

Primary Authority:

Resourcing Partnerships



This guide provides local authorities with advice on establishing effective resourcing arrangements for partnerships under the Primary Authority scheme. It is one of a series of guides that supplement the requirements of LBRO's statutory Primary Authority Guidance¹ by addressing questions that are commonly asked by local authorities. It is based on practical experiences of the scheme to date and provides advice on developing an approach, assessing the resources required by partnerships, and cost recovery.

Primary Authority delivers significant benefits to both businesses and local authorities:

- cutting both the costs of complying with regulation and the costs of regulating;
- offering local regulators the opportunity to close the gap between the need for business support and the public resources available to meet that need;
- increasing the impact of the resources that are currently allocated to business support; and
- providing the opportunity to build a new relationship with business which will enable a local authority to increase the support offered.

¹ Available on LBRO's website at www.ibro.org.uk/docs/pa-guidance.pdf

Stage 1: Developing an approach to Primary Authority

The Regulatory Enforcement and Sanctions Act 2008 enables local authorities to recover costs incurred in the provision of Primary Authority. The experience of local authorities in established partnerships is that businesses are willing to pay for the benefits of the scheme where they are satisfied that the proposed charges are transparent and reasonable, and justified by the expected benefits.

It is for each local authority to set its own approach to providing primary authority services, ensuring that the operation of the scheme is consistent with the council's approach to supporting local businesses. In particular, this approach will ensure that partnerships are adequately resourced.

It will be helpful for the local authority to consider the following questions:

1. What factors will the local authority take into account in offering a partnership?
2. What level of support will be provided using the authority's existing resources²?
3. How will the local authority take account of the needs of smaller businesses that want a primary authority?
4. Where a business requires a greater level of support, how will cost recovery be applied?

Local authorities that are already participating in the scheme recognise that the provision of a 'free' service limits their ability to effectively support their businesses and that cost recovery allows them to tailor the service to the level of support needed. An approach that is used by many local authorities involves specifying a certain level of support that will be funded by the local authority with any additional support being charged to the business.

The following is an example of how a local authority has considered its local context in developing its approach to Primary Authority:

A local authority has a significant number of small, locally-based food manufacturers in its area. The council has a commitment to encouraging inward investment and supporting the growth of local businesses. Regulatory services have an important part to play in supporting these businesses and wish to offer them access to the benefits of Primary Authority.

The local authority wishes to make a clear, straightforward offer of support to all local businesses, which will particularly appeal to smaller businesses. It adopts a model which allocates 20 'officer hours' to all partnerships, resourced by the local authority.

It anticipates that this free allocation will cover the needs of most of its smaller businesses. Should a business require support over and above the free allocation, then this is to be charged on a cost recovery basis.

² The Regulators' Compliance Code requires local authorities to provide a basic level of advice and guidance free of charge

Stage 2: Assessment of resource requirement

Primary Authority can only meet its potential where partnerships are based on a shared understanding and are properly resourced. It is therefore vital that both partners are clear at the beginning of the partnership as to:

- the scope of the service being offered;
- the expected benefits to the business;
- what resources are likely to be required; and
- how the required resources are to be provided.

In assessing the resources that are likely to be needed, it may be helpful for the prospective partners to consider the three following areas:

The business and its needs

- What is the scale of the business, in terms of geographic spread; number of outlets or premises; number of product lines?
- What does the business want from the partnership? What does it anticipate the key benefits to be?
- What is its compliance history?
- Is the business looking for intensive, ongoing support, or for an occasional source of advice as and when it is required?

Enforcing authority interactions

- What level of interaction does the business currently have with regulatory services, in terms of compliance checks, samples, requests for information etc?
- What is the likely level of enquiries to the primary authority?
- Is this level likely to change, for example because of an inspection plan issued by the primary authority?

How the service will be provided

- If there is an existing relationship, is the local authority able to quantify the support that it has previously provided to the business?
- What is the scope of the partnership in terms of regulatory areas?
- Which staff will support the partnership?
- What are the competency requirements to deliver the service?
- Will there be a need to commission a third party, for example to provide legal opinion, to test product, to provide audit services?

The following is an example of how a local authority might assess the resource requirements for a partnership:

The business and its needs

The business is a multi-site retailer, operating a large number of outlets across the UK, and has a good history of compliance.

The business is currently frustrated by the lack of coordination and consistency that it experiences and wants a single point of contact with the local regulatory system. It allocates significant internal resources to its compliance activities and would welcome assured advice on its compliance systems and coordination of inspection and sampling activity.

Enforcing authority interactions

The business experiences a high level of inspections and enquiries from local regulators and is able to produce records of these for a 12 month period, in relation to the legislative areas that will be covered by the partnership.

The local authority works with the business to understand its needs in relation to inspection and enquiries and is able to forecast how many enquiries from local authorities it is likely receive.

It discusses with the business how an inspection plan might be used to improve the coordination of inspection effort and estimates the resource required to produce a plan. It then considers how a plan might impact on the likely level of enquiries from local authorities.

How the service will be provided

The local authority has no existing relationship with the business but, from its experience of similar retail businesses, is able to estimate the resources that are likely to be needed to review and provide advice to the business in relation to specified compliance systems. It discusses with the business the benefits of sharing certain commonly requested procedures with other local authorities, through the secure LBRO Primary Authority IT system, and how this might lead to a reduction in the number of requests for copies of those procedures.

The local authority decides which staff will support the partnership, and how cover will be provided in the absence of those staff. It also considers the costs involved in supporting the competency of those staff on an ongoing basis.

Stage 3: Applying cost recovery

Where aspects of the service are to be provided on a cost recovery basis, it may be helpful to consider the following questions:

- What is the cost recovery rate?³
- Will charges be made on the basis of 'hours used'?
- Will charges be on the basis of an estimated annual or monthly charge?
- How will the local authority demonstrate to the business the basis of the charges made?

The following examples illustrate how different approaches to cost recovery may suit the needs of different partnerships.

Pay as you go

A local authority sets up a partnership with a small food manufacturer, to cover food hygiene and food standards. In accordance with the local authority's approach to Primary Authority, the manufacturer receives an allocation of support that is resourced by the local authority, in this case half a day of officer time each month.

Where a higher level of support is required, for example because the business develops a new range of products and requires a substantial level of advice on recipes, labelling and marketing, the local authority records the time spent providing this support (using a time recording system to log 'officer hours') and issues monthly invoices to the business for officer hours in excess of the half day to which the business is entitled. The invoices are calculated on the basis of a published hourly rate per 'officer hour'.

The business also asks the local authority to assist it with the analysis of samples of the new products. The costs of sampling and analysis are recovered through the monthly invoices.

³ Cost recovery must be calculated in accordance with the guidance: Managing Public Money, Annex 6.2, available on HM Treasury website at www.hm-treasury.gov.uk/psr_mpm_index.htm

Annual contract

The same local authority sets up a partnership with a regionally based business, to cover health and safety legislation. It is clear from the outset that the business will require a higher level of support than that resourced by the local authority. After an assessment of the likely resource requirements, the local authority and the business agree that at least twenty days of officer time will be required to establish the partnership, review existing compliance systems and develop an inspection plan for the business. Ongoing support of two days of officer time each month is envisaged, to include acting as a single point of contact for other local authorities.

An annual invoice is issued to the business, based on the assessed resource requirement of 38 days in excess of the half day per month which will be resourced by the local authority:

Initial resource requirement	20 'officer days'
+ Ongoing resource requirement	24 'officer days' (2 per month)
- Resource entitlement	6 'officer days' (0.5 per month)
Total	38 'officer days'

The local authority records the time spent providing support to the business and regularly updates the business on the 'officer hours' used. Where additional time is used, a balancing invoice is issued at the end of the year. Where less time is used in supporting the business than had been anticipated, the business is offered additional support, or a 'credit' against its invoice for the following year.

Background

Effective local regulation requires confidence and mutual trust. Businesses should be able to rely on the environmental health, licensing and trading standards advice received from local authorities, in the knowledge that it is expert opinion, applicable across the UK, and a secure basis for investment and operational decisions. This forms the basis for Primary Authority, which was launched on 6 April 2009. Its operation is a statutory responsibility of LBRO. Our role is to register partnerships, issue guidance and resolve disputes.

As the public body for better local regulation, LBRO reduces unnecessary red tape for law-abiding businesses, to allow greater focus on targeting the rogue traders and persistent offenders who harm vulnerable people and damage our communities. By making it easier for councils to advise on and apply the rules, and simpler for businesses to understand them, we help to ensure that local regulation delivers both prosperity and protection.

LBRO was established under the Regulatory Enforcement and Sanctions Act 2008 as a non-departmental public body, accountable to the Department for Business, Innovation and Skills (BIS) through the Better Regulation Executive. We are governed by an independent Board and operate across the United Kingdom from our base in central Birmingham.

For further information about Primary Authority and LBRO, please visit www.lbro.org.uk. Alternatively, contact Duncan Johnson at duncan.johnson@lbro.org.uk or on 0121 226 4000.

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