



Establishing a Direct Partnership

Sample agenda items for initial meetings between a business and local authority

1) The features of Primary Authority¹

- ❖ That the partnership is statutory.
- ❖ What the partnership covers – this will be all regulatory functions that the local authority is responsible for, other than any functions already covered by another direct partnership. In the main, Primary Authority covers matters that are commonly referred to as the ‘environmental health’, ‘licensing’, ‘trading standards’ and ‘fire safety’ functions of local authorities. Primary Authority applies differently in each nation of the United Kingdom and the activities of a primary authority may therefore have statutory effect across one or more nations, depending on the particular regulatory function under which they are acting.
- ❖ Primary Authority Advice supports a business in meeting its obligations by:
 - a) helping it to understand what needs to be done to achieve and maintain compliance;
 - b) setting out a way of achieving and maintaining compliance; or
 - c) providing confirmation that the method of compliance chosen by the business is acceptable².
- ❖ Relevant enforcement action must be notified to the primary authority and the primary authority can direct against proposed action if it is inconsistent with Primary Authority Advice that has been given³.
- ❖ Information can be communicated to all local regulators via the secure Primary Authority Register improving their understanding of the business.
- ❖ The business can access their own partnership’s page on the Primary Authority Register but cannot see information about other partnerships.
- ❖ An inspection plan can be used to improve the focus of local programmed inspections, test purchases and sampling activity, and to provide better feedback to the partnership.

¹ The primary authority should ensure that they are familiar with the Statutory Guidance prior to meeting with the business: <https://www.gov.uk/government/publications/primary-authority-statutory-guidance>.

² The primary authority should be clear that Primary Authority Advice does not affect the responsibility that a business has to comply with legal requirements.

³ See the Co-ordination of Regulatory Enforcement Regulations 2017 and the Statutory Guidance for details of relevant enforcement action.

2) Business needs and assessment of resources

- ❖ What is the nature of the business, i.e. what does it do / offer?
- ❖ What is the scale of the business in terms of geographic spread (England, Wales, Scotland and NI), number of premises / employees / product lines etc? Does the business need to consider partnering with other local authorities to ensure coverage across nations in relation to 'England only' or devolved matters in Wales?⁴
- ❖ Where does the business currently get its compliance inputs from? I.e. does the business have in-house compliance expertise, use consultants, second or third party auditors etc.
- ❖ Does the business design and dictate its own approach to compliance? Or, for example, is it part of a franchise arrangement, and therefore the approach to compliance is dictated, or does a major customer specify how compliance must be achieved? Etc.
- ❖ How does the business operate? Will the partnership cover a single legal entity / regulated person, or several?
- ❖ What does the business want from the partnership? Is it looking for ongoing support, or an occasional source of advice?⁵
- ❖ What are the areas of the business, or areas of compliance that the business wants the partnership to focus on?
- ❖ What does it anticipate the key benefits to be?
- ❖ What are the most significant regulatory risks faced by the business?
- ❖ Are there any current compliance challenges?
- ❖ What is its compliance history? Are there any enforcement actions ongoing/ pending/ expected?
- ❖ Does the business have any other Primary Authority partnerships, for example co-ordinated partnerships, partnerships in devolved nations, other direct partnerships for regulatory functions that this primary authority does not cover?⁶
- ❖ What level of interaction does the business currently have with local regulators in terms of compliance checks, samples or requests for information?
- ❖ What is the likely level of enquiries to the primary authority from enforcing authorities?
- ❖ Which local authority staff will be needed to support the partnership and what will their competency requirements be? E.g. food competent officers, weights and measures officers etc.
- ❖ How will the partnership be resourced? ⁷ (See also, section 8 of this agenda.)

⁴ Only a local authority in Wales should be nominated in respect of relevant functions that relate to devolved Welsh matters (. Where a business regulated in both England and Wales for 'England only' as well as devolved Welsh matters chooses to partner with just one local authority, whether in England or Wales, that local authority should make the business aware that any Primary Authority Advice or inspection plan that it issues in relation to 'England only' or devolved Welsh matters will not have statutory effect in the other nation.

⁵ The primary authority should be prepared to advise the business on the various 'tools' available to them, which the business may wish to make use of – see the Statutory Guidance.

⁶ If so, the primary authority and business should discuss whether / how this affects what this partnership covers.

⁷ Having established business needs and what the business wants, the primary authority should carefully think about what resource is needed, and communicate this clearly to the business (see section 8 also).

- ❖ Who are the key contacts at the business?
- ❖ How will the partnership communicate for 'business as usual' / ongoing communications?

3) The approach to Primary Authority Advice to the business

- ❖ Where does the business currently obtain regulatory advice?
- ❖ What are the advice needs and how should these be prioritised?
- ❖ Is there a need to review previous advice received by the business and to agree whether this should be re-issued as Primary Authority Advice?⁸
- ❖ What practical arrangements will be agreed for the provision of Primary Authority Advice? For example, who can request advice on behalf of the business, who can provide Primary Authority Advice, and, how will it be provided?
- ❖ What process will the primary authority follow to ensure that in providing Primary Authority Advice, they have adhered to the requirements of the Statutory Guidance
- ❖ How will both parties be clear that Primary Authority Advice is being provided?
- ❖ How will Primary Authority Advice be recorded?
- ❖ How will the partnership ensure that Primary Authority Advice is reviewed as required so that it remains up-to-date and relevant?

4) Providing additional information to enforcing authorities

- ❖ What information could usefully be shared with enforcing authorities via the secure Primary Authority Register to assist them in regulating the business at a local level?

For example:

- explaining key aspects of the business's operating model that will help local regulators to identify responsibilities and to address existing confusions;
- standardising sampling or complaints procedures;
- providing FAQs; and
- providing answers to questions that are commonly included in self-assessment questionnaires; or making available commonly requested documents.

5) Benefits of an inspection plan⁹

- ❖ Are there areas of the business for which an inspection plan might be appropriate?
- ❖ What is the business's current experience of local enforcement activity in these areas?
- ❖ How does the business think an inspection plan might be beneficial?
- ❖ Can risk assessment by enforcing authorities be assisted / guided?

⁸ The primary authority should be clear that previously issued advice is not Primary Authority Advice, and if the business wishes to benefit from Primary Authority Advice, the primary authority must issue it as such. This is likely to involve resource.

⁹ The primary authority should have a good understanding of what an inspection plan is, and what it can offer. They may wish to familiarise themselves with other published inspection plans on the Primary Authority Register so that they can inform the business of the options available. NB. The inspection plan of another business should not be shared unless prior permission has been sought and confirmed.

- ❖ Can the primary authority handle specific business issues that will then not need local checks?
- ❖ Are there aspects of the business where local checks will be of assistance in achieving national compliance?

6) Co-ordination

- ❖ Having established whether the business has other primary authorities (see section 2 of this agenda) how will the partnerships co-ordinate? The primary authority must consider:
 - a) Partnerships that the business has in devolved nations.
 - b) Partnerships that the business has via co-ordinators (co-ordinated partnerships).
 - c) Direct partnerships that the business has with other primary authorities, for example if this primary authority is a district council, does the business have a partnership with a county council or fire service also?
- ❖ Are there other primary authority partnerships whose activities might have an impact on the business? For example, where the business is in a franchise agreement with a business that has a primary authority, or where the business has major customers that have a primary authority. If so, how will consistency issues be addressed?

7) Evaluation and review

- ❖ Having considered discussions stemming from the previous agenda sections, what is the partnership seeking to aim, and what are the partnership objectives?
- ❖ Over what time period should they be met?
- ❖ How will the partnership evaluate whether these have been met?
- ❖ How will the partnership ensure that they are keeping on track?
- ❖ How will the partnership proactively communicate during the course of the first year to ensure they are keeping on track (in addition to the typical 'business as usual' communications). For example, will they have weekly, monthly, quarterly meetings? Will these be face to face, via telephone, via video conferencing etc.
- ❖ The primary authority should make the business aware of the partnership review tool that is available for all partnerships to use. The recommended frequency of partnership review is annual.

8) The application process

- ❖ Which legal entities will be included in the agreement – who are the 'regulated persons'?
- ❖ The standard OPSS terms and conditions must be adopted, and the Summary of Partnership Arrangements should be developed jointly. The discussions prompted by this agenda are likely to assist in the development of Partnership Arrangements
- ❖ Have cost recovery arrangements been discussed and agreed?
- ❖ Who will submit the application on behalf of the business and local authority?