

Community sector comments on proposed governance structures

Introduction.

The NDS RHSR states that “partnership between the statutory, community and voluntary sectors was a major factor in the success of previous strategies and will continue to be the cornerstone of the new strategy. Drug and Alcohol Task Forces (DATFs) will play a key role in coordinating interagency action at local level”. **It is therefore essential that the governance structures that are put in place for DATFs are appropriate for an interagency partnership approach and that they support and facilitate a collective approach to decision-making and accountability.**

Proposal under discussion.

The Department is proposing that each Task Force will be a limited company (CLG) with charitable status and that this entity will be the body that the Department, through the Drugs Policy Unit, holds accountable for the work of the Task Force. This CLG will be legally responsible for all Task Force actions and activities, as quoted below from the current discussion document.

DATF – CLG (registered charity)

This is the registered company; it has overall governance in the DATF, and is legally responsible and accountable for all actions and activities

Board of Trustees (BOT)

The BOT are ultimately responsible for the affairs of the company (charity), both individually and collectively. While they can delegate responsibilities to other entities, this does not absolve trustees of responsibility.

It appears that representatives of statutory bodies will not be acting as directors or members of the limited company or as trustees of the charity and it will be community, voluntary and other non-statutory people who will be expected to act as directors, members and trustees. An Advisory Committee or Sub-committee structure of the CLG is proposed to include all of the Task Force members.

Comments from Community Sector Reps.

The role of the Task Force as set out in its Terms of Reference is to co-ordinate the implementation of the NDS at a local/regional level and the actions and activities of the Task Force are for the purpose of carrying out this role. This work cannot be carried out unless the statutory agencies who have responsibility for NDS actions engage with the Task Force around these actions and how they will be implemented at a local/regional level. Community and voluntary sector representatives do not have the power or authority to enforce the engagement of the statutory agencies as required and therefore cannot be expected to take on a legally binding responsibility and accountability for actions and activities when they do not have the power to ensure they are carried out.

The Advisory Committee or Sub-committee structure that is proposed for the full Task Force membership does not seem compatible with the requirement in the NDS for the Task Force

to operate as a key decision-making body. Under company law as set out above, it is the CLG that is the ultimate decision-making body and it is not permitted under company law to delegate responsibility and accountability for its decisions to a sub-structure.

The CLG will also have no authority in relation to the role of the key Task Force worker i.e. the Co-ordinator, who is usually a HSE employee, even though this role is crucial to implementation of the Task Force actions and activities for which the CLG will now be responsible. In relation to the responsibility of the Task Force for oversight and monitoring of Task Force projects, which is clearly stated in current agreements, the HSE is now taking this role on itself and when this is happening in a Task Force where a CLG is already in place, the CLG has no power to stop it.

All members of the Task Force from across statutory, community, voluntary and political sectors must share the collective responsibility for the actions and activities of the Task Force and this collective responsibility should not be replaced by a structure which places all legal responsibility on non-statutory sectors and none on the statutory sector. The need is acknowledged for any structure that is receiving state funding to have accountability for that funding and how it is used, but this should not be organised in such a way as to undermine and effectively end the interagency partnership approach as set out in the NDS.

Conclusions.

1. The only people who can ensure the engagement and accountability of statutory agency reps on the Task Forces are the senior officials in those agencies and departments and therefore the overall Task Force body must remain directly accountable to the national interagency partnership structures as set up in the NDS for that purpose.
2. Collective responsibility of all NDS stakeholders for implementation of the NDS at local and regional level can only be maintained and enforced if all Task Force members, both statutory and non-statutory, act as directors and members of the CLG, thus sharing responsibility and accountability for all Task Force actions and activities.
3. We are aware that officials from government departments and state agencies can be members of statutory boards, and while the CLGs proposed for Task Forces would not be statutory boards, there does not seem to be a legal barrier to participation of statutory bodies on board structures as such. If it is a matter of departmental or agency policy, then we need to look at those policies being changed for the specific purpose of facilitating appropriate governance structures for interagency bodies such as Task Forces.

28th February 2019