

Report of Head of Finance

FUTURE SERVICE DELIVERY MODELS

1 Purpose of report

To outline various service delivery models that have been considered and to recommend a way forward.

2 Executive summary

This report builds on a number of previous reports to this committee and summarises the future service delivery models currently under consideration, with the aim of capturing a sustainable future for the council at a time of financial challenge. It provides a progress update and recommends future actions for the committee's consideration.

The report covers the issue of developing collaborative working relationships and the potential of shared services as well as the more commercial aspects of service delivery regarding the creation of wholly owned local authority companies.

The committee is invited to review the content of the report and agree the proposed further actions as set out below.

3 Appendices

Appendix 1: Summary of Trowers & Hamlins LLP and KPMG LLP report (confidential).

4 Proposed action: The committee is invited to RECOMMEND:

4.1 To agree the strategy for shared services and collaborative working be progressed as set out in sections 6.17 to 6.26 of this report

4.2 That authorisation is given to the Chief Executive and Head of Finance, in consultation with the Monitoring Officer, to progress the creation of a wholly owner local authority trading company which will deliver the bereavement services provided at the crematorium as set out in section 6 of this report.

4.3 To agree to the creation of a further wholly owner local authority trading company which will deliver the residential rental services for the converted operational borough properties and other potential residential units in the borough's possession, subject to further reports to this committee

5 Background

- 5.1 In June 2014 this committee received a report on shared service options. At that time it was envisaged that the future for Wellingborough would probably consist of a smaller core of services and a larger number of shared or distributed services.
- 5.2 The report outlined some options for increased sharing of services as a means of reducing further the underlying deficit in our revenue budget, and covered Revenue and Benefits services, Environmental and Health protection, Building Control and Human Resources/Organisational Development.
- 5.3 One recommendation at that time was that Local Government Shared Services (LGSS) be identified as a preferred partner for the provision of revenue and benefits services, subject to the production of a detailed business case which demonstrated good levels of service and a reduction in costs.
- 5.4 Other shared services would be investigated and, where it was beneficial, further proposals would be brought forwards.
- 5.5 Since that time the council has made a move towards becoming a more commercial council and has investigated a number of options for commercial service delivery, including the creation of wholly owned companies.
- 5.6 Reports on the commercial approach have been presented as part of the progress updates on the crematorium project and as a presentation to members from Trowers & Hamlins LLP and KPMG LLP.

6 Discussion

- 6.1 The public sector is facing an unprecedented period of ongoing financial and service delivery challenges. The on going austerity and reductions to funding that local authorities face mean that financial sustainability and resilience for the future are key considerations for any council. Wellingborough is no exception and has for some years been tackling on going financial pressures to make savings and efficiencies, whilst retaining the services to the public. The solutions to balancing the financial position and keeping service delivery to the same standards are becoming increasingly difficult to find. The council has set out how it will do this as part of its Medium Term Financial Strategy and the utilisation of its assets to generate a return and income is a key part of that.
- 6.2 Residents also now increasingly expect the quality of service they receive and the methods to access them to keep pace with those they receive from the private commercial sector. Local government as a result has to change and reform to meet this challenge.
- 6.3 It is no longer adequate just to manage the stewardship of the council for the short term; the public sector needs to focus on transformation for the future. The role of the public sector is changing and further cuts to funding could mean that it becomes the local administration of only a few key services. There is a

fundamental need to identify local demand for services and to provide access to them to create a borough that has a sense of place and community where everyone has the chance to be healthy, safe and prosperous.

- 6.4 Collaboration in local government is being driven by national policy. The review and development of current and potential collaborations is one way that further economies and greater resilience could be gained to ensure our services are sustainable for the long term.
- 6.5 The budget deficit outlined in Medium Term Financial Plan cannot be sustained and the council needs to look for alternative ways of working and delivering services if it is to balance the budget and create financial sustainability for the future. There is a need to be flexible and adaptable to change whilst embracing opportunities to generate new sources of income and remaining in control of our future as a sovereign council and a community leader. The council needs to accelerate the short term wins whilst building the long term solutions.
- 6.6 There is also a need to reduce costs whilst still providing access to quality services to meet the demands of the residents and businesses over the longer term. This must be done in a planned and managed way, changing the way those services are delivered to benefit both the council and the users. Options for this include shared services, collaboration and alternative commercial structures such as wholly owned local authority companies or joint ventures.
- 6.7 Engagement with key partners for collaboration will also help to achieve some of the outcomes for the council. The use of the voluntary sector and charitable organisations, as well as other partners in public services, will be reviewed further by officers and will be covered in further reports to this committee later in the year.
- 6.8 The council has already identified that better utilisation of assets and the commercialisation of services is a key way in which it can face the challenges ahead. This will be done incrementally on individual business cases, showing the costs and benefits for each proposal, but with a bigger picture in mind for long term resilience, viability and prosperity for the borough.
- 6.9 There are other options on service delivery such as shared services and/or further collaboration with key partners, which have already been explored. However, the council still needs to continue its consideration of these alternatives, reviewing current provisions and looking to enhance both our in house offering and potential further collaboration in order to provide the resilience needed.
- 6.10 This report asks for members to agree to the continuing development of options to extend the commercial approach (where appropriate) in order to maximise the use of and return on our assets and for further options on working with key partners to deliver services for the future.
- 6.11 Discretionary services provided directly by the council can only be charged at the rate of full cost recovery and should not contain any element of surplus.

- 6.12 Establishing a wholly owner local authority trading company is an alternative option which allows for commercial trading (i.e. profit-making) whilst retaining strategic control over the service delivered.
- 6.13 The council already has a commercial structure in place via the Norse joint venture, operated under the Teckal exemption. The further commercialisation approach suggested only differs in the percentage ownership of the companies proposed, in that we will own 100% rather than just 20% of the company. This will mean full control over the strategic direction of the company and retention of all profits (after tax).
- 6.14 The crematorium will also provide a much needed service in the borough that potentially could have been provided by other operator, with no control for the council over quality or prices. The council will now be able to control the quality and cost of that service to its residents, to ensure that it is affordable whilst still returning a profit to the council. It can also tailor the service to the needs of the citizens via its strategic control
- 6.15 Both the commercial approach and further collaboration with key partners should be considered when reviewing how services are delivered, as the creation of a company is not suitable for all situations. Further review of other income generation options is needed and consultation on any planned changes to current arrangements would be required.
- 6.16 All potential options will be based on prudent assumptions and sound business cases. An incremental process of change will be adopted and each step reviewed individually on own merits. This will include exploring the potential of other commercial structures, such as further joint ventures or partnership arrangements, but each will need to have a clear view of the outcomes and benefits before further consideration.

Shared Services

- 6.17 The council should continue to explore options for shared services and collaborations with other organisations, which should provide financial benefits and improvements to the services received by our citizens. Typically these reduce the administration and management costs, harmonise IT and processes and find efficiencies by reducing demand led budgets. There will be a need for further service reviews to ensure that the current service delivery reflects the organisation's needs and is being delivered in the most appropriate way. This will include a review process which looks to harmonise systems for in house efficiencies, as well as potential future commercialisation of services.
- 6.18 The Senior Management Team continues to work to find ways to increase income and reduce costs. Given that the workforce has been reduced significantly already, the aim now is to focus on schemes which provide economies of scale by working with partners to deliver good quality services at lower costs, or that will generate an income stream to the council.
- 6.19 The council has historically looked at alternative means of delivering services to

reduce costs, and has entered into shared service or contract arrangements in respect of a number of services. The council has taken a particular stance on this approach, not necessarily identifying one preferred partner, but concentrating on achieving best value in terms of both cost and quality. Currently there are shared services for IT, legal, financial systems, emergency planning, licencing and the joint planning unit.

- 6.20 The review of the potential for further shared services following on from the report in June 2014 led to discussions with other councils. In terms of Environmental Health, after considering the benefits of a shared service and the opportunities for restructuring the existing teams, the most beneficial outcome was to retain the service in-house and make some changes to internal structures. It was clear that these would generate savings for the revenue budget. This restructure is now completed and the new team structure is in place.
- 6.21 A similar exercise was carried out in respect of Building Control and Human Resources/Organisational Development, but the services involved were so small that no economies of scale could be achieved. A restructure to combine Democratic Services and Organisational Development has resulted in a further small saving.
- 6.22 The development of a full business case with LGSS for Revenue and Benefits has taken significant time and resources from both parties and had progressed to near completion.
- 6.23 However, there were some significant issues that still needed to be resolved regarding, in particular, the IT and the relationship with our current IT partner. Integrating the two potential partners was a key issue and unfortunately led to some delays in progressing the business case.
- 6.24 As these issues did not appear to have a mutually agreeable resolution the delays have continued. A significant amount of time has now passed since this proposal was considered. It helped to highlight the need for the council to review its IT strategy in general and focus on the shape of the future IT partnership. As a result the project to share Revenue and Benefits services could not be completed.
- 6.25 It is therefore recommended that the proposed preferred partnership with LGSS is not pursued further at this time and instead interim internal arrangements for the Revenue and Benefits team to generate efficiencies and potential cost savings are pursued, whilst a further service review is completed.
- 6.26 The position in respect of other potential partnership or collaborative working opportunities will be the subject of further reports if a suitable opportunity arises, with the council not restricting itself to one partner, but continuing to identify best value in terms of both cost and quality of service for our customers.

Commercial Service Delivery options

- 6.27 This committee has received a number of progress reports relating to the crematorium. These reports have highlighted the importance of the service being run on a commercial basis and therefore able to generate a surplus for the borough. This will be used to provide financial sustainability to the borough so that it can continue to deliver the services it needs to for the citizens it serves.
- 6.28 It was recommended that the council should look at the establishment of a wholly owned local authority trading company and it was agreed that this be investigated further by the senior officers.
- 6.29 As a result of these investigations Trowers & Hamlins LLP and KPMG LLP were appointed to provide professional legal and tax advice. A presentation was made to members to highlight the potential options for consideration. A summary of the options is attached at Appendix 1.
- 6.30 A variety of different models were reviewed and the benefits of each considered. The Senior Management Team believe that a simple start to the commercial approach is most prudent and recommend that initially two companies are considered: one to run the crematorium and other associated bereavement services, and one to manage the the private residential accommodation that will be created by conversion of redundant operational property, initially Croyland Hall and Abbey. The council also owns three houses in Windsor Road which were retained at the time of stock transfer (potentially to provide access to council land), so it is intended that these houses – together with any others acquired – would also be managed by this company.
- 6.31 A full review of the legal and financial tax implications has been completed by Trowers & Hamlins LLP and KPMG LLP. This found that the council does have the necessary powers to create companies and can (if properly structured) use the Teckal exemption to award contracts between itself and the company it creates without the need to undertake a competitive EU procurement process.
- 6.32 It is recommended that both should be companies limited by shares and be wholly owned by the borough council as the sole shareholder.
- 6.33 The service management and support of these companies will be done within the council and not at present by the commissioning hub approach. Leaner flatter structures are easier to manage and create less administration. However, the structures put in place will provide flexibility for the future needs of the council and can be reviewed and amended as appropriate. This will give the flexibility for the operational management on a commercial basis but will keep the governance and strategic control within the council.
- 6.34 The property rental trading company will not be needed until the conversion of Croyland Hall and Abbey is near completion. A planning application is currently being prepared. However, the crematorium trading company will be needed prior to the completion of the asset (the crematorium) so that appropriate staff may be appointed directly to the company in readiness for its opening in 2016.

- 6.35 Direct appointment to the company will have the advantage that the company's own terms and conditions for pay and pensions can be set and will not be constrained by local government rates. This will ensure that the right calibre of staff can be appointed in a competitive private and public recruitment market, whilst taking advantage of potential savings on pension's provisions. The company will look to adopt the other main policies of its parent, the council, and be guided by them on policy and strategy for Human Resource matters.
- 6.36 Consideration needs to be given to the duties and obligations of both directors and officers. This will involve the agreement of the principles for management arrangements and governance. Directors have a duty to act in the best interest of the company and this may cause some potential conflicts (e.g. where a director is also a council officer or an elected member). These can be managed through the legal agreements put in place as part of the company set up.
- 6.37 Section 154 of the Companies Act 2006 requires that all private companies have at least 1 director. It is proposed that initially, to cover this minimum legal requirement and to ensure sufficient oversight from the outset, this company would appoint two directors: the Head of Resources and the Head of Planning and Development. The Head of Finance has a more complicated conflict of interest to resolve as she currently has a statutory role as S151 officer and this may at some point be in conflict with her statutory role of director for the company. This can be resolved, but a more detailed policy will be needed and could take some time to develop.
- 6.38 It is proposed that the company would be called "Wellingborough Bereavement Services Ltd".
- 6.39 The next steps to create the wholly owned local authority trading company as a separate legal entity would be to agree the proposed governance arrangements, draft Articles of Association and also the contracts between parties. Trowers & Hamlins LLP will be engaged to carry out this work on behalf of the council.
- 6.40 The contracts between the council and the companies, as well as the shareholders' agreement, will be key elements of the governance arrangements. These will help protect the sovereignty of the council and help to retain an element of control over the service and the desired outcomes as the council will commission the services and outcomes it needs directly from the company created. The council will monitor these outcomes by reference to contractually enshrined Key Performance Indicators which will feed into an incentivisation mechanism.
- 6.41 The advantage of the Teckal exemption means that there will not be the long procurement process normally associated with contractual arrangements. The company could also trade and generate further income, up to 20% of turnover, and still remain within this exemption. Further, the company could potentially offer some services to neighbouring authorities and other local organisations within the exemption, generating more income for the company. If trading with

third parties was particularly successful and more than 20% of turnover was generated from non-council entities, the company would lose the Teckal exemption and so contracts between it and the council would need to go through a competitive procurement. That said, the council would still have control of the company if this occurred and the council may decide (at the appropriate time) that the commercial benefits of wider trading are greater than the risks of going through a competitive procurement for Council services and could allow the continued development of these other revenue streams. Alternatively, the council (as sole shareholder) could decide that the company should scale back the alternative revenue streams so as to stay within the 20% threshold and keep the Teckal exemption.

- 6.42 Once the company has been created, further discussion on additional directors and composition of the board can be undertaken, and the governance arrangements finalised.
- 6.43 The council's governance arrangements in general will need to keep pace with the changes local government is going through to ensure that the goals and outcomes of the council are delivered and the values maintained regardless of how the services are commissioned. As the council makes changes to its service delivery, the way it governs those will also need to adapt and change. Sound governance is essential to support the decision making of the members, as well as managing risks and finding solutions to service delivery. Arrangements need to be robust and proportionate with clear accountability in place but be flexible enough to deal with issues in a timely manner and to encourage and promote new solutions.
- 6.44 The proposal to appoint the two heads of service as directors is only intended to be an interim position to facilitate the creation of the company as a separate legal entity. Members will be fully involved in the decisions on governance and board members, which will be adjusted accordingly at a future date.
- 6.45 It is recommended that a similar structure will be put in place at the appropriate time for the property rental trading company, with the company being known as "Wellingborough Residential Properties Ltd." A further report would then be submitted to the committee at the time the governance and board arrangements need to be put in place.
- 6.46 Further exploration of other commercial models and options to deliver the service needs of the borough will be continually undertaken and reported accordingly to this committee for approval.

7 Legal powers

- 7.1 The Council may rely on several statutory powers in order to establish these corporate entities, in particular the general power of competence contained in section 1 Localism Act 2011. The establishment of the trading companies will ensure compliance with the boundaries (relating to carrying out commercial activities) imposed on the general power of competence set out in section 4 of the Localism Act 2011.

- 7.2 The Teckal exemption referred to above has now been codified in the Public Contracts Regulations 2015 and will be satisfied as long as:
- (a) the Council exercises control over the companies similar to the control it has over its own departments (satisfied by owning 100% of shares);
 - (b) more than 80% of the companies' activities are carried out for the Council; and
 - (c) there is no private sector ownership of the companies.

8 Financial implications, value for money and risk management

- 8.1 There are savings that can be made from efficiencies within the Revenue and Benefits service. Under the LGSS option these would have been shared 50:50 between both parties. The in house restructures and changes to workflow methods and procedures will also make significant savings but additionally will keep the control of the service within the council whilst further reviews for the future delivery of this service are undertaken.
- 8.2 Implementation and project development costs for the commercial projects, and other potential transformational projects, can be funded by the reserve created at the end of 2014/15 for efficiency and service transformation and will include the costs of consultants and specialist advice as well as additional resources needed to ensure projects progress as planned. There may be some need for temporary project management arrangements, such as those already used in the design and build of the crematorium. However, the aim will be to use this to build in-house expertise as the on going transformation projects will be implemented over the medium term and retaining skills in the council will be vital to their success. There will also be some recruitment and training costs as well as the legal set up costs of any companies.
- 8.3 The new companies will need to have sufficient working capital as cash flow will be a key issue for the newly founded companies. This will be agreed as part of the contracts between parties and any working capital loans will be made to the company at a commercial market rate to avoid any potential state aid issues.
- 8.4 As the trading companies will be wholly owned and controlled by the council and will carry out the majority (over 80% by turnover) of their work for the council procurement rules allow the council to award services contracts to these entities without carrying out a competitive EU procurement process (the Teckal exemption mentioned above). Should the need arise, each of these corporate entities may also award services contracts to each other and to the Council (for example for back-office support) without conducting a competitive procurement as permitted by Regulation 12(2) of the Public Contracts Regulations 2015.
- 8.5 Contracts between the Council and these corporate entities will need to set out arrangements for the transfer of staff to the relevant company; the basis on which property and other assets are to be used and paid for; the services to be provided (including service standards and Key Performance Indicators) and the basis for payment.

- 8.6 Risk management is a key component of any governance arrangements and understanding the appetite and tolerance for both risk and reward in the organisation is essential to good risk management. We proactively use our internal audit colleagues to give us assurance over the governance of the authority and will continue to do this as the changes to service delivery over the medium term may give rise to heavier reliance on their views of both accountability and transparency. Risk registers for all key projects will be created and regularly reviewed and, where appropriate, added to the corporate risk register.

9 Implications for resources

- 9.1 The council already operates a very lean senior management and workforce structure. The capacity to deliver the changes needed to become financially sustainable via the suggested projects may have some workforce implications. Rather than stop staff from delivering the currently planned services the council may need more short term resources to ensure the changes are fully implemented and the benefits realised.
- 9.2 Additionally the overall structure of the council will need to have a more commercial business focus, and this may lead to a realignment of service management, with senior managers having a more strategic corporate role and those directly below having clear responsibility for the operational delivery of the service. There are likely to be clear distinctions between departments who deliver directly or facilitate the delivery of services and those departments who support the organisation and the delivery of services, with a focus on the commissioning and monitoring of service delivery.
- 9.3 No TUPE implications are currently foreseen and any staff recruited to the new companies would be recruited on terms specific to the company to give a better chance of recruiting in the current market and to be able to compete on a commercial basis for salary and benefits. This can only be achieved if the company is not constrained by local government terms and conditions. However, the policies and principles the council uses in its Human Resources management could be used. At present the cost of the local government pension scheme would not be included as there is currently no requirement to offer this option, only access to a pension scheme. There may also be some secondment of staff initially in the early implementation stages to ensure that there is sufficient capacity to implement the new operational model.
- 9.4 In the report by Trowers & Hamlins LLP and KPMG LLP a commissioning hub was considered. The advantages of this can be built into the internal structure of the council, which can review and monitor the service specifications and monitor the service delivery and costs, for not only these options but for other service delivery methods currently being used. The structure may need to be altered to streamline the commercial aspects and drive performance and delivery of all commissioned services and this will be a co-ordination and management function which will enhance our current arrangements

9.5 Once the crematorium is built and the operational properties refurbished into residential units these assets will be leased to the companies on long term basis, rather than a freehold transfer. This will produce commercial asset rental income in line with other investment property management and as such will be reviewed as part of other commercial approaches to asset management at a later date.

10 Implications for stronger and safer communities

None at this time

11 Implications for equalities

None at this time

12 Author and contact officer

Liz Elliott Head of Finance

13 Consultees

Senior Management Team
Trowers Hamlin LLP
KPMG LLP

14 Background papers

Previous reports to this committee
Report by Trowers & Hamlins LLP and KPMG LLP on commercial, legal and tax options.

