31 Disclaimer

This is a toolkit for use with officers and management at all levels, it is not a practitioner expert guide. It is not a complete description of all aspects of managing risk in partnerships and has been kept short and simple to be of practical use. It should be used alongside your own legal advice and guidance in respect of contractual issues. No attempt has been made here to address such matters. This is not for use outside the UK. Public Risk Management Ltd assumes no responsibility or liability for any errors or inaccuracies that may appear in this document.

## Appendix 10

### Insurance considerations

The following list highlights a number of areas where insurance decisions may need to be taken by a partnership. In instances where the issue is relevant to the partnership, further advice and information can be obtained from the **Council's Risk and Insurance Manager**.

Professional or trustee indemnity insurance would normally be expected to be in place. However, the cost of such insurance could be prohibitive for smaller groups with only a small income and no employees. In this case, a risk assessment should be carried out to ensure that financial systems are in place to prevent financial or legal difficulties.

It is important to note that as part of risk management, insurance is one way of transferring risks. As insurance premiums rise and organisations increasingly self-fund risks, there is greater emphasis on risk management.

**Name of partnership:** \_\_\_\_\_

Issue	Insurance considerations	Evaluation/comments
Employment of staff	<ul style="list-style-type: none"> <li>Do officers involved in the partnership have appropriate cover for employer's liability by their host organisations for their work in the partnership?</li> </ul>	
Use of physical assets – buildings, equipment, vehicles	<ul style="list-style-type: none"> <li>Which party owns the assets and are they appropriately safeguarded in terms of security, control over use, etc?</li> <li>Are the assets insured for identified risks, for example, fire, theft, vandalism, accidental damage, etc?</li> </ul>	
Responsibility for finances	<ul style="list-style-type: none"> <li>Does the partnership manage finances and are they protected by sound systems of internal control and policies covering fidelity?</li> </ul>	
Capital works and intellectual property rights	<ul style="list-style-type: none"> <li>Are appropriate arrangements in place for being clear on the same and managing risks regarding such works?</li> </ul>	
Officers/elected members indemnity and public liability	<ul style="list-style-type: none"> <li>Do Council officers/elected members have appropriate insurance cover or indemnities for their partnership work, including public liability?</li> </ul>	

**Completed by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Job title:** \_\_\_\_\_ **Tel. No.** \_\_\_\_\_

## Appendix 11

### General principles for effective partnership working

These general principles have been adapted and developed from the statutory instrument relating to the ten general principles of public life (which built upon Lord Nolan's seven general principles).

#### **Selflessness**

Members of the partnership should serve only the public interest and should never improperly seek or confer an advantage or disadvantage on any person or organisation.

#### **Honesty and integrity**

Members of the partnership should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

#### **Objectivity**

Members of the partnership should always make decisions on merit. This includes when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### **Accountability**

Where appropriate, members of the partnership should be accountable to the public for their actions and the manner in which they carry out their responsibilities. They should cooperate fully and honestly with any scrutiny appropriate to their particular office.

#### **Openness**

Members of the partnership should be as open as possible about their actions and those of the organisation they represent. And they should be prepared to give reasons for actions taken.

#### **Personal judgment**

Members of the partnership may take account of the views of others, including those of political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

#### **Respect for others**

Members of the partnership should promote equality by not unlawfully discriminating against any person, and by treating people with respect, regardless of their race, age, gender, disability, religion or faith or sexual orientation. They should respect the impartiality and integrity of the local authority's statutory officers, and its other employees.

#### **Duty to uphold the law**

Members of the partnership should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

#### **Stewardship**

Members of the partnership should do whatever they are able to ensure that the organisation they represent authorises use of their resources prudently and in accordance with the law.

#### **Leadership**

Members of the partnership should promote and support these principles by leadership and acting by example. They should act in a way that secures and preserves public confidence.



## Appendix 12

### Skills and knowledge required for partnership working

The following table shows the type of skills and knowledge required for successful partnership working.

It is unrealistic to expect one person to possess all of these. But when considering the partnership's membership, it is expected that all these skills and knowledge are addressed and exhibited.

<b>Leadership</b>	
<b>Skills</b>	Coalition building, vision and consensus building, communicating, consulting, managing change, delegating, influencing, negotiating and assertiveness, resource allocation, knowing when to leave / disband partnerships
<b>Knowledge</b>	Needs and opportunities which provide the basis for common ground, policy and funding developments, partners' roles, contributions, constraints, motivations
<b>Trust</b>	
<b>Skills</b>	Building relationships, managing expectations, promoting dialogue, listening, empathy, managing conflict, giving constructive feedback, managing communications, coping with the unfamiliar and unexpected, team working
<b>Knowledge</b>	Group dynamics, cultures, values and ways of working with others, forms of partnership arrangement
<b>Learning</b>	
<b>Skills</b>	Problem solving, creative thinking, systems thinking, networking, diagnosing performance issues, scrutiny
<b>Knowledge</b>	Benchmarking and process mapping, partnership review and evaluation, how to promote learning in partnerships, facilitation techniques
<b>Performance management</b>	
<b>Skills</b>	Negotiating, entrepreneurial, setting objectives and performance measures, project planning / management, business planning
<b>Knowledge</b>	Partnership structures, accountability mechanisms, managing meetings, ways of making better use of resources
<b>Value and Culture</b>	
<b>Skills</b>	Understanding diversity, effective communication, corporate governance, risk management, policy creation
<b>Knowledge</b>	Council policies, risk methodology, aims and objectives of Council/partner groups, business continuity plans
<b>Strategic issues</b>	
<b>Skills</b>	Decision-making, community/business empowerment methodologies, thinking about and preparing for future challenges
<b>Knowledge</b>	Community needs, strategic functioning, political appreciation, long-term assessment, environmental factors

## Appendix 13

# Protocol for elected members involved in any work with outside bodies

### Introduction

This protocol should be read and followed when working as part of a partnership, either directly representing the Council, in an advisory capacity or as part of an interest group.

Any issues in this protocol that you do not understand or require clarification on should be discussed with the **Head of Legal and Member Services**, your political group leader, the Chief Executive or the appropriate director.

Elected members should ensure that partnership documents are being used by all partnerships that they are involved with. A Memorandum of Understanding should be used by all partnerships but may differ slightly for each partnership. A model Memorandum of Understanding is at **Appendix 8**.

### Protocol

The Council supports the activities of partnership working and recognises the benefits to the community, but wishes to ensure that elected members and the Council are not exposed to any unidentified and unexpected risks and liabilities.

### Authority to become involved with a partnership

Any elected member who is approached or wishes to become involved in a partnership should discuss the matter and the extent of their involvement with their group leader. The group leader may want to discuss the partnership and aspects of work with the Chief Executive. The elected member should only accept or become involved after receiving approval from their group leader and the formal approval of the Cabinet/relevant Regulatory Committee/ Full Council as appropriate.

The elected member and an appropriate director should discuss and agree if any support or training is required. The appropriate director also needs to inform, at once, the **Head of Legal and Member Services** and the Director of Finance of the elected member's involvement.

### Prohibition on signing contracts

Elected members working for a partnership should not sign any contracts or legally binding documentation on behalf of the partnership or the Council. Elected members are reminded that only authorised officers have power to sign documents of this nature.

## Appendix 13

### Prohibition on provision of financial, technical or legal advice

Elected members should not provide financial, technical, or legal advice to a partnership. Advice is available on these issues and may be taken when necessary. They must ensure that the partnership arranges indemnity insurance as appropriate, details of which should be provided to the Council's **Risk and Insurance Manager**.

Professional or trustee indemnity insurance would normally be expected to be in place. However, the cost of such insurance could be prohibitive for smaller groups with only a small income and no employees. In this case, a risk assessment should be carried out to ensure that financial systems are in place to prevent financial or legal difficulties.

### General

Elected members must report any personal changes in circumstances which may create a new or perceived conflict of interest. Elected members must also discuss with the partnership any new issues of potential conflicts of interest or issues which impact on their role as an elected member for Wirral Council - changes to the aims, constitution or position of the partnership that could be contrary to the public or the Council's interest. If in doubt, advice should be sought, at an early stage, from the **Head of Legal and Member Services**.

Elected members must also remember that, if they act as a trustee of a charitable partnership or body, their first duty is to the Charity. This is also the case in respect of elected members appointed as directors of companies. Elected members must also remember that, when working within a partnership, they remain elected members of Wirral Council and are still bound by the relevant Codes of Conduct in the **Constitution**. They should actively encourage the partnership to follow similar practices and procedures and must immediately report to their group leader/Chief Executive when they feel that the partnership is not acting in a manner acceptable to the Council or in the public interest.

## Appendix 14

# Protocol for employees involved in any work with outside bodies

### Introduction

This protocol should be read and followed when working as part of a partnership, either directly representing the Council, in an advisory capacity or as part of an interest group.

Any issues in this protocol that you do not understand or require clarification on should be discussed with your line manager or with the **Head of Legal and Member Services** before any involvement with outside bodies is accepted.

Employees should ensure that appropriate partnership documents are adopted by all partnerships in which they are involved. A Memorandum of Understanding should be used by all partnerships but may differ slightly for each partnership. A model Memorandum of Understanding is at **Appendix 8**.

### Personal responsibility of employees

Employees must bear in mind that acceptance of a role as a charity trustee or company director (even if accepted as part of your work for the Council) is a responsibility personal to you. There will be responsibilities to the Charity Commission, and under company law, which must be fulfilled.

### Protocol

The Council supports the activities of partnership working and recognises the benefits to the community, but wishes to ensure that the employee and the Council are not exposed to any unidentified and unexpected risk and liabilities.

### Authority to become involved with a partnership

Any employee who is approached or wishes to become involved in a partnership should discuss the matter and the extent of their involvement with their line manager. The manager may want to discuss the partnership and aspects of work with their head of service or with the **Head of Legal and Member Services** before any involvement with outside bodies is accepted, if the employee is unsure about potential liabilities.

The employee must receive approval, in writing, from their line manager (but sanctioned by the head of service) before accepting any position on the partnership. Some high profile appointments may require Cabinet or Cabinet member approval.

It is the responsibility of the line manager, whilst discussing the employee's involvement in the partnership, to be clear as to the role and whether the employee approached is the most appropriate representative. Once the appropriate employee has been identified,

## Appendix 14

then the manager should establish what, if any, additional support and training is required. The line manager is responsible for arranging this training and support.

### Notification to head of service, legal and finance

It is the employee's manager's responsibility to ensure that the head of service is aware of the Council's involvement in any partnership and also to inform the **Head of Legal and Member Services** and the **Director of Finance**.

### Prohibition on signing contracts without legal advice

Employees working for a partnership must not sign any contracts or legally binding documentation on behalf of the partnership unless written confirmation of legal advice confirming acceptability is provided.

### Provision of financial, technical or legal advice

If an employee provides financial, technical, legal or other advice to a partnership, a written copy of the advice should be made and a copy provided to their line manager. Any legal advice must be suitably cleared by the Head of Legal and Member Services representative.

If the implications to the partnership of not following the advice could lead to an illegal act, health and safety issues, financial implications or other serious implications not in the partnership/public/Council's interest, then these should be made clear to the partnership when the advice is given and a written note provided. A copy of this should be provided to the line manager.

It is the responsibility of the finance manager, when they are informed of the establishment of or the Council's involvement in a partnership, to raise appropriate issues such as budgetary control and financial monitoring procedures and whether there are any VAT implications. Any Memorandum of Understanding with the partnership to provide financial advice and support must be made after approval from the **Director of Finance**.

### General

Council officers must report any changes in personal circumstances which may create a new or perceived conflict of interest. If in doubt, advice should be sought, at an early stage, from the **Head of Legal and Member Services**.

Council officers must also remember that, if they act as a trustee of a charitable partnership or body, then their first duty whilst acting as a trustee is to the charity. This is also the case in respect of officers appointed as directors on companies. When working in a partnership, they remain Council officers of Wirral Council and are still bound by the relevant Codes of Conduct in the **Constitution**. They should actively encourage the partnership to follow similar practices and procedures and must immediately report to

their manager if they feel that the partnership is not acting in a manner acceptable to the Council or in the public interest.

## Appendix 15

### Appraisal of legal and procedural aspects

Many local authorities become members of, or wholly own, companies that deliver public services, eg Arm's Length Management Organisations (ALMOs). These have a strict definition in law. There are also companies in which the Council has membership and/or a level of interest. In most cases, the Council is represented on the board by elected members or senior officers.

Companies are governed by their own Memorandum and Articles of Association. These set out the aims and objectives, classes of membership, management structure and general governance. The memorandum and articles will bind any elected member or officer representing the Council on company boards, or any of their management and operational sub-committees. General rules and codes of conduct in respect of outside bodies and partnerships should be observed. Those representing the Council may often bring examples of best practice to enhance governance arrangements.

Before accepting company membership for the Council or any post on its structure, full appraisal should be undertaken and appropriate authorisation sought. Where the Council is forming a company the **Head of Legal and Member Services** must be consulted well in advance.

The four main forms of legal entity are:

1. Private Limited Companies.
2. Partnerships.
3. Limited Liability Partnerships.
4. Industrial and Provident Societies.

The main differences between them and the responsibilities of the directors are outlined below:

#### Private Limited Companies

A company consists of a board of directors and members. The functions of the company are governed by its constitution documents that are called the Memorandum and Articles. These set out how the company functions and whether decisions are required to be made by the directors at a board meeting or by the company members at a general meeting.

A company director takes on a number of duties when agreeing to perform this role and although the directors' financial liability is limited to the amount stated in the company's constitution, they also agree to take on personal responsibilities in respect of the way they act. It is possible that as a result of their actions they may face criminal charges.

Private Limited Companies are subject to a number of disclosure requirements and accounting rules and the strict provisions of company legislation. The company will

## Appendix 15

appoint a company secretary to ensure compliance. But, all directors have a responsibility to ensure compliance. There may be sanctions if the full and correct information is not recorded and maintained in respect of the company's activities.

Companies limited by guarantee may obtain charitable status. Charities are able to raise funds and access grants more easily. There are specific criteria that must be met to qualify for charitable status. Details are available from Legal Services. Companies with charitable status report to the Charity Commission.

Companies with share capital are likely to undertake commercial enterprises for profit. In most cases, this will be inconsistent with the duties and functions of a local authority. Any proposal to establish or accept membership in such a venture must be discussed with the **Head of Legal and Member Services**.

### Partnerships

Partnerships can involve both formal and informal working relationships that are governed in a way decided by the partners. The partners draft the partnership Memorandum of Understanding document in whichever way and with the content the partners deem necessary. Formal partnerships can be governed by the Partnership Acts, so it is essential to be clear at the start, of the objectives and legal status of any 'partnership'.

A partner is jointly and severally responsible for the actions of the partnership. A partner does not have the benefit of limited liability. However, a partnership has the perceived advantage of not being subject to extensive disclosure and accounting requirements or to strict regulation by a body such as Companies House.

### Limited Liability Partnerships (LLPs)

LLPs are a fairly new but already popular way of constituting a legal entity offering limited liability for the partners and requiring a minimum amount of control by external bodies. The LLP, like a partnership, seems to offer more privacy and freedom than a company but partners have the advantage of limited liability.

### Industrial and Provident Societies (I&PSs)

These are not registered under the Companies Acts, but with the Financial Services Authority. They are an alternative corporate structure that suit community projects. They have a separate legal status and the benefit of limited liability for members. I&PSs cannot register as charities, but do enjoy similar advantages.

An I&PS must be an industry, trade or business, but this also must be a genuinely co-operative venture for the benefit of the community. There are clear synergies with local authority activities, although in practice this model is relatively rare.



More detailed information on the types of structure, legal or otherwise, that a partnership could adopt, is available from the **Head of Legal and Member Services**.

## Appendix 16

### Contacts

If you have any queries about the Council's Partnership Governance Framework and Toolkit or the Register then, in the first instance, contact:

Head of Legal and Member Services  
Town Hall  
Brighton Street  
Wallasey  
Wirral  
CH44 8ED  
Tel. 691 8569  
Email [legalandmemberservices@wirral.gov.uk](mailto:legalandmemberservices@wirral.gov.uk)

For queries regarding other Council officers mentioned in this document, refer to the table.

Name	Position	Contact address	Contact telephone number	Email address
Bill Norman	Director of Law, HR and Asset Management	Town Hall Brighton Street, Wallasey Wirral CH44 8ED	691 8498	<a href="mailto:billnorman@wirral.gov.uk">billnorman@wirral.gov.uk</a>
Ian Coleman	Director of Finance	Treasury Building, Hamilton Street, Birkenhead , Wirral		<a href="mailto:iancoleman@wirral.gov.uk">iancoleman@wirral.gov.uk</a>
Mike Lane	Risk and Insurance Manager	Treasury Building, Hamilton Street, Birkenhead , Wirral		<a href="mailto:mikelane@wirral.gov.uk">mikelane@wirral.gov.uk</a>
Mark Niblock	Deputy Chief Internal Auditor	Treasury Building, Hamilton Street, Birkenhead , Wirral		<a href="mailto:markniblock@wirral.gov.uk">markniblock@wirral.gov.uk</a>

Each Directorate also has a partnership 'co-ordinator'. The purpose of the partnership co-ordinators group is to take a strategic overview of partnership working making appropriate links to other areas of work, and to keep their directorates informed of developments regarding the corporate work on partnerships.

<b>Area of responsibility</b>	<b>Coordinator</b>	<b>Job title</b>	<b>Contact telephone number</b>	<b>Email address</b>
Adult Social Services				
Children and Young People Services				
Corporate Services				
Finance				
Law, HR and Asset Management				
Regeneration				
Technical Services				

## APPENDIX 17 – PARTNERSHIP REGISTER INDEX

This is the index of the Council's partnership register for 2008/09. . The register is subject to annual review.

### 1) Key Partnerships

<b>Organisation</b>	<b>Link Officer</b>	<b>Responsible Head of Service</b>	<b>External Contact/ Address or Comment</b>
Adult Mental Health Provision	Phil Gilroy		Suzanne Proctor Cheshire & Wirral Partnerships NHS Trust Upton Lea Countess of Chester Health Park Liverpool Road CHESTER CH2 1BQ
Behaviour Improvement Programme	Charlie Bailey		(Council take the lead, external parties involved include police)
Children and Young People's Strategic Partnership	Moira Curran		N/A
Community Fund Joint Working Group	Simon Goacher,	Simon Goacher	Wirral Partnership Homes (see below)
Crime and Disorder Reduction Partnership	Steve McGilvray	Rob Beresford	
Drug and Alcohol Action Team	Phil Gilroy	Mindy Rutherford	DAAT Manager Wirral PCT St. Catherine's Hospital Church Road, Birkenhead CH42 OLQ
Groundwork Wirral			Kate Thomas kthomas@groundwork.org.uk
Integrated Community Equipment Service	Tina Long		Sheila Hillhouse Wirral PCT St. Catherine's Hospital Church Road, Birkenhead CH42 OLQ
Intermediate Care Partnership	Tina Long		Heather Rimmer Wirral PCT St. Catherine's Hospital

Organisation	Link Officer	Responsible Head of Service	External Contact/ Address or Comment
			Church Road, Birkenhead CH42 OLQ
Joint Commissioning	Tina Long		Wirral PCT St. Catherine's Hospital Church Road, Birkenhead CH42 OLQ
LAA Programme Board		Russ Glennon	Chaired by the Leader of the Council. Council lead agency.
Local Strategic Partnership (LSP)	Christina Bebbington	Russ Glennon	Chaired by the Leader of the Council.
Mersey Dee Alliance		Jim Wilkie	Simon Adderley MDA Co-ordinator Chester City Council The Forum, Chester CH1 2HS
Merseyside Policy Unit	Jim Wilkie		Abigail Howarth, Director 237 3530 Merseyside Policy Unit 12 Princes Parade LIVERPOOL L3 1BG <a href="mailto:Abigail.howarth@merseyside.org.uk">Abigail.howarth@merseyside.org.uk</a>
Merseyside Safety Camera Partnership		Mark Smith	
Local Authority Pension Fund		Peter Wallach	Stuart Imeson 01274 432 111 Hon.Sec. LAPF Forum, c/o Britannia House, Hall Ings, BRADFORD BD1 1HX
The Mersey Partnership TMP			The Mersey Partnership 12 Princes Parade Liverpool L3 1BG
WEDS Wirral Economic Development and Skills Partnership	Alan Evans		Wirral has input through Phil Davies (Chair)
Wirral Environmental Partnership	Alex Butler/Sue Wheldon	Kevin Adderley	
WIN Wirral Investment Network (Management) Ltd.	WIN/Area Co-ordinator	Kevin Adderley	

Organisation	Link Officer	Responsible Head of Service	External Contact/ Address or Comment
Wirral 3 Way Compact Group	Andy Brannan		
Wirral Chamber of Commerce and Industry	Jim Wilkie	Ken Davies, Chief Executive 647 8899	Wirral Chamber of Commerce and Industry Lord Leverhulme Chambers 16 Grange Road West BIRKENHEAD CH41 4DA
Wirral Multi-cultural Organisation.	Moira Curran x4329	Mal Reston 666 4547	<a href="mailto:m.reston@wmo.org.uk">m.reston@wmo.org.uk</a> 111 Conway Street Birkenhead CH41 4AF
Wirral Chamber of Commerce and Industry	Jim Wilkie	Ken Davies, Chief Executive 647 8899	Wirral Chamber of Commerce and Industry Lord Leverhulme Chambers 16 Grange Road West BIRKENHEAD CH41 4DA
Wirral SEN Parent Partnership		Peter Edmondson	
Wirral Strategic Housing Partnership	Andy Brannan	Russ Glennon	

## 2) Procurement Arrangements

Merseyside Procurement Group	Ray Williams	Steven Rowley	4 other Merseyside authorities involved, no lead authority
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## 3) Commercial or Commissioned Partnerships

Merseyside Connexions		Peter Edmonson	
Egerton House (Wirral) Ltd.	Philip Smith (Wirral Direct)	Kevin Adderley	Liz Whaling General Manager Egerton House, 2 Tower Road, Birkenhead CH41 1FN
Birkenhead Market Ltd.	Alisdair McNicol	Ian Brand	Mr. L. Embra Birkenhead Market, Claughton Road, Birkenhead, CH41 2YH
Latin American Capital Partners	Ian Coleman		466 Lexington Avenue, New York
Liverpool Airport		Neil Pakey Managing Director	Liverpool John Lennon Airport LIVERPOOL L24 1YD
Merseyside	Alan Evans	Russ Glennon	Mott MacDonald MIS

Information Service			325 Royal Liver Building Pier Head, Liverpool L3 1JH
Merseyside Joint Metrology Laboratory.	John Malone	Rob Beresford	Darrell Wilson Chief Inspector of Weights & Measures, St. Helens MBC Wesley House, Corporation Street, St. Helens WA10 1HE

#### 4) Networking/Benchmarking/Best Practice Groups

Merseyside Housing Benefit Joint Operational Board	Chris Ng	Malcolm Flanagan	Gordon Lee Resource Manager Revenues and Benefits St. Helens Council, Town Hall Victoria Square, St. Helens WA10 1HP
North West Centre of Excellence Procurement Board	Ray Williams	Steven Rowley	Colin Cram Tameside Metropolitan B.C. Council Offices Wellington Road ASHTON UNDER LYNE OL6 6DL
SIGOMA		Ian Coleman	Gareth Bruff 01226 773215 PO Box 14, Town Hall, Barnsley S70 2AQ
Trading Standards North West	John Malone	Rob Beresford	Paul Noone Lancashire Trading Standards 58 - 60 Guildhall Street, Preston Lancs. PR1 3NU

#### 5) Collaborative/Shared Services Arrangements

None Recorded			
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#### 6) Public Private Partnerships/PFI

Wirral Schools Service		David Armstrong	
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#### 7) Stock Transfer RSLs

Beechwood and Ballantyne	Andy Bate	David Ball	Andy Hall
Leasowe Community Homes	Andy Bate	David Ball	Campbell McLay Arena Housing Association 14 Columbus Quay Riverside Drive L3 4DB

Wirral Partnership Homes Community Fund	Andy Bate	David Ball	Patrick McCarthy Wirral Partnership Homes 6 Europa Boulevard Birkenhead CH41 4PE
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#### 8) Local Management Arrangements

Community Centre Joint Management Committees (x15)	Lynn Williams	Jim Lester	
Tam O'Shanter Urban Farm		Jim Lester	Tam O'Shanter Urban Farm Boundary Road, Bidston, Wirral CH43 7PD
Together Project (Rock Ferry)	Steve Ruddy	Steven Rowley	Neil Collins Director Royal Standard House 334 New Chester Road BIRKENHEAD CH42 1LE

#### 9) Grant Funding Regimes

Merseyside Objective One PMC		Jim Wilkie	Pamela Peel Cunard Building, Pier Head, Liverpool L3 1QB
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#### Partnerships to be removed?

Business Link for Greater Merseyside (to be removed)	Philip Smith (Wirral Direct)	Kevin Adderley	Peter Morton Egerton House 2 Tower Road Birkenhead CH41 2FN
Merseyside Special Investment Fund	Peter Mawdsley		No formal advisory board, Wirral not represented in any form.
Excellence in Cities Partnership		N/A	(Internal with schools)
Pensions Assessment Team	Phil Gilroy	Alan Copestake	North West (5thZone) Area Millennium House Lower Ground Floor Pensions Service, 86 Wellington Road, Stockport SK1 3UH
Pentra Services Ltd		666 2066	Waterloo Buildings, 23 -31 Bridge Street, Birkenhead CH41 1AS



Rising Starts (Enterprise Ventures)	Peter Mawdsley		No formal advisory board, Wirral not represented in any form
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## WIRRAL COUNCIL

### STANDARDS COMMITTEE –

31 MARCH 2009

### REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

#### DECLARATIONS OF GIFTS AND HOSPITALITY

##### 1. Background

- 1.1. At the meeting of this committee on 30 September 2008 a member raised this item as a matter of any other business. The minute states:

*The Chair agreed to consideration of this matter, having accepted the need for clarification. Councillor Blakeley referred to a potential conflict over the registering of gifts and hospitality, in that he had received differing advice as to with which authority they should be registered. He asked that the matter be clarified and also suggested that the Council might adopt the form currently in use within the Merseyside Passenger Transport Authority, which he felt would be helpful to all members. The Committee noted that it included a requirement to register offers of gifts and hospitality, i.e. even when they were not accepted. The Acting Head of Legal and Member Services reported that the issue had been discussed among Merseyside's District Secretaries and Monitoring Officers, who were considering the adoption of a standard protocol. It was also hoped that the Council's new Modern.gov computer system, once fully operational, would make the process of registering members' interests and gifts and hospitality easier.*

*Resolved - That the Committee receive a further report on the various issues relating to the registering of gifts and hospitality..*

- 1.2 This report sets out the current position.

##### 2.0 THE REQUIREMENTS OF THE CODE OF CONDUCT

The Code of Conduct requires that members register any gifts or hospitality which they receive from a third party where the value exceeds a nominal sum (£25). The Standards Board for England (SBE) has issued a factsheet on the declaration of gifts and hospitality. A copy of the factsheet is attached as appendix 1 to this report.

##### 3. THE MODGOV SYSTEM

- 3.1 The ModGov system is being developed. A large proportion of members' registers of interests are now on the system and can be accessed by the public via the website. The remaining members are being assisted in this process. The next stage is to enable members to declare gifts and hospitality directly on to the system, which would then also be accessible to the public via the website. Work is currently being carried out to enable this.
- 3.2 The form which members will need to complete to register gifts or hospitality is attached as Appendix 2 to this report.

#### 4. **JOINT AUTHORITIES**

- 4.1 Some confusion has arisen where members of the council are also members of other authorities e.g. the Passenger Transport Authority, the Fire and Rescue Authority or the Police Authority. I have had discussions with Monitoring Officers of other Merseyside Authorities. The consensus view was that where a member is offered gifts or hospitality through another authority that should be registered with the Council as well as the other authority. This view has been confirmed by the SBE.

#### 5. **DECLINED OFFERS**

- 5.1 The SBE factsheet suggests that it would be best practice to register offers of gifts or hospitality which are declined. A recent review of the register of gifts and hospitality by the Council's Internal Audit Team also suggested that this should be done as best practice. Members will note that the form to be used for the ModGov system enables members to register gifts which are declined.

#### 6. **Financial and Staffing Implications**

- 6.1 There are none arising from this report.

#### 7. **Local Member Support**

There are no implications for individual wards arising directly from this report.

#### 8. **Equal Opportunity Implications**

There are none arising directly from this report.

#### 9. **Human Right Implications**

There are none arising directly from this report.

#### 10. **Local Agenda 21 Implications**

There are none arising directly from this report.

#### 11. **Community Safety Implications**

There are none arising directly from this report.

#### 12. **Planning Implications**

There are none arising directly from this report.

#### 13. **Background Papers**

There are no background papers which are not appended to this report.

#### 14. **Recommendation**

- 14.1 The Committee notes the report;

- 14.2 The Committee requests that the Director of Law, HR and Asset Management writes to all members;
- (a) reminding them of the requirement to register gifts and hospitality;
  - (b) providing them with a copy of the Standards Board factsheet; and
  - (c) reminding them that it is best practice to register gifts or hospitality which is declined; and
- 14.3 That the Director of Law, HR and Asset Management issues reminders to all members on a quarterly basis regarding the requirements to register gifts and hospitality.

BILL NORMAN  
DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

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## Gifts and hospitality

**Relevant Code paragraphs:** 8 and 13

**Summary:** This document provides key information and answers frequently asked questions about registering gifts and hospitality under the 2007 revised Code of Conduct for members.

**Date published:** 1 October 2007

### Key facts

- You must register any gifts or hospitality worth £25 or over that you receive in connection with your official duties as a member. You must also register the source (for example, the person, firm, body or company) of the gift or hospitality.
- You must register the gift or hospitality and its source within 28 days of receiving it.
- You automatically have a personal interest in a matter if it relates to or is likely to affect the source of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the source who gave it to you, how the business under consideration relates to that source, and then decide whether that interest is also a prejudicial interest.
- Once three years have passed since you registered the gift or hospitality, your obligation to disclose that interest to any relevant meeting ceases.

## Frequently asked questions

### **Q1 Is the gift or hospitality connected to my official duties as a member?**

You should ask yourself, “would I have been given this if I was not on the council”? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to your monitoring officer (or your parish or town clerk where appropriate). What matters is to show who you have received a gift or hospitality from, and to make that known when business related to them is discussed at a council meeting at which you are present.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept.

However, you should always register a gift or hospitality if it could be seen as something given to you because of your position or if your authority requires you to do so. It may also be good practice to register declined gifts.

### **Q2 What if I do not know the value of a gift or hospitality?**

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You should also register an accumulation of small gifts you receive from the same source over a short period that add up to £25 or more.

### **Q3 What about official gifts or hospitality given to the civic mayor or chair of a council?**

There are no special rules for those who serve as mayor or chair of an authority. Gifts that are clearly made to the authority do not need to be registered. Gifts made directly to a mayor or chair’s charity appeal also do not need to be registered.

On the other hand such gifts ought to be recorded for audit, and perhaps insurance purposes on the council’s asset inventory. Although the mayor or chair may attend many social functions they are not exempt from the requirement to register hospitality.

However, where the hospitality is extended to the office holder for the time being rather than the individual, the Standards Board takes the view that there is no requirement under the Code to register the hospitality.

All hospitality over £25 must be registered under the Code.



#### **Q4 What does “hospitality” mean?**

Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

#### **Q5 Does the revised Code require me to register the interests of people that give me gifts or hospitality?**

No. The Standards Board believes the revised Code requires you to register any gifts or hospitality worth £25 or over that you received in connection with your official duties, and the source of the gift or hospitality.

#### **Q6 Do I have to transfer my gifts and hospitality register from before 2007 onto the new, publicly available, general register of interests?**

If you were a member prior to the revised Code being introduced in 2007, you are likely to have a register of gifts and hospitality which was separate to the publicly available registers of members’ interests under the 2001 Code.

You do not need to copy or transfer your register of gifts and hospitality onto your general register of interests under the revised Code. This is because we believe the new Code cannot be applied retrospectively.

As a result, gifts and hospitality received prior to the revised Code coming into effect in your authority (on 1 October 2007 or on the date your authority adopts it - whichever is earlier), will also not give rise to a personal interest under the revised Code.

### **Additional information**

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk).
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at [enquiries@standardsboard.gov.uk](mailto:enquiries@standardsboard.gov.uk).

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**Register Gift or Hospitality**

\* Type:  Gift  Hospitality

Date Received:  (d/m/yyyy)

\* Details:

Provided by:

Value:

Accept/ rejected:  Accepted  Rejected

Comments:

**Cancel** **Finish**



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#### Good practice in focus

We've listened to your feedback – and this year the Assembly programme is more practical than ever.

We've worked with a forum of monitoring officers, independent chairs and standards committee members to develop a range of workshops, plenary sessions and advice clinics that will concentrate on good practice, and answer your questions on key areas of the standards framework.

#### Learn from experience

Session themes include sharing the lessons you have learnt about local assessment, your experiences of managing investigations and sanctions, understanding the latest revisions to the Code of Conduct, the practical outcomes of alternative action and a step-by-step guide to setting up joint standards committees.

For the first time, experienced monitoring officers and standards committee members will be in the spotlight, delivering focused question and answer sessions, giving you another chance to hear from colleagues across the country and learn from their experiences.

#### Book now

This is the most important event of the year for members and officers focused on local standards and the Code of Conduct. Last year's event sold out. Contact us to secure your place now.


To find out more or to book your place, please contact **Benedict Business Resources**:

Benedict Business Resources, St Jude's Place,  
PO Box 617, Albury, Guildford, Surrey, GU5 9XU

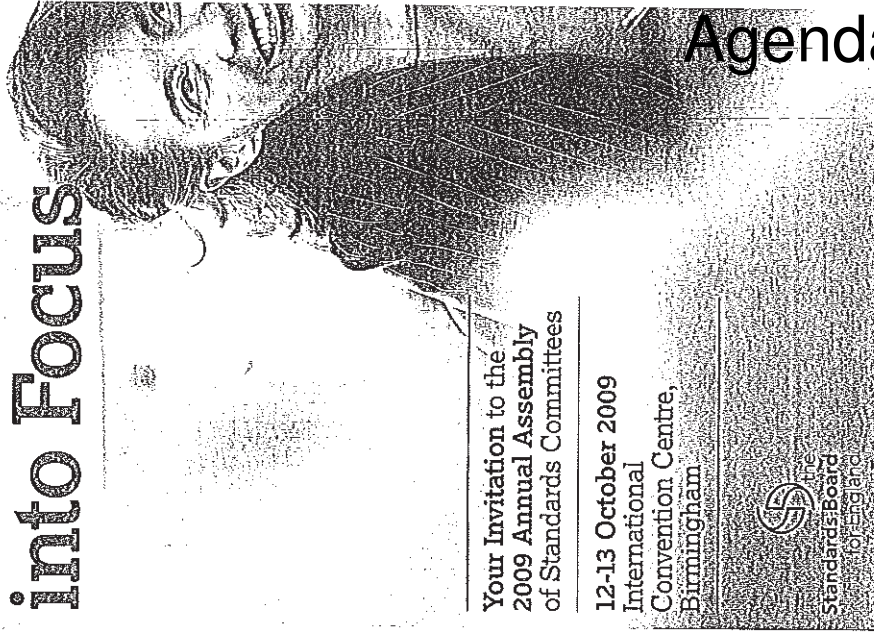
Telephone: 01483 205 432 Fax: 01483 202 335

Email: [annualassembly2009@standardsboard.gov.uk](mailto:annualassembly2009@standardsboard.gov.uk)  
Or visit our website: [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

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 the  
Standards Board  
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# Bringing Standards into Focus

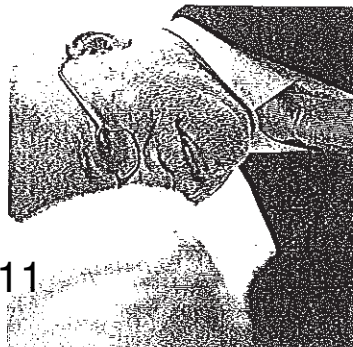


Your Invitation to the  
2009 Annual Assembly  
of Standards Committees

12-13 October 2009  
International  
Convention Centre,  
Birmingham

 the  
Standards Board  
for England

Agenda Item 7





**We are now taking bookings for the 2009 Annual Assembly of Standards Committees, which will take place on 12 and 13 October 2009 at the International Convention Centre, Birmingham.**

**This year, we're opening the floor to you, focusing on your experiences, the expertise you have, the challenges you've faced and the successes you've achieved.**

**We're bringing more than 800 members of the standards community together, at the 2009 Annual Assembly gives you the opportunity to discuss how you are delivering local standards and to share good practice, ideas and innovations.**

#### **Practical, expert advice**

We understand that many of you have got to grips with the processes of the local standards framework and are now focused on further development and innovation.

**You're working to build a wider role for your standards committees and proactively drive the standards agenda forward in your authorities.**

The 2009 Assembly has a range of sessions concentrated on helping you to achieve this. Delivered by local government experts, these sessions will bring key issues into focus, including:

- making sense of political party governance and discipline
- exploring the effectiveness of the ethical environment
- working effectively with members, council leaders and chief executives to embed high standards in the culture and governance of your authority
- improving the skills of your standards committee

**There will also be practical, expert advice on raising the public profile of your work via the internet and local media.**

#### **Share good practice**

With more than 800 delegates from across the local government community expected to come together at the Assembly, we believe it is vital for standards committee members and chairs, independent members and parish representatives to attend.

Feedback shows that the Assembly is also the most important event of the year for officers managing standards, and they will find the opportunity to share good practice and network with their peers invaluable.

**Demand for last year's Assembly was higher than ever, and the event was fully booked by early July. Places at this year's event are limited to five per authority, allocated on a first-come, first-served basis. Many authorities have already registered their interest. For this reason, we urge you to book early to avoid disappointment.**

#### **Book your place**

For the second year running, there is no price increase for the event, with full conference attendance held at £430 plus VAT. The price of one-day attendance has been reduced to £230 plus VAT.

**To book your place at the 2009 Assembly, please complete the enclosed booking form and return it to our event managers, Benedict Business Resources. Contact details are provided on the booking form.**

You can also book online and get further information on our website, [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

**We look forward to seeing you in Birmingham.**



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Monitoring Officer  
 Wirral Metropolitan Borough Council  
 Town Hall  
 Brighton Street  
 Wallasey  
 Merseyside  
 CH44 8ED

Your ref  
 Our Ref  
 Date:

DS/RPJ/KD  
 11 March 2009

Reference:	
12 MAR 2009	
Service:	Sgoacher
Officer:	

Dear Colleague

### North West Independent Members Forum

I am writing to let you know that the next meeting of the North West Independent Members Forum will be held on Tuesday 21<sup>st</sup> April 2009, here at County Hall, Preston. On this occasion the meeting will commence at 1.00pm with lunch and the meeting proper following at 1.45pm. The meeting will take the following format:

- |          |                                 |
|----------|---------------------------------|
| • 1.00pm | Lunch                           |
| • 1.45pm | Start of meeting - welcome      |
| • 2.00pm | Guest Speaker – to be confirmed |
| • 2.45pm | Questions and conclusion        |
| • 3.00pm | Independent Member Session      |
| • 3.45pm | Finish                          |

Could you please make a note of the time and date in your diary. The confirmed agenda and further information will be sent out nearer the time.

For your information, I am enclosing a copy of a questionnaire I am sending to your Authority's Independent Members regarding the future format and venues for the meetings, which will be discussed at the Independent Members only session.

I look forward to seeing you on the day.

Yours sincerely







# North West Independent Members Forum

## Review of the Format of Meetings

### Questionnaire for Independent Members of Standards Committees

Question Number	Question and Response – Please complete
1	Q Do you attend the meetings of the North West Independent Members Forum?  R
2	Q If you do not attend the meetings, why not?  R
3	Q If you do attend the meetings, what format would you like meetings to take?  R
4	Q How frequently would you like the meetings to take place?  R
5	Q Are you agreeable to the venue for meetings moving around the area?  R

6	Q How would you wish to select the Chair?  R
7	Q Should the Chair's term of office be yearly/two yearly?  R
8	Q Should the role of Secretary be time limited and linked to the Authority of the Chair?  R
9	Q Are there any other issues you wish to raise  R

Name: .....

Position: .....

Authority: .....

Date: .....

Please return this questionnaire in the prepaid envelope provided by no later than Friday 27 March 2009.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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