

Part G – Appendices

Section G4G:- Finance and Contract Procedure Rules
(Collaborative Working and ASDVs)

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G1 General

- G1.1 The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective.
- G1.2 The Council’s contribution to collaborative working may be capital, revenue or contributions in kind such as staff time, and contributions of any kind fall within this section.
- G1.3 This section does not cover public to public or public to private contractual arrangements. This is covered under section E of the Finance and Contract Procedure Rules.
- G1.4 In any circumstance where the Council undertakes procurement in respect of collaborative working, the Council’s Finance and Contract Procedure Rules shall apply.
- G1.5 The Council will maintain a register of significant partnerships and all significant partnerships will be subject to an annual review which will be reported to Audit and Governance Committee.
- G1.6 As a measure of best practice, all collaboration agreements should be subject to a complete review at least every 4 years.
- G1.7 Any collaboration which involves the creation of or participation in a separate legal entity (Alternative Service Delivery Vehicle (ASDV)), such as a limited company, trust or charity, must be set up and approved in accordance with the governance arrangements as set out in section G5.

G2 Written Agreement

- G2.1 Collaborative working arrangements must be recorded in writing, the content and format of which must be approved by the Director of Governance. Any collaborative working involving the commitment of significant Council

resources (be they finance, staff, land, buildings or equipment), or where the Council acts as an accountable body, must have a formal agreement in place approved by the Director of Governance.

G3 Accountable Body

G3.1 Any collaborative working in which the Council is to act as Accountable/Responsible Body must be approved by the relevant Director and the Director of Finance.

G3.2 Where the Council does act as the Accountable Body, the full cost of this service must be charged to the collaborative working arrangement (including a fair share of corporate overheads or equivalent in kind contribution).

G4 Collaborative Working Approval Process

G4.1 The approval process for participation in a collaborative working arrangement is based on:

- a) Compliance with corporate outcomes
- b) The financial contribution of the Council (in accordance with a Service Scheme of Financial Delegation, and even where the contribution is other than financial).

G4.2 If the Council's financial contribution has not already been included in the approved budget, further approval will be required. The level of approval required will depend on both the amount, and whether the funding is to come from existing budgets or from reserves. These approval limits are set out in section G4A of the Finance and Contract Procedure Rules. The financial contribution of the Council should be assessed over the lifetime of the collaborative working arrangement

G4.3 Each Director is responsible for preparing regular reports for the Cabinet Member outlining the key outcome and achievements of each collaborative working arrangement. The report should also review the affordability and continued relevance of the arrangement to the Council's corporate objectives.

G5 ASDV Background

G5.1 The term Alternative Service Delivery Vehicle (ASDV) refers to a range of different organisations which:

- a) have been set up by the Council, either alone or with a partner (public or private sector); and
- b) are legally separate from the Council: and
- c) are operationally independent of the Council, but the Council has retained significant control over key strategic issues.

G5.2 ASDVs can take a number of different legal forms. The main types include: company limited by shares, company limited by guarantee and Trusts.

G5.3 Each ASDV will have its own governance arrangements, business plans, policies and procedures for managing its business, which can be different to those of the Council.

G5.4 In some cases the Council will have 2 or more distinct relationships with the ASDV. Each of these relationships is subject to different rules and processes:

- a) as shareholder/owner of the business; and
- b) as a customer or supplier of goods or services supplied to or from the ASDV.

G5.5 Regular monitoring reports will go to Scrutiny Committee.

G6 Approval to set up an ASDV

G6.1 Setting up a new ASDV is likely to be an expensive, complex and time consuming process requiring significant input from a number of Council services. To ensure consistency with corporate priorities and minimise the risk of abortive costs, the set up needs to be in 3 distinct stages:

- a) approval by Chief Officers in consultation with Director of Finance to develop an Outline Business Case to establish the new ASDV;
- b) Production of an outline Business Case (OBC) to support the development of a full business case;
- c) Production of a Full Business Case (FBC).

G6.2 Cabinet approval will be required at OBC and FBC stage. Depending on the structure of the proposed ASDV specific Cabinet approval may also be required for:

- a) Council pension guarantees;
- b) Provision of working capital loans;
- c) The initial/Year 1 Annual Business Plan (ABP);
- d) Key Reserved Matters.

G6.3 If the value of guarantees and/or working capital loans exceeds £1m, Council approval will also be required.

G7 Approval process once the ASDV is operational

G7.1 The Cabinet Member – Legal and Finance is responsible for making decisions that relate to the Council's role as shareholder or owner of the ASDV. The standard procedures for decisions made by an individual Cabinet Member apply to these decisions as shareholder or owner. For these purposes, expenditure by the ASDV is not to be regarded as expenditure by the Council.

G7.2 Where shareholder decisions are reserved to the Council, but are administrative in nature or would have been within the authority of officers had they related to a Council service; then approval can be given by the relevant Chief Officer. No officer can approve a decision on behalf of the shareholder if it also directly affects them or their services as a customer or supplier.

G7.3 The exact process and range of shareholder decisions will be different for each ASDV. However, as a minimum, a formal Council (as shareholder) decision will be required to approve;

- a) the Annual Business Plan;
- b) changes to the legal structure of the company (e.g. changes in shares);
- c) material changes in HR and/or remuneration policies;

G7.4 If the Council wishes to change the scope and/or range of services delivered by the ASDVs, this will generally require the agreement of both the Council and the company. Council approval to change the scope/range of services

should initially be obtained from Chief Officers in consultation with Director of Finance. Further approval will depend on the size and nature of services covered by the proposed change and therefore advice should be obtained from the Director of Governance. Company approval will depend on each companies own governance processes.

- G7.5 If the ASDVs supplies goods or services to the Council, then generally the standard FCPRs applicable to any 3rd party supplier should be applied to decisions affecting the ASDV in its role as a supplier. The primary exception is ASDVs which are Teckal exempt. In these cases the Council can award contracts to the ASDV without a competitive procurement process. The award of a contract under a Teckal exemption should still be subject to a business case assessment demonstrating value for money is being achieved.
- G7.6 Each ASDV will have its own equivalent of the Councils FCPRs. Changes to these documents will generally not require any approval from the Council.
- G7.7 The ability of the Council to wind-up or liquidate an ASDV will be set out in the Shareholder Agreement or Articles of each ASDV. Putting an ASDV into liquidation is likely to be a significant step with major HR, legal, financial and service delivery implications. It is therefore likely that such a decision will require Cabinet approval.

G8 Reporting

- G8.1 Each ASDV will be required to provide regular shareholder financial and performance reports to the Council. The form and timing of reports will be defined by the Director of Finance and Director of Governance.
- G8.2 If the ASDV supplies services to the Council it will also have to provide performance reports in accordance with its contractual obligations. These contractual performance reports will be incorporated as part of the standard Officer/Member process used for all suppliers.

G9 Directors of ASDVs

G9.1 Both Members and Officers may act as a Director of one or more of the Councils ASDVs. The role of Director includes some significant personal responsibilities and liabilities. It is therefore important that advice from the Director of Governance is sought before becoming a Director.