GOVERNANCE FRAMEWORK FOR SIGNIFICANT PARTNERSHIPS

GUIDANCE FOR DIRECTORS
Governance Framework for Significant Partnerships
Guidance for Directors

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Section 1. How to identify whether an arrangement is a partnership.

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1.1 Your responsibilities

Paragraph 3.3 of the governance framework states that “the council will review each of its partnerships at least annually …to identify which partnerships are significant.”

This guidance will help you with the first part of the review – identifying which arrangements come under the definition of partnership set out in the governance framework.

It is your responsibility to identify all of the partnerships that you or your staff are involved with. You must review these annually to identify which ones are significant and so will come under the governance framework.

It is good practice to take the governance framework into account when you consider governance arrangements for any partnership, whether or not it is significant.

Cross-cutting arrangements

It is for each director to decide whether an arrangement is a partnership. However, where an arrangement cuts across a number of service areas, the Assistant Chief Executive (Corporate Governance) will decide this, if the directors involved in the arrangement have differing views.

1.2 Definition of partnership and types of partnerships

An arrangement is a partnership under the governance framework if there is:

an agreement between two or more independent bodies to work collectively to achieve an objective, excluding
  o any contractual agreement entered into by the council; or
  o any agreement where the council provides an organization with grant aid,
except where these arrangements create a separate decision-making structure\(^1\).

**Types of partnership**

You need to identify all of the arrangements which you or your staff are involved with, including:
- voluntary and statutory arrangements;
- networking arrangements;
- arrangements under the Leeds Initiative;
- executive and non-executive arrangements;
- joint ventures;
- strategic service delivery arrangements; and
- strategic arrangements for private sector procurement.

There may be other types, too.

You then need to:
- check to see if each arrangement is a partnership under the governance framework definition; and
- assess its significance.

**Legal forms**

The governance arrangements of a partnership will vary, depending on its legal form. A partnership may be, for example:
- a company;
- a contractual arrangement;
- a joint committee;
- an unincorporated association;
- a grant arrangement; or
- an agreement under Section 31 of the Health Act 1999.

**Overview**

Sometimes there may be several different elements to take into account when deciding if a partnership exists. For example, the council may be involved in a company, and we may also provide it with grant aid, or have a contract with it.

Where this is the case, you will need to consider each element of the arrangement separately, when you are deciding whether there is a partnership. See examples 1, 2, 3 and 7.

\(^1\) All PFI arrangements are excluded from the definition
1.3 Flowchart

Use this flowchart to help you work out whether an arrangement is a partnership under the definition.

Are there two or more independent bodies involved in the arrangement?

No

Have they agreed to work collectively to achieve an objective?

No

It is not a partnership under the Framework

Yes

Is it a contractual arrangement?

No

Is it a grant arrangement?

No

It is a partnership under the Framework

Yes

Has it got a separate decision-making structure?

Yes

It is a partnership under the Framework

No

It is not a partnership under the Framework

Is it a PFI?
1.4 Guidance on the definition

**two or more independent bodies**

There must be at least one other body distinct from the council, involved in the arrangement. This may be, for example:

- a company;
- a voluntary sector organisation;
- a charity;
- a local authority; or
- another statutory body such as the police authority or a PCT.

When you are assessing whether a company is a partnership, you should look at who the **members** of the company are e.g. shareholders. Is there any other body who is a member of the company, as well as the council?

Contractual arrangements and grant arrangements will always involve at least two bodies – the council and the body who is the other party to the contract, or to whom the council gives the grant.

You should consider bodies to be independent, if they are separate legal entities.

See **examples 1, 2 and 7** below.

**working collectively to achieve an objective**

You may consider whether the council’s input is integral to achieving an objective. If so, it is likely that the council is working collectively with the other body.

If the council’s input is minor or incidental, then the arrangement may not be a partnership, but it may be an “outside body”.

**contractual arrangements**

These include:

- service level agreements with the voluntary or community sector;
- agreements under Section 31 of the Health Act 1999.

But - a contractual arrangement will only be partnership where it creates a **separate decision-making structure** – see below.

**grant arrangement**

A grant arrangement will only be a partnership where it creates a **separate decision-making structure** – see below.
PFI

PFI – Public Finance Initiatives – are specifically excluded from the definition, and so will never come under the governance framework.

A PPP - Public Private Partnership - will come within the definition if it is a contractual arrangement that creates a separate decision-making structure – see below.

**separate decision-making structure**

You should consider whether the arrangement creates a formal forum to give the council a role in making decisions.

The forum may be for:
- joint decision-making; or
- consultation, before one or more bodies formally make a decision.

A separate decision-making structure should have agreed rules about:
- regular meetings;
- how each body is represented; and
- voting rights.

See **examples 1, 3, 4 and 6** below.

1.5 Examples - how to apply the definition

Please note - these examples are not intended to provide a definitive assessment of whether each arrangement is a partnership, but are **illustrative only**.

**Example 1: Education Leeds**

| Leeds City Council | Education Leeds |

**The company:**

Education Leeds is a company.

When it was first set up, it was a strategic partnership with Capita. In April 2006, the strategic partnership came to an end. Education Leeds is now wholly owned by Leeds City Council. No other body is a member of it.

The company itself is not therefore an arrangement that involves **two or more independent bodies**.
So, Education Leeds is not a partnership.

The contract:

The council have entered into a contract with Education Leeds, the company.

The contractual arrangement involves two bodies: the council and Education Leeds.

Because they are separate legal entities, the council and Education Leeds are independent bodies.

They may be working collectively to achieve objectives.

It is not a PFI.

A contractual arrangement entered into by the council is not a partnership, except where these arrangements create a separate decision-making structure.

Unless the contract creates a separate decision-making structure, the contractual arrangement with Education Leeds will not be a partnership.

Example 2: ALMOs

Arms’ Length Management Organisations are companies that are wholly owned by the council. No other body is a member.

Each company does not therefore involve two or more independent bodies.

So, the ALMOs are not partnerships.

Contractual arrangements/grant arrangements

You would need to consider these separately – see example 1 above.
Example 3: Leeds Grand Theatre and Opera House Ltd

Company

The Leeds Grand Theatre and Opera House Ltd is a controlled company limited by guarantee and a registered charity. There is no other body involved.

The company itself is not therefore an arrangement that involves two or more independent bodies.

So, the Leeds Grand Theatre and Opera House Ltd is not a partnership.

Grant arrangements

The council provides an annual grant to the company.

The contractual arrangement involves two bodies: the council and Leeds Grand Theatre and Opera House Ltd

Because they are separate legal entities, the council and Leeds Grand Theatre and Opera House Ltd are independent bodies.

They may have agreed to work collectively to achieve an objective.

However, a grant arrangement entered into by the council will not be a partnership, except where the arrangements create a separate decision-making structure.

If the company takes decisions about the grant, without input from the council through a separate decision-making structure, the grant arrangement is not a partnership.
Example 4: Leeds Community Equipment Services Partnership

Leeds City Council (Statutory Partner) → Pooled Fund Arrangement (CES) → Voluntary members from various groups and service users → PCT (Statutory Partner)

**Contract**

Leeds City Council and the PCT are **two independent bodies**.

They may have agreed to **work collectively to achieve an objective**.

They have a **contractual arrangement**. It is **not** a PFI.

A contractual arrangement entered into by the council is not a partnership, except where the arrangements create a **separate decision-making structure**.

The partnership agreement requires a pooled fund and a Partnership Board to manage the pooled budget. The Partnership Board **is a separate decision-making structure**.

Therefore, LCES **is a partnership**.
Example 5: Safer Leeds

The 1998 Crime and Disorder Act and section 17 of the Police Reform Act requires "responsible authorities" to audit crime and produce a Crime and Disorder Reduction Strategy. They achieve this through the Safer Leeds Partnership.

Safer Leeds is made up of a **number of independent bodies**.

They **work collectively to achieve objectives**.

It is **not** a contractual arrangement or grant arrangement.

Therefore, Safer Leeds is a partnership.

Example 6: Strategic Design Alliance
The Strategic Design Alliance is not a separate company. It operates under a framework contract that commits Leeds City Council to involving Jacobs on all Capital Building works for the next 3 years with an option to extend to 5 years.

There are two independent bodies (Leeds City Council and Jacobs).

They may have agreed to work collectively to achieve an objective.

It is a contractual arrangement. It is **not** a PFI.

A contractual arrangement entered into by the council is not partnership, except where the arrangement creates a separate decision-making structure.

There is a separate Alliance Board that meets quarterly. This is a separate decision-making structure required by the contract.

Therefore, the Strategic Design Alliance **is** a partnership.

**Example 7: Marketing Leeds**

**The company**

Marketing Leeds is a company limited by guarantee with two members, the council and Leeds Chamber of Commerce - representing the broader business community.

The arrangement involves two independent bodies.

They are working collectively to achieve an objective.

It is **not** a contractual arrangement, nor a grant arrangement.

Therefore, Marketing Leeds **is** a partnership.
Section 2. How to assess if a partnership is significant

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2.1 Your responsibilities

Paragraph 3.3 of the governance framework states that “the council will review each of its partnerships at least annually …to identify which partnerships are significant.”

This guidance will help you with the second part of the review – identifying which partnerships are significant.

Once you have identified all of the partnerships that you or your staff are involved with, you must review these annually to identify which ones are significant and so will come under the governance framework.

Cross-cutting partnerships

It is for each director to decide whether a partnership is significant. However, the Assistant Chief Executive (Corporate Governance) will decide this, where an arrangement cuts across various service areas, if the directors involved in the partnership have differing views on its significance.

2.2 Criteria for significance

The governance framework requires you to take the following into account when you are assessing a partnership’s significance:

- the resources which the council contributes to the partnership;
- the partnership’s contribution to the achievement of priorities in the Corporate Plan;
- the nature of the consequences if the partnership were to fail;
- the type of decisions the partnership makes;
- whether the partnership is required by law or to secure funding; and
- the extent to which the partnership helps the council to manage risk.

A scorecard which will help you do this, is attached as an appendix to the governance framework.

You should use the scorecard, and take its result into account when determining significance.
However, you may decide that a partnership is significant, even if it is not assessed as significant when you use the scorecard.

In assessing the significance of a partnership, you may take other criteria into account, such as the length and breadth of the partnership.

2.3 Examples - how to apply the criteria

On the following pages are two examples of how you might use the significance scorecard. These examples are not intended to provide a definitive assessment of the significance of each of the partnerships, but are illustrative only.
2.4 Next Steps

Once you have identified all the significant partnerships you are involved in you will need to appoint a lead officer for each partnership and return FORM 1 – ‘Annual Review of Significant Partnerships’ to Governance Services.

Where an arrangement is cross-cutting, please contact any other relevant director as soon as you can, to agree who should appoint the lead officer.

Each Lead Officer will then need to carry out a governance review of their partnership, and return FORM 2 – ‘Review of Partnership’s Governance Arrangements’.

All forms should be returned to Governance Services, 4th Floor West, Civic Hall.

If you require any further information on any of the information provided in this guidance document please contact:

Liz Davenport, Principal Corporate Governance Officer – X 78408; or
Lucy Stratford, Corporate Governance Officer – X 51632
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