Trading opportunities

Considerations towards developing Council trading options

Report of the Task & Finish Group
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Executive summary

This report presents the information gathered by the review group on considerations towards developing trading options for Buckinghamshire County Council (BCC). This review is unlike many Task & Finish reviews in that it is not scrutinising an existing service, rather it seeks to fact-find and make high-level recommendations in a new area of business for the authority, and to raise awareness of trading considerations available to local authorities. Currently, BCC has a small amount of trading activity, the success story of which is Legal Services. Further trading activity is being discussed, for example in adult social care, a service area that a number of authorities have already transferred to a trading model.

Trading, along with other income generation opportunities, is increasingly on the local government agenda. This is because income generation represents one option for local authorities to make financial ends meet in a time of decreasing funding and increased costs by earning income to invest back into services. Trading allows local authorities to recover costs or earn profit from ‘selling’ services to customers and external organisations through the formation of Council-owned companies. Culturally however, making a profit is still seen as a risky and/or undesirable option by many local authorities. Certainly, trading involves risks - including financial, legal and reputational risks and the potential to undermine local small and medium-sized enterprises (SMEs) – but we recommend that key to making a success of trading is to be bolder and less risk averse.

Trading has for some time been an option for local authorities, with the origin of powers stretching back to the 1970s. New legislation over the last decade has developed local authority capacity to trade. As a result, trading (and making a profit to invest back in to Council resources) is now possible through the creation of Local Authority Trading Companies (known as LATCos). In short, a LATCo is a company created and either wholly or partially owned by a local authority to deliver existing or new services through a trading model. For some years, a number of local authorities have been selling their services to customers and external organisations (including other local authorities) including adult social care, business support, cleaning, HR, security, and legal and financial services.

Key to the growth of any trading activity is the development of a clear trading policy (as part of a wider income generation strategy) with specific considerations on objectives, risks, markets, skills and branding. Success of both a trading policy and income generation strategy rely on corporate buy-in and promotion. This in mind, we recommend agreement of a trading policy and income generation strategy by the BCC Cabinet and that the relevant Cabinet Member is tasked with raising corporate awareness of income generation. In order to provide sufficient corporate leadership, we recommend that a senior corporate group lead the development of trading opportunities and report to a relevant authority board.

In terms of developing specific trading activity and Local Authority Trading Companies, we recommend greater corporate understanding of current and existing markets for the authority to enter, the products and services the authority has or could choose to develop, and an understanding of the commercial skills required by increased trading activity. This in mind, we recommend the authority undertakes corporate product and skills audits informed by market analysis. In addition to our six recommendations, we have produced a Business Case ‘checklist’ to assist considerations around developing trading activity at BCC. This checklist has been informed by the findings of the review and can be found in Appendix A.
Recommendations

As a result of evidence gathered during the review, we propose the following recommendations:

1. That the current BCC Income Generation Strategy be developed and include clear objectives and targets for income generation. The strategy should be agreed by Cabinet and promoted corporately. *(Paragraphs 15-17)*

2. That the BCC Income Generation Strategy contains a BCC Trading Policy. The policy should include specific BCC trading considerations on rationale, risk awareness, market analysis, products, skills, branding, culture and Member involvement, and areas of trading priority for the authority. *(Paragraphs 15-17)*

3. That the Cabinet Member for Finance and Resources is made Member Champion for Income Generation and is tasked with raising the profile of income generation and trading at the authority. *(Paragraph 21)*

4. That a ‘product audit’ takes place across the authority - informed by an initial analysis of existing and new market opportunities - to ascertain which BCC services could be delivered or developed as a traded service. *(Paragraphs 22-23)*

5. That a senior corporate group lead the development of innovative trading opportunities, informed by market analysis, and test against potential risks. The group should be populated by officers from across the authority and report to a relevant authority board, for example the Commercial Board. *(Paragraphs 22-23)*

6. That a corporate ‘skills audit’ is commissioned to ascertain which commercial skills BCC already possesses and which skills it will need to acquire in order to identify and develop trading options. *(Paragraphs 27-28)*
1. INTRODUCTION

Why focus on trading?

‘Trading can be a dirty word in some quarters. There is still a stigma around local authorities trading, despite there being a wealth of powers under which local authorities can charge for services and trade’ – Eversheds LLP

1. Trading, along with other income generation opportunities, is increasingly on the local government agenda. This increased attention is because income generation represents one solution for local authorities to make financial ends meet. In a time of austerity, local authorities are presented with two options - to manage increasing demand and/or to raise income. Within the wider field of income generation, trading opportunities offer local authorities new, innovative and potentially challenging models to deliver and develop services and operate within budgets.

2. From national research on trading activity, it is clear that there are a range of services delivered through trading models including adult social care, business support, vehicle maintenance, highways maintenance, cleaning, catering, legal and financial services, information technology and security. Similarly, national research shows that main drivers for local authority trading are to improve services, make more efficient use of assets and reduce costs for delivering a service.

Review methodology

3. Evidence gathering for the review took place between March and May 2012. The following Councillors were appointed to the Task and Finish Group: David Shakespeare (Chairman), Richard Scott (Vice Chairman), Margaret Aston, Mary Baldwin, Frank Downes and Chester Jones. The review was supported by Nick Cave from Service Transformation, Nichola Stretton from Finance & Commercial Services, Katy Macdonald from Democratic Services, and Ben Cahill from the Policy Team.

4. The review was carried out using the following methods:
   - Initial planning meeting to clarify key lines of enquiry
   - Internet research
   - Evidence gathering through informal discussion sessions with BCC officers
   - Telephone and email correspondence with other local authority officers
   - Attendance at an income generation conference ran by Eversheds law firm

Powers to trade

5. Trading has for some time been an option for local authorities, with legal powers available from the Local Authority (Goods and Services) Act 1970. This Act allowed local authorities to trade with each other, and other specified public bodies. The Local Government Act 2003 added new trading opportunities, enabling councils to trade on a commercial basis with the private sector through establishing a Local Authority Trading Company (LATCo), and allowing councils to charge for discretionary services on a cost recovery basis. The Localism Act 2011 kept trading powers broadly similar to those under the well-being power of the Local Government

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1 Trading Councils: How local authorities can innovatively use commercial powers, Localis, 2011
2 Local Authority Trading: Research Report, Department for Communities and Local Government, 2007
Act 2003, however the stipulation that trading and charging must promote well-being is now no longer required by the Localism Act’s general power of competence. The current government expect that this broader power will overcome nervousness around trading and embolden local authorities to develop innovation options.

6. Through the research and evidence we gathered, it is clear that within the wider field income generation, trading and charging are sometimes conflated. In short, trading and charging are separate legal activities permitted by different sections of the Local Government Act 2003. Charging (permitted by Section 93 of the LGA 2003) is limited to cost recovery for the provision of discretionary services, whereas trading (permitted by Section 95) allows for the making of profit through a trading account or through the creation of a LATCo. Through research gathered it is also clear that some local authorities form LATCos not to make a profit but because they wish to benefit from other LATCo opportunities, including being a new or separate ‘brand’, having more flexible terms and conditions and economies of scale.

What are Local Authority Trading Companies?

7. A Local Authority Trading Company (LATCo) is a company created and either wholly or partially owned by a local authority to deliver existing or new services through a trading model (i.e. clients buy services from the local authority). As mentioned above, in addition to the possibility of making a profit to reinvest back in to local authority services, LATCos offer other benefits including having more flexible relationships with Council overheads, the possibility of circumventing traditional local authority decision-making processes, and attracting new financing arrangements.

8. However, there are also risk considerations around establishing LATCos including initial set-up costs, legal arrangements, reputational issues and the potential to undermine existing local small and medium-sized enterprises (SMEs). In the course of evidence gathering for this review, we encountered a number of examples of trading activity and LATCos from other local authorities – brief details on some of these will be provided throughout this report as case studies.

Alternative models

9. We would like to stress at this stage that there are other delivery models available to local authorities in addition to trading. These models come under the broad heading of social enterprises. Social enterprises are not a specific delivery model but have a clear social purpose and invest any profit back into the service or the community it serves. Social enterprises can take a number of forms including a Company Limited by Guarantee, an Industrial Provident Society (mutual) and a Workers Co-operative. Companies Limited by Guarantee are private companies where the liability of its members is limited and any profits are retained for the purpose of the company. A Workers Co-operative is a general term used to describe a company wholly owned by its employees. An Industrial and Provident Society (a mutual) is an organisation set-up to trade for community benefit – common examples of a mutual are housing co-operatives. These and other models are also available to the authority as alternative delivery arrangements.

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3 Income Generation for local authorities, Eversheds seminar, 22 May 2012
4 Income generation: using charging and trading powers, APSE, 2010
5 Income Generation for local authorities, Eversheds seminar, 22 May 2011
6 Social enterprise, mutual, co-operative and collective ownership models, David Goldsmith, 2011
2. CURRENT AND PLANNED TRADING

Current and planned trading activity at BCC

10. From evidence gathering discussions with BCC officers during the course of our review, we learnt that there are a small number of traded services at the authority, for example fleet maintenance which trades internally. In terms of trading externally, and making a profit from doing so, it is clear that BCC Legal Services is a success story and could offer lessons for other ‘knowledge-based’ services across the authority in terms of selling services to external customers. Current clients of Legal Services include the Fire Service, Parish Councils and Academies. Up to last year, the Legal Services traded account was tasked with breaking even. However, from April 2011 the service was tasked with earning £100k profit per year which has been exceeded in this first year.

11. While we applaud the achievements of Legal Services and accept the risks managed, we are of the opinion that the service has a number of advantages compared to other authority service areas that combine to make it an ideal traded service. Firstly, the service is ‘knowledge-based’ and is well suited to being offered to organisations that want specific legal advice. Secondly, legal advice utilises a ‘pounds per hour’ arrangement long-established within the legal sector. Lastly, we learnt from officers that the service can draw on extra capacity (for example, trainee solicitors) to provide traded services if needed. This last factor is perhaps unique to Legal Services and could only be replicated by other service areas through recruitment of temporary staff for fixed terms at greater cost.

12. From discussions with BCC officers, we learnt that a number of other service-based trading options are now being considered, in particular the provision of adult social care. We learnt that relevant service officers are soon to meet with Care and Health Solutions, an organisation that provides management advice to local authorities around the transfer of services to the commercial market, including LATCos. Care and Health Solutions have worked with Essex County Council - a leading authority in terms of providing adult social care through a LATCo (Essex Care). We welcome these discussions between the authority and Care and Health Solutions and request that any progress, in particular around working with the NHS and Clinical Commissioning Groups (CCGs) be reported to the Overview and Scrutiny Commissioning Committee as part of progress monitoring of this report’s recommendations.

Northamptonshire County Council

LGSS (Local Government Support Services)
LGSS is a partnership between Northamptonshire County Council and Cambridgeshire County Council that provides public sector professional services to client Councils. It operates on the ethos of ‘by the public sector, for the public sector’. LGSS has been in operation for two years, is the largest public sector shared service venture in the UK and has stated that it is ambitious to expand beyond two partnership Councils (up to a proposed maximum of five). LGSS is governed by a joint committee with representatives from both

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7 Minutes, 26 April 2012, Trading Opportunities Task & Finish Group
8 Ibid.
9 Ibid.
10 Care and Health Solutions website, http://www.careandhealthsolutions.co.uk
the Northamptonshire and Cambridgeshire authorities. LGSS services include finance, human resources, information technology, legal services, pensions and payroll. LGSS estimate that it has saved client Councils a total of £11m since formation\textsuperscript{11}.

**Olympus Care Services**

Olympus Care Services (Olympus) is a very recently established LATCo wholly-owned by Northamptonshire County Council to provide services to adults and carers. Services provided by Olympus include domiciliary care, care homes, day opportunities, employment and disability services, and community occupational therapy. Northamptonshire CC state that the drivers behind the creation of Olympus included ensuring a sustainable future for the services, increased use of personal budgets, demographic pressures and maximising income generation opportunities. Olympus is a private company limited by shares (with the Council as the sole shareholder). The company is to be advised by a shareholder group (of Councillors and officers). Identified risks for Olympus include insufficient commercial skills, insufficient market knowledge and services not remaining competitive. LGSS will provide support services for Olympus and set-up costs are estimated to be around £250k\textsuperscript{12}.

**A corporate approach to trading**

13. As referenced above, in times of austerity local authorities are more likely to think the previously unthinkable and do the previously undoable. Over the course of our evidence gathering, we discussed trading suggestions from BCC officers and learnt of innovative examples from across the local government sector. We were pleased to learn from officers that a series of workshops, focused on discussing and developing income generation options at a corporate level, are planned for key groups across the authority over the next few months.\textsuperscript{13}

14. While it is beyond the remit of this review to make specific recommendations for priority areas of trading activity, we propose that the planned workshops begin to identify a shortlist of trading priority areas for the authority to invest corporate energy. In particular, we propose the workshops discuss the feasibility of the following service areas (informed by our Business Case ‘checklist’ in Appendix A):

- Adult social care provision and other care arrangements alongside Clinical Commissioning Groups (CCGs), the NHS and neighbouring authorities
- Regionalised provision of health and safety services (initially to deliver economies of scale but then to seek to provide services to other local public sector organisations)
- Housing and property maintenance and management services (perhaps in partnerships with District authorities and Housing Associations)
- Regionalised pension fund management and administration (initially to deliver economies of scale but then to seek to provide services to other organisations)
- Renewable energy provision and supply\textsuperscript{14}
- Professional knowledge and expertise services
- Technological development (for example, smart phone Apps for Council information and databases)

\textsuperscript{11} LGSS website, http://www.lgss.co.uk/index.php
\textsuperscript{12} Northamptonshire County Council committee web pages (Cabinet), and press release http://www.northamptonshire.gov.uk/en/news/Newsreleases/Pages/PR2882.aspx
\textsuperscript{13} Minutes, 26 April 2012, Trading Opportunities Task & Finish Group
\textsuperscript{14} Further information on local authority income generation and renewable energy sources can be found in Green income generation for local authorities, APSE, 2011
Developing a strategy

‘Smart authorities probably already have in place an income generation strategy which sets out the objectives, the processes to be followed and who is authorised to take decisions’ – Eversheds

15. We are of the opinion that key to the development of any trading activity is to have a clear corporate Income Generation Strategy and Trading Policy. BCC finance officers provided us with copies of the current BCC Income Generation Strategy (agreed in April 2011) but we were concerned that the current strategy is incomplete and has not been discussed at a Member level. We believe that a complete and well promoted corporate Income Generation Strategy and Trading Policy are both vital to provide clear rationales and objectives for income generation and trading, to establish guidance, to ensure trading activity does not proceed in disconnected ‘pockets’ of the authority, and to raise awareness amongst Members and officers of trading options and risks.

16. During the course of our evidence gathering, it became increasingly clear that it is vital that the authority has a clear view on why it should trade. It is not within the remit of this review to dictate specifically what should inform a completed Income Generation Strategy and Trading Policy but we would recommend that any strategy should contain a clear rationale for trading, an understanding of the positive and negative impacts on any entered markets, and a robust understanding of the risks involved (financial, legal and reputational and any impact on local SMEs).

17. We would also recommend that the strategy and policy demonstrate understanding of the extent to which trading and LATCos can be used as a method to improve the sustainability of existing services (developing the ‘day job’) and/or whether to use trading models as a method to provide new services for the purposes of income generation (new markets).

Branding

18. Through research gathered from other local authorities, we note that there are a range of approaches to the branding of LATCos and other trading activity. These approaches range between referencing the credible brand of a local authority (for example Essex Cares from Essex County Council), to those local authorities that choose to relegate association with the Council brand, for example Olympus from Northamptonshire County Council.

19. The fact that these different examples both relate to adult social care services highlights that it is not the specifics of service area (or its usual customers) that inform different branding approaches and may be related to local views and the perceptions of partners and potential customers. In light of these findings, we stress that the branding of any future BCC trading activity be carefully considered in relation to existing and future customers and local perceptions.

Recommendation 1 - That the current BCC Income Generation Strategy be developed and include clear objectives and targets for income generation. The strategy should be agreed by Cabinet and promoted corporately.

15 Trading Councils: How local authorities can innovatively use commercial powers, Localis, 2011
Recommendation 2 - That the BCC Income Generation Strategy contains a BCC Trading Policy. The policy should include specific BCC trading considerations on rationale, risk awareness, market analysis, products, skills, branding, culture and Member involvement, and areas of trading priority for the authority.

Essex County Council

Essex County Council has a number of well established trading companies including:

*Essex Cares* – the first adult social care LATCo in the UK (established in 2009) that met efficiency targets within its first year and exceeded profit expectations. Since transference to *Essex Care* via TUPE transfer from previous arrangements, frontline staff have been involved in the strategy and delivery of the service.\(^{16}\)

*Essex Assist* and *Essex Guardians* – both these traded services are ‘spin-offs’ from *Essex Cares*. *Essex Guardians* supports *Essex Cares* clients with finance, legal and tax arrangements. *Essex Assist* acts as a broker between those allocated personal care budgets and providers of adult social care packages and services.

*Essex Libraries* – the management of libraries in Essex was transferred to a LATCo a number of years ago and enabled the development of a more flexible and innovative business practice. In turn, this has allowed Essex Libraries to bid to secure to run Slough Borough Council libraries when they were looking for an external partner.

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\(^{16}\) Essex Cares website, http://www.essexcares.org
3. READINESS FOR TRADING

Raising awareness

‘Going forward, local government must foster an active entrepreneurial spirit, recruit and develop much more commercially minded managers with fearless, visionary politicians prepared to make big, bold decisions’ - Localis

20. Interlinked with the implementation of any strategy around trading options is a corresponding development of organisational culture and awareness. Through research gathered, it was clear that ‘making a profit’ is seen as a risky and undesirable option by some local authorities or that is was beyond capacity or did not fit with corporate priorities. This perception is perhaps unsurprising given that local authorities are traditionally providers of services funded by local or national taxation and do not come from a background of being a provider in a marketplace or being reliant on making their own money. Likewise, it must also be considered how any action by the authority to trade and/or earn profit would be perceived by Buckinghamshire residents, local SMEs and how any negative feeling towards this activity might be addressed.

21. We believe that the agreement and promotion of a Trading Policy with associated Member buy-in would go a long way in addressing any ‘culture of caution’ within the authority towards trading options. Building on this, we recommend that a champion for income generation, tasked with promoting a Trading Policy and Income Generation Strategy and raising awareness amongst officers and Members, would also begin to engage any concerns. From our wider research on trading activity by other local authorities, it was also evident that the creation of a LATCo - and TUPE transfer of staff or recruitment of new staff with relevant commercial skills to this company - can have positive impact on the morale and culture of these staff including increased productivity and reduction in sickness days.

Recommendation 3 - That the Cabinet Member for Finance and Resources is made Member Champion for Income Generation and is tasked with raising the profile of income generation and trading at the authority.

Market and product analysis

22. Key to mitigating any identified risks, and in developing robust plans for trading activity, is an enhanced awareness of local markets. In particular, an awareness of aligning ‘products’ with markets, identifying any new markets for the authority to enter, and any SMEs that may be displaced or undermined by the local authority entering a market. This in mind, we recommend that the BCC Income Generation Strategy and Trading Policy make particular reference to developing and maintaining strong market awareness.

23. As mentioned above, we recommend that a ‘product audit’ takes place across the authority to identify which existing services BCC could ‘sell’ in new or existing markets (which could include recruitment, Academies, Clinical Commissioning Groups, and energy supply), and/or which services would need developing or

17 Trading Councils: How local authorities can innovatively use commercial powers, Localis, 2011
18 Local Authority Trading: Research Report, Department for Communities and Local Government, 2007
19 Ibid.
creating. To provide the required strategic leadership, a corporate group should be established to lead work on a number of the areas identified in this report including identifying risks, developing market awareness, and auditing services for their potential as traded services. We recommend that this group be populated by relevant officers from across the authority, perhaps coordinated by Service Transformation, and report to a relevant board, for example the Commercial Board.

Recommendation 4 - That a ‘product audit’ takes place across the authority - informed by an initial analysis of existing and new market opportunities - to ascertain which BCC services could be delivered or developed as a traded service.

Recommendation 5 - That a senior corporate group lead the development of innovative trading opportunities, informed by market analysis, and test against potential risks. The group should be populated by officers from across the authority and report to a relevant authority board, for example the Commercial Board.

Norfolk County Council

Norse Group
Norse Group is a group of companies providing a range of services to a number of local authorities across the UK. Norse is wholly-owned by Norfolk County Council and returns profits back to NCC and its client Councils including Devon County Council. Norfolk County Councillors sit on the Norse board and specialist staff run the business on a national basis. A recent development with the Norse Group has been the creation of Norse Care involving the transfer of NCC’s 26 care homes to a new trading company. Monitoring of Norse has shown that morale amongst its staff has improved and sickness rates have decreased since TUPE transfers to the traded company from the previous traditional local authority set-up.

Norfolk Energy Futures
A recent development at NCC has been the creation of Norfolk Energy Futures, an arms-length energy services company (ESCo) wholly-owned by NCC geared towards the creation of a renewable energy portfolio including solar, micro-hydro and biomass. The management advisory consultants, KPMG, developed the feasibility and business plans for Norfolk Energy Futures. Depending on options progressed, scales of investment range between a maximum of £171m down to a minimum of £11m. There is potential to reduce start-up costs for the ESCo through linkages with the Norse Group of companies.

Risks

24. As referenced above, during our evidence sessions with BCC officers, we had a number of discussions around awareness and mitigation of risks involved in trading activity. We are of the opinion that developing innovative business opportunities involves taking risks and accepting that some initiatives may fail or run in to difficulties. While it was not a consistent view held by officers, it was raised to us that

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21 Minutes, 26 April 2012, Trading Opportunities Task & Finish Group
at times the authority could be negatively averse to risks rather than positively aware of risks. It was stressed to us by BCC officers from Legal Services that risks should not present undue problems if service level agreements and key performance indicators were robust from the outset of any venture.\footnote{Ibid.}

25. While it is not the remit of the review to go into detail about individual risks, we encountered three broad risk areas through our evidence gathering:
1. Financial risks - both to individual directors and the authority as a whole - if a LATCo runs into financial difficulty,
2. Legal risks if it were ever established by a competitor or customer that the authority had not demonstrated in its business case or terms and conditions full awareness of and compliance with legal requirements,
3. Reputational risks causing reputational damage to the authority as a whole if either or both of the above risk areas occurred.

26. National research undertaken by the Department for Communities and Local Government also found concern amongst local authorities about financial and reputational risks but also found that diversion of capacity away from core services was also a perceived risk\footnote{Local Authority Trading: Research Report, Department for Communities and Local Government, 2007}. We have included the broad risk areas covered in this paragraph in our Business Case ‘checklist’ in Appendix A.

Skills

27. During our evidence gathering with BCC officers we did not encounter any negativity towards considering or developing trading options but we did observe a variance of views around how suited the organisation is as whole towards trading services or establishing LATCos.\footnote{Minutes, 26 April 2012, Trading Opportunities Task & Finish Group} It was suggested to us that this ‘corporate nervousness’ may come from being risk averse (as discussed above) but that this nervousness may also arise from a lack of appropriate commercial skills.

28. While we believe that the authority’s business acumen has increased in recent years, we recommend that further work be done at a corporate level to ascertain which skills would be required by a deliberate shift towards trading and how to develop these skills. Identifying any ‘skills gaps’, for example around marketing, research and contracting skills, and how to address them, would significantly enhance BCC’s capacity to maximise income generation opportunities. It may be helpful for an external organisation with experience of required trading skills to be commissioned to undertake this audit.

**Recommendation 6 - That a corporate ‘skills audit’ is commissioned to ascertain which commercial skills BCC already possesses and which skills it will need to acquire in order to identify and develop trading options.**

Members

29. In addition to the skills of officers, we believe Elected Members also have a part to play in enhancing the authority’s readiness to develop trading options. From informal discussions with Members we found the awareness of trading, income generation more widely, and the implications on the Member role from the formation of LATCos...
is low. For example, if a LATCo was formed it would be likely that at least one Member would be a director of that company. Similarly, if a LATCo ran into difficulties, to what extent would a Member be legally or financially involved? (This consideration is also true of officer involvement). Also, as the democratically accountable interface of the authority, Members would have a vital role in promoting, monitoring and potentially justifying any trading development and ensuring transparent governance and reporting mechanisms.

Kent County Council

Kent County Council have been a leading authority in the development of trading accounts through the establishment of an ‘umbrella’ company (Kent Commercial Services) set-up to provide goods and services to the Council’s directorates and other approved bodies. The main areas of business under the umbrella include: Kent County Supplies (educational supplies); County Print & Design; Energy Purchasing; Ground maintenance and landscape services; Passenger Services (school transport services); and Kent Fleet (lease cars, commercial vehicles and minibuses).

Kent Top Temps

A particular example of a Kent LATCo is Kent Top Temps. Kent Top Temps is wholly-owned by Kent County Council and provides temporary and permanent staffing arrangements (including business support, supply teachers, caterers and drivers) in both the public and private sector in Kent and the South East.

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26 Kent Top Temps website, http://www.kenttoptemps.co.uk/default.aspx
4. CONCLUSIONS

30. Based on our findings, there are certainly benefits to developing local authority trading options including opportunities to keep current services sustainable through earning income; making financial ends meet; more flexible terms and conditions for staff; greater freedom around traditional decision-making processes; attracting new financing arrangements; flexible models to develop new products and services; and operating under a new brand separate from the Council identity.

31. However, our findings also highlight that there are risks involved in providing services through trading models including financial risks, legal risks, reputational risks and the potential to undermine local small and medium-sized enterprises. It is important that these risks are understood and that plans are in place to mitigate them. In particular, the authority must be clear why it wishes to trade and to understand any negative impacts. Risk aversion and corporate nervousness are not appropriate responses to trading risks. Rather, a more positive approach would be to have clear objectives, an enhanced awareness of actual risks, and to develop an acceptance that creating innovative solutions can sometimes involve taking risks.

5. ACKNOWLEDGEMENTS

32. We would like to thank the following people for their contributions and support:
   • Peter Cartwright - Cabinet Member for Finance and Resources
   • Gill Hibberd – Strategic Director for Resources & Business Transformation
   • Trevor Boyd – Interim Strategic Director for Adults & Family Wellbeing
   • Richard Ambrose – Service Director for Finance and Commercial Services
   • Nick Cave – Service Director for Service Transformation
   • Phil Dart – Service Director, Localities & Safer Communities
   • Anne Davies – Service Director for Legal and Democratic Services
   • John Lamb – Service Director, Place Services
   • Mark Caprio – Business Regulation & Compliance Officer (Quality Assurance)
   • Nichola Stretton – Finance Business Partner (Corporate)
### 6. APPENDICES

Appendix A – Business Case ‘checklist’
Appendix B – Review scope

#### Appendix A – Business Case ‘checklist’

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<td>The following business case areas should be considered when assessing the development of any trading activity by BCC:</td>
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<td>- Has market analysis established opportunity for profit and/or service improvement?</td>
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<tr>
<td>- Is it clear what the authority wishes to achieve from trading and why?</td>
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<tr>
<td>- Is the authority clear on which products it wishes to trade or develop to trade?</td>
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<tr>
<td>- Is trading the right model for the objective of the authority? Is charging more suitable?</td>
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<tr>
<td>- Does the authority have the relevant legal powers?</td>
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<tr>
<td>- Will there be any negative impact on local SMEs through BCC trading activity?</td>
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<tr>
<td>- How will Council trading be perceived externally and how will concerns be addressed?</td>
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<tr>
<td>- Does the authority have the required skills to maximise trading opportunities?</td>
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<tr>
<td>- Are risk assessments robust, in particular financial, legal, market and reputational risks?</td>
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<tr>
<td>- What will be the start-up costs for the trading activity? When will this be recovered?</td>
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<tr>
<td>- How will the trading activity be branded? Will the Council ‘brand’ be promoted or hidden?</td>
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<tr>
<td>- How will democratic accountability be achieved? What will be the reporting mechanisms?</td>
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</tbody>
</table>
## Appendix B – Review scope

### Trading Opportunities – Scope of Task & Finish Group

<table>
<thead>
<tr>
<th>Purpose of the review</th>
<th>The purpose of the review will be to look at current and planned trading activity at Buckinghamshire County Council, to examine trading activity at, or involving, other local authorities, and to identify potential areas for development of trading activity at the Council and any risks to consider. The review could discuss opportunities unique to Buckinghamshire, new and emerging markets, and gather best practice from elsewhere in the UK. This could include looking at opportunities for developing shared trading arrangements and utilising the new legislative freedoms for trading (the Localism Act 2011).</th>
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<tbody>
<tr>
<td>Review membership</td>
<td>David Shakespeare (Chairman), Margaret Aston, Mary Baldwin, Frank Downes, Chester Jones, Richard Scott.</td>
</tr>
<tr>
<td>Background</td>
<td>Generating additional income is one of the choices available to councils and other public sector partners when seeking to make ends meet in times of reduced finances. Local authorities can generate income through two methods – charging and trading. Despite the fact that charging and trading are often mentioned in the same breath, there are key legal distinctions between these practices. Within England, the essential difference between charging and trading is that charging for discretionary services is limited to cost recovery whereas trading (through a company) allows the making of a surplus (profit). Trading is far more entrepreneurial in nature and must be undertaken through the establishment of a trading company. A number of Councils have established trading companies to deliver and earn surplus from a range of services. Under the Localism Act (passed in December 2011), powers to trade on a commercial basis remain broadly the same as under the 2003 Local Government Act. However, the stipulation that trading and charging must promote well-being is no longer required by the Localism Act and the general power of competence. Ministers seem to hope that this new freedom will embolden local authorities to develop trading opportunities.</td>
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<tr>
<td>Key questions for the review to ask:</td>
<td>• What is the legal framework within which the County Council can trade? • What are current BCC trading activities? • How are trading opportunities for the Council being identified and progressed? • Does the Council have a trading policy? • Does the Council have a trading champion or lead officer? • What examples of local authority trading activity can BCC learn from? • What are the opportunities for the authority to increase its trading activity to take advantage of new and emerging markets, for example Clinical Commissioning Groups? • What scope is there to develop joint trading companies with partners, including other local authorities, community groups, and/or private companies? • Are there sufficient/trading commercial skills within BCC to deliver required changes in working culture? How can skill gaps be identified and addressed? • What are the risks involved in trading, for example impacts on financial risks, access and equality, legal implications, not being core business, business continuity, and partner-working with Districts and other public sector providers? • How does BCC bench-mark its current trading activity with other local authorities and the private sector?</td>
</tr>
</tbody>
</table>
| **Methodology** | • Oral evidence provided by BCC officers and Members  
• Oral and/or written evidence provided by witnesses from other local authorities providing and developing traded services  
• Desktop research  

The review can refer to:  
• Income Generation Strategy (April 2011)  
• Medium Term Financial Plan  
• Value for Money (VfM) Strategy  
• A practical guide to income generation (CIPFA)  
• Wider industry guidance and policy proposals towards income generation |
| **Resources** | Officer time, resources to meet with external professional advice and relevant organisations and resources to organise site visits if required. |
| **Involvement & communication** | The review could be communicated through the usual channels (press) and online (website and social media). In addition to involvement of local authorities with traded services, the review could also engage with relevant industry/commercial experts. |
| **Evidence to be provided by:** | • Cabinet Member for Finance and Resources (depending on potential areas of trading, other Cabinet members and lead officers could be involved)  
• Head of Finance and Commercial Services  
• County Council Trading Standards representative  
• Head of Service Transformation  
• Projects and Commercial Manager  
• Head of Legal (for legal advice on developing trading options)  
• Officers from local authorities providing traded services  
• External expertise from finance/management/legal consultants, etc |
| **Out of scope** | The review will focus on traded services. Other forms of income generation, for example debt/VAT recovery, tax levies, and disposal of assets would be out of scope. The issue of charging may be in scope in relation to those services that are traded by the council, but not in terms of general policy issues around in-house services. |
| **Anticipated outcomes** | Evidence based recommendations to Cabinet on how to indentify, develop and manage Council traded services opportunities in Buckinghamshire. |
| **Outline timetable** | • Initial planning – Early March 2012  
• Evidence gathering – March/April 2012  
• Wash-up sessions and report writing – April/May 2012  
• Report to Overview and Scrutiny Commissioning Committee – June 2012  
• Report to Cabinet – July 2012 |