

Item No.	Classification: Open	Date: 16 th December 2003	Meeting Name: Executive
Report title:		Relationship between the Supporting People Commissioning Body and Southwark Council	
Ward(s) or groups affected:		All	
From:		Strategic Director of Housing	

RECOMMENDATION

1. That the Supporting People terms of reference / constitution on working relations between London Borough of Southwark (HD & SSD) Southwark Primary Care Trust and Southwark Probation, including how issues will be managed within the council be agreed.

BACKGROUND INFORMATION

2. Supporting People (SP) is a new government framework relating to the revenue funding of housing related support services for vulnerable adults. The national framework is led by the Office of the Deputy Prime Minister (ODPM).
3. On April 1st 2003, funding from a range of "legacy funding" sources was transferred into a single cash limited budget as the SP Grant, paid to local authorities. In Southwark, it should be noted that £3.5 million was freed up within the Housing Revenue Account, through ODPM match funding arrangements. This has resulted in a matched re investment into improvements in council stock.
4. The final grant was determined in October 2003 as £20.1 m for 2003/4, which is administered through the Housing Department. The announcement of the grant for 2004/5 will not be announced until late December 2003, and is nationally subject to ministerial scrutiny. It is however likely that nationally there will be cuts to the programme, which will almost certainly affect Southwark's allocation. This review will also determine the SP Grant conditions for 2004/5 onwards, which are very likely will restrict the range and scope of services that can in the long term be funded through the Supporting People Programme.
5. It was the ODPM's intention that the SP Programme will improve the way that services are strategically planned, be more locally accountable and to ensure that housing related support services are directed more effectively to vulnerable people with support needs. All services being funded presently through the programme will be subject to review between 2003/4 and 2006/7, and following from review decisions could be made to re commission, de commission or reconfigure any number of the current portfolio of support services to ensure that they more effectively meet local or London needs, comply with any revised ODPM grant conditions and offer true value for money.

6. It should be noted that the Local Authority is also the single biggest provider of Supporting People funded services, and therefore the Sheltered Housing Service, Resettlement Team, Special Needs Housing Allocations Service, Special Needs Hostels, Community Support Team (Housing) and Community Alarms Service (Social Service) are either presently or soon to be reviewed. *These reviews could necessitate radical changes in the way that these services are presently delivered to ensure that they meet the objectives outlined under point 5 above.*
7. The Executive signed off the Shadow Supporting People strategy in September 2002, which is a vision of how supported housing services will need to develop to meet identified local needs and compliment other key national and borough objectives and plans.
8. The present Shadow strategy is currently being developed into a full five year strategy, with an annual action plan. This will be brought to the executive in October 2004, for formal Local Authority agreement, and as a mandate for the senior council officers who sit on the Commissioning Body to sign off the strategy.
9. The Supporting People strategy will finally be signed off by the Supporting People Commissioning Body in November 2004, for submission to the Office for the Deputy Prime Minister in that month.
10. The ODPM grant conditions specify that the SP Grant is administered by the Local Authority through powers delegated to the decision-making body – the Supporting People Commissioning Board. This must be a partnership at Chief Officer level, between the local authority, (Involving both Housing and Social Services) and the Primary Care Trust and the local Probation service. The Grant conditions require a Terms of reference for the operation of the Commissioning Body. This report sets out the context Supporting People services, the role of the partners and the Commissioning Body and asks for approval of the Terms of Reference on behalf of the Council.

KEY ISSUES FOR CONSIDERATION

11. The SP Program is strategically steered by a Commissioning Body (CB) made up of senior representatives from the Council (Housing and Social Services), The Primary Care Trust and the Probation Services. It is chaired by the Head of Community Housing Services for Southwark Council.
12. The SP interim grant conditions make it clear that The Local Authority only has one vote at the CB and that decisions there must be reached by consensus. Where consensus proves not to be possible, decisions can ultimately be referred to the Secretary of State. The SP Commissioning Body Terms of Reference has introduced a stage before this, by which disputes are referred to the Chief Executives of the respective organisations.

13. Whilst the Council is the Administering Authority, legally responsible to the ODPM for the Supporting People Grant, the Council is unable to perform its obligations without the active assistance of the Commissioning Body. The Commissioning Body is responsible for "signing off" the SP strategy and Action plan in Southwark, as well as making strategic decisions in relation to the commissioning and development of housing related support services in Southwark. However, the CB, can not make decisions in relation to the administration of the program, for example in relation to matters such as charging, that are financially detrimental to the Administering Authority.
14. As outlined under point 6, it should be noted that there is a potential conflict of interest under these arrangements, as the Authority is not only a constituent member of the Commissioning body, but is also the single biggest provider of supported housing services in Southwark, and particularly in the field of sheltered housing for the elderly. The Supporting People Grant paid to Southwark for the provision of direct services in 2003/4 is just under £4 million.
15. Presently the Commissioning Body Meets monthly, but this is likely to be reduced to quarterly in the near future. Decisions outside of this timetable are reached by written agreement.
16. Further, certain decisions which may be made in relation to Supporting People might form Key decisions for the Council. The Commissioning Body Council representatives have a duty to identify such issues and draw to the attention of the Executive as required.
17. The Supporting People Grant Conditions identifies the role of a unitary authority such as Southwark, as that of the "Administering Body".
18. The Administering Authority is the body with legal status, to which the SP grant is paid, and it has ultimate financial responsibility for the program.
19. The functions of the administering body are set out in detail in the SP Grant Conditions, and include the following:-
 - a. Compile and maintain information on all Supporting People Services in the Commissioning Body area.
 - b. Ring Fence the Supporting People Grant, to prevent it being spent on services that are not eligible under the Grant Conditions. To account for grant receipts and expenditure at any time.
 - c. Provide information to the ODPM in relation to the administration of the program in Southwark.
 - d. Provide advice to the Commissioning Body on general financial and compliance matters in relation to the SP grant, including budgetary constraints, contractual risks and the type of services that can be funded.

- e. Advise the Commissioning Body on whether the proposed arrangements for access to services (set out in the SP Strategy or annual plans) would meet cross authority baseline targets proposed by the ODPM.
- f. The provision of staffing and resources (within the budgets allowed by the SP grant) for the implementation of the SP program in Southwark.
- g. To undertake financial assessments in line with the Fairer Charging procedures adopted by the Social Services Department.

Policy Implications

- 20. The Commissioning Body is not a legal entity in its own right, and the Local Authority is responsible for the administration of the program in Southwark. However the Council representatives on the Supporting People Commissioning Body have a role of ensuring that decisions of the CB do not contravene corporate and council priorities.
- 21. The members of the Commissioning Body must act in good faith and in the interests of the program locally. However there will be occasions where there is a conflict of interest between those of the SP program and Southwark council as an organisation. This is particularly in relation to where there the council is either a direct provider of a SP funded service, or where decisions of the SP program may have an impact upon other areas of council expenditure in relation to the commissioning of services for vulnerable people.
- 22. It should also be noted that there may also on occasions be conflict between the interests of the Housing Department, Social Services and other Council Departments, in relation to the direction of the SP program in Southwark.
- 23. The Supporting People 5 year strategy will be brought to members for approval in the Autumn of 2004, prior to submission to the ODPM in November of next year. If the executive cannot agree to any aspects of the strategy, this will be referred back to the Supporting People Commissioning Body for reconsideration.
- 24. If a satisfactory resolution between the Supporting People Commissioning Body and the council's executive cannot be reached, in the last instance the dispute will be referred to the Secretary of State for adjudication.

Proposals for managing this process and minimising dispute.

- 25. The Southwark Supporting People Commissioning Terms of Reference and Constitution be amended to explicitly make it clear that it is for each partner of the Commissioning Body to decide whether they need a decision or consideration to be made by their own decision making machinery in the first instance, before it is formally taken to the Commissioning Body. Subsequently any "key decision" will be identified by the council's representative on the commissioning body, and attention drawn to the executive as appropriate.
- 26. Each partner to the Commissioning Body must declare formally any conflict of interest that they may have on any matter to be considered by the Commissioning Body.

27. Written representation may be made to the Commissioning Body by any provider in relation to a particular commissioning decision.
28. It is particularly important that such issues are set out clearly to try and lessen the risk of challenge to decisions taken in relation to Supporting People. It is possible that a provider of services funded from Supporting People Grant might wish to challenge a decision taken, by judicial review of the Local Authority in its role as Administering Authority. Having clear terms of reference will assist with this.

Effect of proposed changes on those affected

29. The Supporting People Program has the potential of ensuring that support services for some of the most vulnerable people in Southwark are as effective and responsive as possible. By clarifying the issues of governance and accountability before commissioning decisions are reached, the process will be as transparent and inclusive as possible.

Resource Implications

30. Robust management of the Supporting People budget is necessary to ensure that the council does not face a shortfall in relation to its contractual obligations, charging responsibilities etc.
31. At the start of the program, the interim Supporting People contracts were signed off under the powers of delegated responsibility, as a variation to the council's usual contracting standing orders. As new contracts are awarded, corporate procedures in relation to the procurement of contracts and ensuring that best value principals will be adhered to.
32. Effective delivery of the program locally may however reduce the council's financial liability to provide temporary accommodation for statutory homeless single vulnerable clients and a number of key areas of Adult Community Care services.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor & Secretary

33. The Borough Solicitor's Office has been consulted and has assisted with the drafting of this executive report, as well as attending the Supporting People Commissioning Body.
34. Section 93 of the Local Government Act 2000 gives the Secretary of State power to pay grants to local authorities to enable them to contribute to the cost of welfare services. The Secretary of State has issued draft guidance on the Supporting People Grant in February 2003, which conditions are still in force and are likely to continue until the new SP grant allocation commences for 2004/5. These conditions are supported by guidance in information from ODPM, which guides the implementation of SP Grant.

35. Section 96 of the Local Government Act 2000 amends the Social Security Contributions and Benefits Act 1992 to enable housing benefit support to be withdrawn. SP grant is then intended to substitute for this element of housing benefit. There is a power to charge for SP services, and guidance requires that local authorities must have regard to the Secretary of State's guidance on Fairer Charging Policies for home-care and other non-residential Social Services and the manner of its implementation within the Council.
36. The Council receives the SP Grant under the conditions of the grant allocation. In effect, the Council is legally responsible, as Administering Authority, to the ODPM for the implementation of the grant (see paragraph 15 of this report).
37. When carrying out its obligations as Administering Authority, the Council has to apply considerations relevant to the administration of the grant and relevant to its participation in the Commissioning Body, which is responsible for overseeing the SP Strategy and Plan. These considerations may conflict with other Council programmes.
38. Guidance requires the establishment of a Commissioning Body. This is a mechanism for fulfilling the objects of the SP Programme and for resolving possible conflicts. Draft terms of reference for Southwark's Commissioning Body are attached under Annexe one and Executive is asked to consider and approve these. These will need to be kept under review, in particular to take into account revised Grant Conditions.
39. SP Grant is used by the Council to commission SP services, both from in house Council providers and external providers. The services provided are, for EU procurement regulation purposes, Social Services and are outside the usual requirements (of external tendering etc) of those regulations.
40. The requirements of Contract Standing Orders would apply to the commissioning of SP services, because of the Council's position as Administering Authority. Requirements of the Constitution in relation to, for example, key decisions would also apply. Certain SP decisions might be reserved to Executive (see Constitution Part 3C – such as approval of service agreements with voluntary organisations). Key Decisions not reserved to the Executive could be taken by Chief Officers.
41. The SP contracts most likely to be affected by the key decision requirements would be those where the annual value of the SP service is £500,000 or more; and those where (for example) a decision in relation to withdrawal of SP Grant might mean the closure or significant change to the provision of a council service. Such matters would need to be identified and placed in the forward plan and note taken of the requirements of call in etc.
42. If it was felt that the requirements of CSOs and the Constitution might be excessively onerous given the large number of SP contracts, officers might consider asking for Executive approval of SP commissioning arrangements as a whole, to “parcel up” key decisions; and/or for the delegation of all or certain categories of SP decisions to alternative decision making arrangements.

Other Officers

43. This report has been produced with the input from Assistant Director of Social Services Performance

List of background documents

Background Papers	Held At	Contact
<ul style="list-style-type: none"> • ODPM Interim Supporting People Grant Conditions (February 2003) • ODPM Interim Guidance (October 2003) • ODPM Steady State Guidance (October 2003) • Supporting People Financial Package (June 2002) • DoH Guidance on 'Fairer Charging for Home-care and other non-residential Social Services' (November 2001) 	Supporting People Business Unit " " " Social Services Community Care Charging Team	Andrew Loxton. SP Business Manager 0207 525 2940 Kevin Almond Community Care Charging Manager 020 7 525 3555

Audit Trail

Lead Officer	<i>Dave Hancock – Head Of Community Housing Services</i>	
Report Author	<i>Andrew Loxton Supporting People Manager</i>	
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	No	No
Executive Member	No	No
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