

DECISION NO:PCCG-2013-007

OFFICE OF POLICE & CRIME COMMISSIONER
OFFICE OF THE CHIEF CONSTABLE

TITLE: Collaboration Principles

DATE: 13th December 2012

TIMING: 31st January 2013

PURPOSE: For Decision

1. RECOMMENDATION

1.1 The recommendation is to agree to the statutory guidance and the principles operating within the Force and the Office of the Police & Crime Commissioner.

2. INTRODUCTION & BACKGROUND

2.1 During 2012 the collaborative agenda has become a statutory requirement for Policing bodies.

2.2 Collaboration has been promoted in Gwent with both policing and also other public sector bodies.

3. ISSUES FOR CONSIDERATION

3.1 Following the statutory requirement the Gwent Chief Officer Team developed principles upon which it would base collaborations. These principles are provided at Appendix 1.

3.2 Policing collaborations in Wales are managed through the Collaboration Board. The Board meets monthly and monitors progress with business case development, implementation and performance across 2, 3 and 4 Force collaborations. At the meeting in October the report attached at Appendix 2 was presented providing a summary of the collaboration guidance.

4. NEXT STEPS

4.1 The next steps will be to discuss the approach for collaboration for policing in Gwent.

4.2 This approach will be shared with other partner agencies.

5. FINANCIAL CONSIDERATIONS

5.1 There are no financial considerations arising from this report.

6. PERSONNEL CONSIDERATIONS

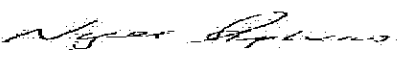
6.1 There are no personnel considerations arising from this report.

7. LEGAL IMPLICATIONS

7.1 There are no legal considerations arising from this report.

8.	<u>EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS</u>
8.1	This project/proposal has been considered against the general duty to promote equality, as stipulated under the Single Equality Scheme and has been assessed not to discriminate against any particular group.
8.2	In preparing this report, consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998.
9.	<u>RISK</u>
9.1	There are no risks arising from this report.
10.	<u>PUBLIC INTEREST</u>
10.1	There are no points of public interest.
11.	<u>CONTACT OFFICER</u>
11.1	Nigel Stephens, Assistant Chief Officer - Resources
12.	<u>ANNEXES</u>
12.1	Gwent Police Force Collaboration Principles
12.2	Collaboration Guidance - Summary

For OPCC use only

Office of the Chief Constable I confirm that this report has been discussed and approved at a formal Chief Officers' meeting. It is now forwarded to the OPCC for briefing.
Signature: 
Date: 22 January 2013

	Tick to confirm (if applicable)
Financial The Treasurer has been consulted on this proposal.	√
OPCC (insert name) The Chief Executive has reviewed the request and is satisfied that it is correct and consistent with the PCC's plans and priorities.	√
Legal The legal team have been consulted on this proposal.	N/A
Equalities The Equalities Officer has been consulted on this proposal.	√

Chief Executive/ Deputy Chief Executive:

I have been consulted about the proposal and can confirm that financial, legal, equalities etc... advice has been taken into account in the preparation of this report.

I am satisfied that this is an appropriate report to be submitted to the Police and Crime Commissioner for Gwent.

Signature:

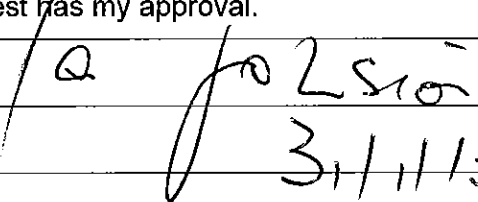


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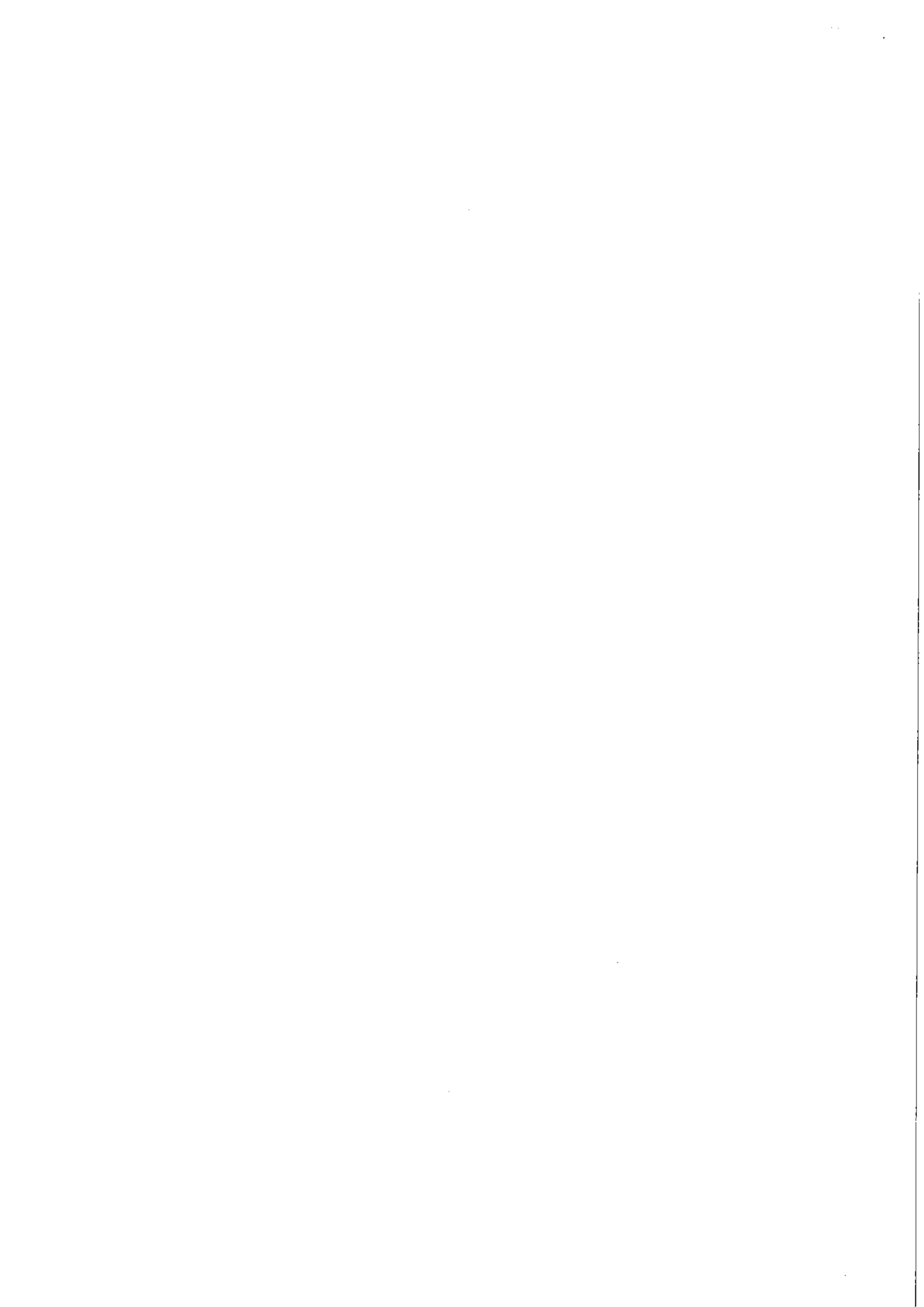
Police and Crime Commissioner for Gwent

I confirm that I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct.

The above request has my approval.

Signature: 

Date: 31/1/13



Office of the Chief Constable and Office of the Police and Crime Commissioner Collaboration Strategy

1. The Duty to Collaborate

The Police Reform and Social Responsibility Act places a duty upon Chief Constables to collaborate with other bodies where this will improve the efficiency or effectiveness of the police service.

2. Collaboration Philosophy

Collaboration will be one of the key methods of improving capacity and reducing costs by sharing services, aligning processes and entering into partnership arrangements with other organisations.

Gwent Police will collaborate with any other police force or [public sector] organisation in any area of business if this will result in better service for the public and/or better value for money.

3. Collaboration Guiding Principles

In identifying suitable areas of policing in which to collaborate, Gwent Police will give priority to those which will deliver positive benefits in terms of:

- (i) The protection of the public in Gwent
- (ii) The protection of the public in Wales
- (iii) Interoperability with other UK policing and law enforcement organisations
- (iv) Releasing resources for re-investment into local visible policing
- (v) Value for Money

4. Collaboration Models

The models for working together that Gwent Police will consider, fall into the following broad categories:

- (i) A Shared Service.
- (ii) Collaboration, aligning services, interoperability and maintenance of regional capacity.
- (iii) Provision of Mutual Aid.
- (iv) Partnership Working.
- (v) Purchase of services from another public service.
- (vi) Outsourcing services from a commercial provider (non-core elements).

5. Collaboration Cost Sharing principles

In all collaboration activity, Gwent Police will demonstrate stewardship of the public purse, and seek to ensure that every penny spent results in improved services and protection for the public.

It is important that costing arrangements are straightforward and can be explained to the public by the Police and Crime Commissioner and Chief Constable. Complex costing models can be inhibitors to effective collaboration.

On the basis that a collaboration agreement to provide a shared service is being sought because it will deliver positive benefits to the public, Gwent Police will seek to apply the following costing model:

- (i) The demand or need across the organisations involved will be established (including levels of activity, risk mitigation or products to be delivered, etc.)
- (ii) The total cost of the service to be delivered (to include all overheads, management and estate costs).
- (iii) The costs to be met by each partner in the collaboration agreement will be stated as a proportion based on the predicted draw on the service. Where the collaboration is between police forces, it is anticipated that the central government funding formula will be used to determine the ratio.

November 2012

STATUTORY GUIDANCE FOR POLICE COLLABORATION
SUMMARY: OCTOBER 2012

INTRODUCTION

In discharging their functions, chief officers and policing bodies must take the Guidance into account in considering whether or not to enter a collaboration agreement and in planning and making collaboration agreements. Chief Officers and policing bodies may not act contrary to the Guidance unless there are cogent reasons (which must be recorded) for doing so.

THE SECRETARY OF STATE

The provisions in sections 23FA and 23G of the Act reinforce the role of the Secretary of State to give statutory directions, on which there must be consultation, on specific collaboration issues. *(e.g. NSPAS)*

DIRECTION AND CONTROL

Where a senior police officer is appointed with special responsibility for collaboration, for example on behalf of a policing region, his/her position in terms of direction and control should be clarified within collaboration agreements.

ASSISTANCE BETWEEN FORCES THROUGH PROVISION OF MUTUAL AID

Section 24 of the Act provides for one chief officer to provide "constables or other assistance" to another chief officer on request, which is envisaged as a short term measure. The Secretary of State can direct a force to provide assistancewhere he/she is satisfied that arrangements cannot be made, or cannot be made in time, between forces for that purpose (section 24(2)).

COLLABORATION BETWEEN FORCES

Sections 22A, 23 and 23A provide for joint working between police forces and/or policing bodies and/or other parties where, in the opinion of the chief officer or policing body, the collaboration delivers greater efficiency or effectiveness to at least one of the participating forces or policing bodies. *(the legal requirement to collaborate is explicit).*

STRATEGIC POLICING REQUIREMENT

Chief Officers must have regard to the SPR when exercising their functions as chief officers. The cross-boundary nature of the threats covered by the SPR mean that collaboration will be an important and effective tool for chief officers and policing bodies to meet their responsibilities under the SPR
(only specific area of policing mentioned in document.)

LEGAL REQUIREMENTS FOR COLLABORATION**DUTY TO COLLABORATE**

The 2011 Act inserted sections 22B and 22C into the 1996 Act, which place new duties on chief officers and policing bodies to keep collaboration opportunities under review and to collaborate where it is in the interests of the efficiency or effectiveness of their own and other police force areas.

Where collaboration is judged to be the best option, they must collaborate. Another key difference from the previous arrangements is that where collaboration would provide the best outcome for another police force or group of forces, then a chief officer or policing body should pursue it – even if they do not expect their own force to benefit directly itself. This is designed to ensure that collaboration takes place wherever it is in the wider public's best interest.

(legal requirement to collaborate is explicit – HMIC to “police” compliance.)

ASSESSING THE CASE FOR COLLABORATION

It should be noted that policing bodies have the overriding authority in determining questions of the relative efficiency or effectiveness of individual collaboration options. Section 23 states that it is a pre-condition of entering into a force collaboration agreement that the chief officers who are parties to that agreement each think that the agreement is in the interests of the efficiency or effectiveness of one or more police forces.

PAYMENTS – SECTION 23B

Any collaboration agreement should make provision for the sharing of costs and of benefits. It is important for collaborating parties to agree the manner in which costs and benefits are to be calculated and shared, including accounting presumptions.

AGREEMENT AND CONSULTATION

Section 22A(3) states that a force collaboration agreement (ie, one which contains provision about the discharge of functions by members of a police force) must include as parties to the agreement the policing body and chief officer of each police force involved.

APPROACH FOR POLICING BODIES TO CONSULT WITH CHIEF OFFICER

SECTION 23A

A statutory duty to consult requires that there must be adequate consultation. The basic requirements of consultation are that:

A requirement to consult is a lesser requirement than obtaining approval, and a policing body may legally enter into a policing body collaboration even if its chief officer objects, provided the objections are properly considered and the reasons for discounting them can be articulated. There is no statutory right of appeal.

(area where PCC will have final say.)

THE RIGHT OF APPEAL

There is no statutory right of appeal against the decision of a chief officer or policing body to withhold their approval of a collaboration agreement by declining to become a party to it. However the Secretary of State has wide but discretionary powers of direction.

The Act states that a person to whom a direction is given by the Secretary of State must comply with it.

PUBLISHING A COLLABORATION AGREEMENT – SECTION 23E

A collaboration agreement must be in writing.

A collaboration agreement should also include provision for matters such as:

- Dispute resolution (eg, arbitration and/or mediation)
- Ownership or enforcement of intellectual property rights
- Access to documents and records
- Liabilities to third parties
- Insurance or self insurance
- Warranties
- Indemnities
- Financial controls and regulations
- Audit arrangements
- Complaint handling, and
- Staffing matters.

(all covered in JLS section 22a template.)

REVIEWING AND AMENDING AN AGREEMENT – SECTION 23C

Good practice indicates that as a general principle collaboration agreements should include specific review milestones that allow all parties to consider their ongoing participation.

Where appropriate, collaboration agreements may be in the form of over-arching or 'umbrella' agreements, for example in the case of programmes covering a range of different collaborative projects involving the same or subsets of the same parties. Such agreements would need to satisfy the legal requirements set out in the Police Act with regard to the arrangements between the parties that apply across the programme of projects, but the details relating to individual projects or their detailed arrangements may be contained in annexes to the agreement which may be varied as described above without the need to amend the overarching agreement.

(current agreements are stand alone.)

EXITING FROM OR TERMINATING AN AGREEMENT – SECTION 23C

It is important before signing up to a collaboration agreement to clearly set out the conditions under which the agreement may end.

The requirements for approval and consultation apply again in such a case as for any other new agreement. So:

- In the case of a force collaboration agreement, a chief officer may only give such agreement with the approval of the policing body responsible for maintaining the chief officer's force
- In the case of a policing body collaboration agreement, a policing body must consult the chief officer of the police force maintained by the policing body, or in the case of a policing body and force collaboration agreement, where the agreement includes provision about the discharge of functions by police staff under the direction and control of the chief officer, the policing body of the area whose chief officer has direction and control must obtain the chief officer's approval, before agreeing to the termination of such an agreement.

(CC needs PCC agreement to withdraw from a Force collaboration; PCC need only consult CC when withdraws from a PCC or PCC/Force collaboration.)

ACCOUNTABILITY

Under section 23D, where a chief officer makes a force collaboration agreement, the policing body responsible for maintaining the chief officer's force must hold the chief officer to account for the discharge of functions by anyone who:

- Is acting under the terms of the agreement, and
- While so acting, is under the direction and control of the chief officer.

Before becoming a party to a force collaboration agreement, a policing body must notify its chief officer of the arrangements for holding the chief officer accountable.

In most cases, accountability arrangements of policing bodies could be delivered through a joint oversight committee consisting of PCCs or their representatives. Where this function is delegated to a joint oversight committee, a chief officer will be answerable to this committee whilst also being accountable to his/her own force area's policing body for the discharge of functions by police officers and police staff acting under his/her direction and control in accordance with the collaboration agreement.

(CC accountable to both joint oversight committee- eg Policing Board for Wales ; and own PCC re collaboration performance.)

GOVERNANCE BY POLICING BODIES

JOINT OVERSIGHT COMMITTEES

A joint oversight committee is likely to want the involvement and advice of chief officers taking part in collaboration, and the terms of reference of a joint oversight committee should be drafted to provide for this. Chief Officers cannot be bound operationally by decisions of a joint oversight committee any more than by the decisions of a policing body itself.

(respects operational independence CC ; draft paper re policing board for Wales consistent with this guidance.)

POWERS OF THE SECRETARY OF STATE

It is acknowledged that collaboration is most successful where it is fully voluntary and where all parties have bought into the opportunity to improve policing through new ways of working.

The Coalition Government has made clear that it is prepared to mandate collaboration where it is deemed necessary.

RIPA AND COLLABORATIONS

Collaboration agreements in respect of RIPA authorisation can be either 'operation-specific' or 'umbrella agreements' not linked to specific operations.

MODELS OF COLLABORATION

CHOOSING COLLABORATION PARTNERS AND COLLABORATION MODELS

There is no legal constraint on the choice of partners within a police collaboration agreement.

AVOIDING BUREAUCRACY

Any new collaboration agreements should be managed in keeping with the principles of reducing bureaucracy. Greater efficiency should be an underlying objective of any collaboration but police forces and policing bodies should be mindful of any potential administrative and project management requirements of new working arrangements. *(need to consider programme management more as a cost than currently do.)*

DIFFERENCE BETWEEN MUTUAL AID AND COLLABORATIONS

Section 22A of the Act gives more wide ranging power than the power contained in section 24 of the Act, which provides for aid to one police force by another (better known as mutual aid).

Thus it is possible that police forces might make a section 22A agreement between them which reduces the likelihood of their needing to use mutual aid by establishing arrangements for the joint resourcing of particular services, which might include the co-ordination of resources to respond to urgent demands.

(implications/opportunities for forces short of collaboration.)

FUNDING

There is no single model for funding a collaboration.

Principles to consider:

- The funding model should be financially sustainable and stable
- All parties should agree that the proposed share of costs and benefits is appropriate and equitable
- Financial contribution to the collaboration should not necessarily lead to greater control over the governance of the collaboration
- The parties should recognise that value for money may not be demonstrated by reconfiguration of a single funding model into individual accounting systems: they should not lose sight of the combined benefits that the collaboration brings
- The funding model should encourage participation in the collaboration
- The funding model should not stifle innovation
- The funding model should demonstrate value for money to the member organisations.

A common barrier to collaboration is the concept of the "net donor syndrome". This is especially prevalent for operational ventures and describes the perception that the resources committed to collaboration will be deployed away from the home force and into a partnering force's area. For example, a large force may believe that due to its size and investment in specialist areas it is able to manage an effective service delivery in isolation and therefore any collaborative resource will be deployed to improve a smaller partner's service. Conversely, a small force believes that due to the main demand being within a large force any resource they commit will only be

deployed to the large force. It is important for all partnering forces to understand that a collaboration may not provide equal benefits in all parts to all participants or in total but is sometimes necessary for the greater, collective good.

(catches arguments for both sides of net donor syndrome argument very well; good guidance for costing principles.)

WORKFORCE ARRANGEMENTS

The police staff associations and trade unions must be involved in the consideration, development and implementation of workforce arrangements and consulted where any changes to these are considered.

ACTIONS

The following actions should be taken when considering, developing and implementing collaboration:

- ensure that all terms and conditions, workforce arrangements and policies are identified and assessed
- ensure that all differences in force arrangements are identified and assessed. Forces should then consider whether and how any changes to these could be made to reflect the circumstances in which officers and police staff from different forces are operating together in collaboration
- consult with representatives from the police staff associations and trade unions to discuss whether and how arrangements could be developed
- ensure that all responsibilities and accountabilities for people management, decisions and actions are identified, assessed and clarified
- establish arrangements to ensure regular contact is maintained with officers'/staff's home forces where applicable and that HR records are kept up-to-date (in accordance with regulation 15 of the Police Regulations 2003)
- consider carefully the length of a collaborative arrangement.

(Captured in HR principles.)

Consideration also needs to be given to ensuring all police officers in a collaboration are trained to appropriate common minimum standards.

LEGAL DUTIES AND LIABILITY FOR BREACH

VICARIOUS LIABILITY FOR UNLAWFUL ACTS OF POLICE OFFICERS AND STAFF

Under section 88 of the Act a chief officer is vicariously liable for the unlawful conduct of the police officers under his or her direction and control, including officers of another force who are under his or her direction and control as part of a collaboration agreement.

Complex arrangements by which different officers in a collaborative team are under the direction and control of different chief officers, or officers are under the direction and control of different chief officers in different circumstances, are best avoided if at all possible.

Section 88 and the provisions in discrimination legislation providing for liability on the part of chief officers do not apply to police staff. The policing body or the chief constable that employs them remains vicariously liable for their unlawful conduct, regardless of whether they are operating under the direction and control of the chief officer of another force.

DISCRIMINATION

The Equality Act 2010 contains specific provision on the liability of chief officers and policing bodies. Under sections 42 and 43 a police officer is treated as an employee of the chief officer who has direction and control over him or her, and anything done by the officer in the course of his or her employment is treated as if it had also been done by the chief officer, creating a form of vicarious liability.

HEALTH AND SAFETY

Section 51A of the Health and Safety at Work etc Act 1974 provides that the chief officer responsible for the health, safety and welfare of a police officer or civilian employee working under a collaboration agreement will be the chief officer who has direction and control over that officer (this change was brought about by the 2011 Act).

While collaborating forces can make provision in a collaboration agreement to indemnify each other in respect of civil liability that may arise in relation to health and safety matters, they cannot contract out of any criminal liability, whether under the 1974 Act or the Corporate Manslaughter and Corporate Homicide Act 2007.

DEALING WITH LITIGATION

The collaboration agreement should make provision for handling claims made against multiple forces or policing bodies in relation to the same incident.

INFORMATION MANAGEMENT

Police forces and policing bodies entering into collaboration agreements need to ensure that all parties are aware of and comply with their information law obligations.

COMPLAINTS, CONDUCT AND PERFORMANCE

Where a collaboration agreement involves transferring direction and control over police officers to a different chief officer, this will change the way in which public complaints, conduct matters and death or serious injury (DSI) matters relating to those officers are managed. There are also implications for the way any misconduct or unsatisfactory performance should be dealt with.

The chief police officer of the force to whom direction and control is passed under a collaboration agreement becomes the 'appropriate authority' (as defined in the Police Reform Act 2002) and assumes the duty and responsibility to handle public complaints, conduct matters and DSI matters in the same way as would happen if these related to his or her own force. *(protocol developed by PSD depts. captures this.)*

CONDUCT AND PERFORMANCE

In relation to police officers, the chief officer of the force to whom direction and control has passed should assess and investigate misconduct and performance matters. If it is determined that there is a case to answer in respect of misconduct but not gross misconduct, then (subject to paragraph 192) disciplinary proceedings should be conducted by an officer from the force whose chief officer has direction and control under the collaboration agreement. The same principle applies if there is a case to answer in respect of unsatisfactory performance or attendance, but not gross incompetence. The chief officer of the force to whom direction and control has passed may also suspend an officer where the statutory conditions are met. *(captured in HR principles.)*

WHISTLEBLOWING

Within a collaboration agreement it is highly recommended to set out that the lines of reporting for police officers or police staff to be able to report "whistleblowing" matters are back to their home force.

PROCUREMENT

Plans for support between policing bodies or police forces under a collaboration agreement should always be considered carefully in terms of whether they might fall within the scope of EU procurement rules since there is a strong likelihood that many of the functions provided by policing bodies may qualify for competition with the private sector.