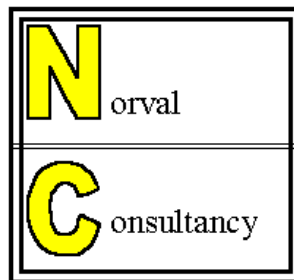


Governance of Substance Misuse Action Teams in Scotland



**A report by Norval Consultancy on behalf of the Association of Alcohol Action Teams
and Association of Drug Action Teams**

1. Introduction

- 1.1 In 2003 Norval Consultancy undertook a review of the training needs of support staff employed to work with Substance Abuse Action Teams (SAAT's). One finding of the review was that:-
- 1.2 *'There appears to be a wide variation in the extent of governance and procedural documentation for the organisation and conduct of Action Teams' and, 'Action Teams are complex inter agency partnerships but are apparently without many of the checks and balances that exist elsewhere in the public sector' and, 'The Associations in conjunction with the Scottish Executive may wish to undertake work to assist in the good governance of Action Teams and to brief support staff accordingly'.*
- 1.3 In January 2003 Norval Consultancy was asked to undertake this short piece of work to expand on and clarify the issues of governance of SAAT's.

2 The Nature of Action Teams and their Status

- 2.1 Governance is the oversight of a corporate body, determining its mission, corporate objectives, strategy and probity in all aspects of its operation. Governing structures provide 'arms length' accountability in these areas.
- 2.2 SAAT's are not legally incorporated bodies. They have no foundation in statute and no formal powers or authority. They exist by virtue of the willingness of their member agencies to meet together to co-ordinate the planning and delivery of their substance misuse services. Their work is supported by the Scottish Executive both directly – by providing the means to employ support staff – and indirectly – by making disbursement of money to member agencies conditional upon its use being consistent with SAAT strategic plans. In addition, member agencies may bring their own resources to the table to further the SAAT strategy.
- 2.3 Joint planning and service delivery between public sector agencies is a central feature of Government delivery of public services. It recognises that services can only be effective when a range of bodies work together, harmonising their policy planning and service delivery. Whilst superficially SAAT's may resemble Non-Departmental Public Bodies (they are representative, they work to Scottish Executive priorities and they provide a public profile in the field of substance misuse), in practice they are no more than a collection of agencies working to common aims. Members of SAAT's only participate by virtue of their position in a member agency. Their authority in the SAAT is no more than the authority given to them by the agency they represent. So, ultimately accountability for SAAT's rests with other bodies that are legal, formal entities (local authorities, health authorities, NDPB's, voluntary agencies etc.). A public or legal challenge to a SAAT could not fall on the SAAT (as it has no corporate entity) but would fall on a member agency. A member agency challenged over not providing a service or acting *ultra vires* would have no defence of agency in the SAAT.
- 2.4 The absence of legal status of SAAT's is reflected in the employment of support staff. Whilst support staff may work exclusively on SAAT business,

they are employed by a member agency (funded for this purpose by the Scottish Executive) under varying degrees of 'flag of convenience' arrangements. In essence they are accountable to the employing agency but the nature of their work and priorities are defined elsewhere. They may also be given varying degrees of authority to act or speak on behalf of the SAAT.

3. The Chair of the Action Team

- 3.1 The Chair tends to be a senior figure in one of the principle statutory agencies. The task of the Chair is to provide leadership to the SAAT, enabling it to meet its objectives. In addition, the Chair may represent the SAAT in other forums (such as the Associations); in meetings with the Scottish Executive; and, as a public spokesperson.
- 3.2 The role of the Chair of a SAAT reflects the absence of corporate legal status and the representative nature of membership. The Chair is not an independent position (as it may be in some English Area Child Protection Committee's) but drawn from the membership. By implication the Chair is willing and able to act in the best interests of the SAAT when undertaking SAAT business. Obviously, there are potential conflicts of interest. Whilst these exist for all members, they are acutest for the Chair (for example where the Chair's agency fails to deliver promised resources or where the tensions between the Chair's agency and another SAAT agency intrude into SAAT business).

4. SAAT's as Quasi Public Bodies

- 4.1 SAAT's are creations of the public sector and, as described above, publicly accountable through the member agencies. Those representing their agencies will be bound by the conditions of employment and public conduct of the agency. For public bodies, this is likely to include the Nolan principles of conduct in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) – although only those employed as executive directors in public bodies will be subject of the requirements of the Standards Commission for Scotland.
- 4.2 SAAT members representing non-public bodies – umbrella organisations (such as the Scottish Drugs Forum) or the voluntary sector – are not necessarily subject of any requirements in relation to conduct.
- 4.3 In this day and age it is inconceivable that a quasi public body such as a SAAT should not expect its members to conform to the accepted standards of conduct in public life. It is also inconceivable that, as a recipient and disburser of public money, a SAAT should not expect equal standards of conduct of its members – both the member agencies and the individual representatives.
- 4.4 Implicit in Nolan is transparency. In the case of SAAT's this will range from the principles whereby meetings are conducted and decisions taken to the expectations placed on office holders (in particular the Chair), support staff and SAAT members when representing the interests of the SAAT.

5. The conduct of SAAT Business

- 5.1 In 2003 Norval Consultancy found that SAAT's do not have a common approach to internal governance. Whilst they mostly have terms of reference, few have clear procedures or standing orders for the conduct of their business. Support staff reported being unclear about their authority, unclear about protocols for decision making and, in some cases, having to deal with conflicts of interests – either through direction by their employing agencies or in getting agency representatives to deliver on undertakings made to the SAAT.
- 5.1 SAAT's provide a forum for inter agency negotiations – the SAAT Action Plan comprises the sum of all those negotiations. This is not a simple process. On the one hand, the Scottish Executive expects there to be a coherent inter agency plan. On the other, members have to look both ways when making commitments to the SAAT. Because drug problems cross so many sectors of public service, it can be confusing for members of the public or service users to understand where an agency ends and the SAAT begins. It is possible, for example, for a member agency to be reviewing its service delivery in a particular area and at the same time negotiating with other SAAT members to get them to fit into the review outcomes. It is also possible that different branches of the same agency may have different priorities and the SAAT gets caught in the middle. Examples are negotiations which take place between health and social work over detoxification services (inter agency) and tensions within a local authority over conflicting strategic goals (such as dealing with anti social neighbours and promotion of housing opportunities for service users).
- 5.2 It must be emphasised that this is not a trivial matter. When resources are limited and have to be prioritised, the capacity of the SAAT to rise above specific interests and focus on community need can affect lives substantially. It is doubtful whether there could be grounds for legal challenge to an agency for delivering service in accordance with a SAAT strategy but at the same time the principle of transparency may be difficult to demonstrate.
- 5.3 These points suggest that in the spirit of any public service, SAAT's require instruments of governance in order to demonstrate transparency of operation. It is to these that the report now turns.

6. Instruments of Governance

6.1 Terms of Reference

- 6.1.1 Terms of reference are the starting point of governance in organisations such as SAAT's. Terms of reference cover the following areas:-
- The mission of the SAAT
 - Objectives – related to the action plan
 - Membership, nomination/authority of representatives and any particular conditions of membership
 - Employment of support staff
 - Statement of equality and diversity
 - A model membership agreement

6.2 Protocols for Member agencies

6.2.1 Protocols make explicit the relationship between member agencies and the SAAT. They also give authority to the Chair (or any other office holders) and support staff to act or speak on behalf of the SAAT in specific circumstances. Protocols may also be used to clarify how decisions are taken (for example, by reserving some decisions within agencies or by agencies agreeing not to proceed on new initiatives without consultation with the SAAT). Protocols are not an attempt by the SAAT to 'control' the actions of members – even if this were possible – but to make explicit how agencies relate to each other and the SAAT.

6.3 Appointment of SAAT officers and staff

6.3.1 Effective governance makes explicit who is eligible for appointment to a SAAT office, how appointments are made and the rights/responsibilities attaching to office. It may be that SAAT office goes with a particular role in an agency (such as Chief Executive of the Health Authority) or that the Chair is appointed by a one member one vote election. The important point is that the process is explicit.

6.3.2 In the case of support staff, the training needs survey revealed wide variations in accountability, duties and authority. It is not suggested that the current approach – employment by a member agency on behalf of the SAAT – is inappropriate. Nor is it suggested that there should be a 'one size fits all' approach to support staff. However, if SAAT staff are to work to maximum effectiveness, explicit accountability, boundaries of authority, rights/responsibilities in relation to member agencies and support/supervision expectations should be explicit. This is particularly important where there are conflicts of interest for SAAT support staff and their host agency managers'.

6.4 Standing Orders for the Conduct of Business

6.4.1 There are advantages and disadvantages to SAAT's having standing orders for the conduct of business. Advantages are that they enable business to be progressed; they bring due process to difficult situations; they are an aid to transparency; and, they provide authority for the Chair. Disadvantages are that they create a potential for vexatious members to prevent business progressing; they may become bureaucratic or self serving; and, if a SAAT is working effectively, standing orders may fetter it's capacity to act flexibly. Additionally, member agencies may have difficulty in agreeing to the detail of standing orders, wanting comfort to maintain a clear distance between themselves and the SAAT.

6.4.2 Whilst the need for standing orders is by no means clear, it would be difficult to make a case against there being greater explicitness on how business is conducted. The key areas:-

- How to get an item on the agenda
- Who can attend and who can participate
- Circulation of papers and minutes
- Limits of confidentiality
- Presentations or attendance of non-members/members of the public

6.5 Conflicts of interest

6.5.1 There are three areas for SAAT's to consider over matters of conflict of interest: what constitutes a conflict of interest; conflicts of interest in the allocation of resources; and, conflicts of interest when representing the SAAT.

6.5.2 What constitutes a conflict of interest?

6.5.2.1 SAAT's bring together different interests to agree a mutually acceptable strategy and allocation of resources. Conflicts of interest for agencies occur in two circumstances; when member agencies (or individuals) use their influence or resources so that the strategy, action plan and allocation of resources disproportionately favour the agency's interests; and, where, having agreed to SAAT proposals, agencies subsequently act differently and unilaterally.

6.5.2.2 There may also be conflicts of interest for individuals – these occur most typically where those involved in joint commissioning are also service providers/service managers.

6.5.3 Conflicts of interest in the allocation of resources

6.5.3.1 There are two features. First, although Scottish Executive funding is channelled through individual agencies, its allocation may depend upon SAAT agreement. In the complexities of public sector funding, it is possible for a SAAT to approve the use of resources but for those resources to be used for other purposes. Examples are when posts or services are made up from multiple funding sources (one may contribute disproportionately); where support staff are used by the host agency for other purposes; or, where contributions to property, rent or other overheads are inflated.

6.5.3.2 The second feature is the process for allocating resources and commissioning services – dealing with slippage at the end of the financial year is a typical example. Again, it is a feature of the SAAT being a representative body and member agencies or their representatives potentially being able to benefit from their participation in the commissioning process.

6.5.4 Conflicts of interest when representing the SAAT

6.5.4.1 The Chair, members and support staff are frequently asked to represent the SAAT. This may be reactive – such as responding to a press enquiry – or standing representation on national bodies (such as the Associations or meetings with the Scottish Executive). There is a potential for a conflict of interest where there is no clear mandate from the SAAT to the representative – either in terms of consultation with SAAT members or in interpreting the best interests of the SAAT.

6.5.4.2 This again is not peculiar to SAAT's, being characteristic of any partnership organisation.

6.5.5 Resolving conflicts of interest

- 6.5.5.1 Conflicts of interest of the type described occur when agencies are not clear about what they are able to offer up to the SAAT strategy, where there is a lack of transparency in SAAT decision making processes and where mandates are assumed and not explicit.
- 6.5.5.2 Conflicts of interests can be largely addressed with clear instruments of governance, these being:-
- Membership agreements
 - Procedures for joint commissioning (including declaration of interests)
 - A scheme of delegation, including policy on publicity and representation.

7. Issues of Equality and Diversity

- 7.1 When conducting the training needs survey, the consultants identified issues of equality and diversity as areas potentially requiring SAAT's attention. Whilst not strictly a governance matter, it is an area no public organisation can ignore. Fair and equal access to services has many aspects – from meeting the needs of particular ethnic groups, to services for women to making services accessible in remote communities.
- 7.2 Whilst member agencies have responsibility at the operational level, there is a part for SAAT's to play in promoting the underpinning values of equality and diversity. The training needs survey found that support staff did not always understand that issues of equality and diversity are more than catering for visible minorities. In the view of the consultants, this had implications for both the SAAT's and the member agencies. The consultants concluded that SAAT's would benefit from having policies on equality and diversity. These would be both strategic – in terms of the action plan – and set out the expectations in this area of member agencies.
- 7.3 It would be appropriate to address issues of equality and diversity along with other governance matters.

8. Governance Standards for SAAT's

- 8.1 In commissioning this work, the DAT Association asked for suggestions to be made on the introduction of standards of governance for SAAT's. The introduction of standards would be consistent with greater transparency and explicitness in how SAAT's operate. The following are areas where standards might be appropriate:-
- Membership agreements – expectations of member agencies in relation to their commitment to the SAAT and the authority given to representatives. May also include a commitment of agencies to operate in accordance with the Nolan principles.
 - Protocols, including details of how business will be conducted (which may or may not include standing orders).
 - The appointment of officers (particularly the Chair), the responsibilities of officers, the employment of support staff and a scheme of delegation.

- Procedures for joint commissioning – including identification of conflicts of interest.
- SAAT statement on equality and diversity.

Peter Hassett
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