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3 March 2006

The LSP Consultation  
The Office of the Deputy Prime Minister  
Zone 5/K10  
Eland House  
Bressenden Place  
London  
SWE1 5DU

Dear Sir, Madam,  
Consultation Paper – Local Strategic Partnerships

I am writing on behalf of the Association of Council Secretaries and Solicitors in response to the Department's Consultation Paper on Local Strategic partnerships. Many of the Association's members are directly involved as Monitoring Officers and Legal Heads of Service in local Government in advising on the governance arrangements of LSPs. I am responding to those questions in the Consultation Paper in which the Association's members have a direct interest.

The Association acknowledges that local authorities have a direct role and responsibility for the formulation of local strategies, and that they have a leading role as democratically elected bodies in seeking to co-ordinate strategies of other public bodies within their boundaries. The vehicle of a LSP is a means of doing this. In addition the LSP can be a means of collectively commissioning and overseeing delivery. Caution is urged in contemplating legislation in the current circumstances where the development of best practice in relation to managing strategy is still at an early stage.

In relation to key question 3,

**3 Would a requirement on bodies producing theme or service based plans to 'have regard' to the Sustainable Community Strategy in doing so and vice versa, increase the LSP's ability to take the over-arching view in an area?**

It is not considered that imposing such a legal requirement would give any added impetus to bodies concerned in recognising the need for strategy inter-relationship. A single strategy cannot be of much practical value if it does not relate to strategy above and below or adjacent.

## **Governance**

**12 We believe that it is important that the LSP is made up of the thematic partnerships in the area together with an LSP board. What is your view?**

It is unlikely than an LSP can perform its role effectively without having a relationship in some way with the thematic partnerships. However it should be a matter for local resolution how that relationship might best be achieved. Thematic partnerships are similar, legally, to LSPs in rarely having their own legal entity, and legal responsibility rests with the individual organisations involved. Partners will often include the same public sector organisations who would expect to be partners within the LSP. It would be preferable to allow the structure of the local strategy framework to be formed by reference to local needs and priorities and what works effectively in practice, rather than Guidance dictate a structure of relationships that fail to account for local circumstances. What is important is that the local structure should be described and agreed between the partners as the means of working together.

There is value in public sector partners within the LSP comprising a local public services board in order to improve relationships, understanding and agreement on shared direction. Again a clear agreement is essential to identify its function and purpose and to prevent the possible alienation of other non public service partners within the LSP.

**13 We believe that a rationalisation of local partnerships would help the LSP executive take an effective overview. Would clustering partnerships around the four LAA blocks be a sensible way to achieve this?**

For practical purposes it is likely that some local co-ordination of strategy will evolve around the LAA blocks as an obvious driver. Again, however it is suggested that local structure should be a matter for local determination to suit local needs and circumstances. Different strategies may well have different priorities.

**14 We believe that the geographic boundaries of partners within LSPs is important. What do you see as the opportunities for, and barriers to, co-terminosity shared geographic boundaries?**

The absence of shared boundaries creates complications for local government and other public bodies in their relationships, particularly in seeking to accommodate the minority interests of bodies sharing parts of other bodies' areas. The inefficiency is that minority interests will not have the same level or quality of representation. If local authority boundaries coincided with the boundaries of other public sector partners, some efficiency improvements could be secured. The common denominator for determining boundaries is generally delineating communities within a practical service catchment area. However hospitals, for example, may well attract a different catchment area by reason of their location. The boundaries of local authorities may be affected by other factors such as population size. It is suggested that to avoid potentially greater inefficiencies which could be caused by imposing common boundaries, boundaries are only coincided where the result does not create operational inefficiency.

**15 Within the LSP framework and its established priorities, would the creation of single delivery vehicles to tackle particular issues be helpful?**

It is a matter for the individual thematic or other partnerships within the LSP to effect the delivery of agreed strategies and to oversee delivery. The creation of a structured relationship of the delivery partners for the purpose of overseeing delivery may well be a useful means for this purpose and for working within the LSP. For legal purposes it will need to be recognised that 'decisions' of such delivery vehicles are not

decisions made on behalf of the individual partners. Those partners will need to make their own individual operational decisions.

**16 How can the neighbourhood and parish tiers be involved most effectively on the LSP on a) the executive and b) individual thematic partnerships?**

There remains a learning curve at neighbourhood and parish level as to involvement in and contribution to strategy development. It would be necessary to clarify the role of a parish/neighbourhood representative on the executive as one of seeking to ensure parish and neighbourhood involvement and contribution at thematic partnership and lower partnership levels. Because of the number of neighbourhoods and parishes, the thematic and lower level partnerships will need to concentrate on facilitative and consultative processes of involvement. It is suggested that few members of the public, as yet, relate the day to day decisions of public bodies to the existence of agreed strategies of all local public services, collectively formulated.

**17 How can the private, voluntary and community sectors be involved most effectively on the LSP as a) the executive and b) individual thematic partnerships?**

Again it would be necessary to define the role of a representative or representatives from these sectors on the LSP as one of ensuring involvement and contribution of the sectors. New skills will need to be identified, training secured and participants identified for these roles and involvement with thematic and other partnerships. There will be an issue of resources for many bodies in these sectors.

**18 Would a duty to co-operate with the local authority, in producing and implementing the Community Strategy, help to set LSPs on a firmer footing and better enable their enhanced delivery co-ordination role.**

The absence of any legal status for LSPs does create difficulties for local authorities and other public sector bodies who are accustomed to being subject to statutory duties and to discharging statutory functions. However the application of legal status to LSPs could well cause more problems of accountability than the legal problems that it would seek to resolve. Local authorities, and presumably other public bodies involved with LSPs, are accountable for their own decisions. Decisions made by an LSP are not decisions of the local authority. The Local authority must make its own decisions in response to those made by the LSP. In so doing, the local authority cannot merely rubber stamp the decisions of the LSP but must exercise appropriate discretion in considering them. A consequence is considerable duplication of decision making and potentially the risk of dissent. The same applies to all decisions whether agreeing the Community Strategy or on delivery. Good governance standards on the part of a local authority would require an audit trail as to when and where all decisions were made within the local authority putting into effect decisions of the LSP. There remain other unresolved legal questions as to whether a local authority is able to enter formal agreements with other partners involving the development and delivery of a Community Strategy that could otherwise fetter the authority's discretion in making its own decisions. A duty on the part of other public bodies to co-operate would not of itself assist the local authority with its own decision making difficulty. A more fundamental legislative framework for public partnerships might in the longer term become essential if the deficiencies of the current voluntary LSP framework create undesirable consequences.

However the experience so far suggests that the voluntary structure might work. What is essential for this to continue is a clear understanding of the intricate governance

arrangements that support it. This would seem to involve a partnership arrangement that identifies intentions of the parties and their contributions, but which is otherwise unenforceable as between the parties. For the purpose of formulating common strategies between the parties (which themselves are merely statements of intent), this should not create a problem. Joint or collective commissioning of resources similarly should not cause difficulty. Delivery, other than working in unison, which involves actual or presumed agreement or expectation, may potentially give rise to liability. Delivery vehicles need to limit themselves to decisions on co-ordination rather than implementation.

On balance it is suggested that a duty to co-operate would not of itself improve the governance of LSPs. Acceptance of the merit and advantages of co-operating should itself be a more powerful driver, perhaps reinforced by regulatory assessment. However the need for legislation in the longer term to provide a platform for duties responsibility and accountability of LSPs and LAAs should not be ruled out if their failure to work effectively is due to the absence of legal validity.

**19 If so, what obligations, such as attendance, financial or staff support, would be useful to place on partners?**

Creating half a legal framework for public sector partnerships, or specifically LSPs, would probably create more legal problems than the defects such legislation might seek to resolve. Statutory obligations assume an entitlement on the part of others adversely affected to enforce those obligations when they were not met.

Unenforceable obligations would be of no real value. On the assumption that LSPs will operate in different ways, it would be impractical to specify any detailed obligations that would be relevant to all LSPs. Specifying minimum requirements may well be taken as an invitation to adhere to such minimum requirements.

**20 If so, which public sector agencies would the duty be most sensibly placed on?**

The logic is that all public sector agencies involved in a LSP should be subject to the duty if one is to be applied to any. The practicality is that some agencies will have a greater involvement than others depending on the relevance of their services to the strategies within the LSP umbrella. An added complication is whether the duty should be applied to RDAs and agencies such as the Environment Agency, who, for example, may have a particular involvement in areas subject to flooding.

The application of a duty to some parties represented on an LSP but not others is likely to create tension and will give rise to issues as to the status of representation and voting.

It is likely that Comprehensive Performance Assessments and other regulatory overview and monitoring will be a more effective means for encouraging involvement in LSPs than a statutory duty.

**21 Should there be a statutory duty on local authorities and named partners to promote the engagement of the voluntary and community sectors in the LSP?**

For the same reasons above, it would seem preferable that local authorities accept the merit and advantages of encouraging the involvement of the voluntary and community sectors, rather than paying lip service to a statutory duty. Involvement will take time to develop.

If after a few years of experience of LSPs, there is cause to require compulsion by legislation, the benefit of experience of successful LSPs will inform the infrastructure, duties and governance requirements that such legislation might contain.

## Accountability

### **22 Should each partnership be encouraged to produce protocols or ‘partnership agreements’ between partners to ensure clear lines of accountability for the delivery of agreed outcomes?**

The term ‘partnership agreement’ implies that the LSP is subject to partnership law, which it is not. However, there should be properly recorded arrangements as between all the parties as to the objectives, means of working and contributions. Individual members are not bound by the decisions of the partnership and there is no joint and several liability. Individual members should indicate their commitment, for example, to the provision of financial and staffing resources for specified periods.

The representatives of members of the LSP are accountable to their own bodies for their activity on the LSP. Their collective activity might be seen as the collective responsibility of all members. It is suggested that to say that the local authority is ultimately responsible for the actions of the LSP is inaccurate, without any control mechanism to that effect. The local authority may seek to provide leadership input, and presumably other technical input and resources, but this does not, of itself, create responsibility for the actions of a body over which it has no overall control in its decision making. The local authority responsibility is to seek to ensure by establishing successful relationships that the product of the LSP is successful. The local authority cannot be accountable for the failings of other parties unless such failure is of the local authority’s own making. If it is the wish of the Secretary of State to impose legal accountability, then legislation will be necessary. From any public perspective, the reputation of an LSP will depend on measurement of its success or failure. Responsibility for that rests with all partners, not just the one having a democratic status.

It is suggested that in Guidance on LSPs the ODPM needs to be clear on the difference between legal accountability and notional accountability. Legal accountability only exists if there is a relationship involving control. For the LSP to have some accountability towards the local authority, it would be necessary to build into the governance arrangements some form of control mechanism such as an entitlement on the part of the local authority to disband it.

It is suggested therefore that it is essential that for LSPs to work successfully without a legal framework, a governance document is in place that sets out its role and objectives, the roles and contributions of its members and representatives, its composition and arrangements for changing it, its decision making arrangements, their validity, the means of notifying them to members, and member response, public access arrangements, reporting arrangements (annual report), the accountability arrangements of its representatives and members, and any other accountability arrangements that the governance document itself creates. The development of a model document that can be adapted to suit local circumstances may be helpful. All LSP members and their representatives need to fully understand the governance arrangements, and particularly the proximity to democratic accountability that the arrangements create for them.

I hope these comments are of assistance.

Yours Faithfully,

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