

CORPORATE RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

Date of Meeting	Thursday 20 th April 2023
Report Subject	Delivering public services in the 21 st century, an overview
Cabinet Member	Cabinet Member for Finance, Inclusion, Resilient Communities including Social Value and Procurement
Report Author	Corporate Manager for Capital Programme and Assets
Type of Report	Operational

EXECUTIVE SUMMARY

At its meeting held in July 2022, the Councils' Corporate Resources Overview and Scrutiny Committee (CROSC) requested a future agenda item to explore the financial benefits of outsourcing and shared services.

Outsourcing and shared services are just two models of alternative delivery of services, there are many more. To provide a holistic overview this report provides a summary of a wider selection of alternative delivery models.

The report also highlights the need to consider broader core principles, and surrounding legislative requirements, when reviewing any service with consideration for a potential change in delivery model.

RECOMMENDATIONS

1	Corporate Resources Overview and Scrutiny Committee (CROSC) notes the different models that can be used as alternatives to deliver services.
2	CROSC recognise the wider factors, such as legislative parameters and core principles, which need to be observed when considering the delivery of services through alternative delivery models.
3	CROSC is assured that the Council considers all appropriate alternative delivery models, and the benefits and limitations of these, as part of a broader options appraisal when reviewing services.

REPORT DETAILS

1.00	EXPLAINING ALTERNATIVE DELIVERY MODELS, INCLUDING OUTSOURCING AND SHARED SERVICES
1.01	<p>Alternative Delivery Models</p> <p>Outsourcing and shared services are two ways in which the Council can deliver services through alternative models of delivery. However, there are many more.</p> <p>To provide a more comprehensive overview of the range of alternative delivery models available, some of the key models have been listed below with a short explanatory paragraph.</p>
1.02	<p><u>Collaboration</u></p> <p>Collaboration refers to the informal collaboration of two or more partners but could also include the sharing of service delivery and/or more specific forms such as consortia.</p> <p>This model allows for the sharing of expertise and can create efficiencies and/or increase capacity.</p>
1.03	<p><u>Community Asset Transfer (CAT)</u></p> <p>This is where a local authority asset transfers to a community or other social benefit organisation for continued local community use/benefit. This can include the transfer of services but doesn't have to.</p> <p>This model allows the asset to be of use, transferring the responsibility of some elements of the building's maintenance and operation to one or more other organisations.</p>
1.04	<p><u>Co-operative</u></p> <p>An entity that is jointly owned by interested parties (also referred to as members). Members could be employees, third sector organisations or even service users. A co-operative fulfils the interests of all its members.</p> <p>This model can result in increased productivity and shares responsibilities across a potentially broad spectrum of partners.</p>
1.05	<p><u>Independent Trading Company</u></p> <p>A company wholly or partly owned by a local authority, which delivers service(s).</p> <p>An independent trading company would be outside of local authority regulation enabling it to trade externally and benefit from other freedoms. However, to deliver services on behalf of the/a local authority, the local authority would need to conduct a procurement exercise and the company would need to tender in that competitive process.</p>

1.06	<p><u>Joint Venture</u> A joint venture is where two or more partner organisations deliver a service. In this model each partner retains their identity but there is some form of legal agreement or other mechanism that clearly identifies roles and responsibilities and how benefits will be realised and shared.</p> <p>This model enables partner organisations to pool knowledge and expertise when delivering or developing services.</p>
1.07	<p><u>Local Authority Trading Company (TECKAL)</u> This is a company wholly owned by a local authority and which predominantly delivers services on behalf of/to that authority. However, there is some scope for the company to also trade externally.</p> <p>This model allows for council services to be transferred to the company without the need for a competitive tendering process and offers some ability for commercial growth, within certain parameters.</p>
1.08	<p><u>Mutual</u> A mutual is an entity that is owned by and/or has a high level of employee control and delivers public services.</p> <p>This model generally increases employee responsibility and ownership and can increase productivity.</p>
1.09	<p><u>Outsourcing/Procurement</u> In the context of this report, outsourcing/procurement refers to where a local authority procures an external organisation to deliver services on its behalf.</p> <p>Outsourcing/procurement allows a local authority to go out to market, which may offer benefits. For example, access to specialist expertise, skills or knowledge or access to established and/or bespoke supply chains, etc.</p> <p>A local authority can also procure goods and works from external suppliers.</p>
1.10	<p><u>Shared Service</u> A shared service is where two or more local authorities (or in some cases other public sector organisations) look to provide a service jointly. There is often a host organisation.</p> <p>Shared services can create efficiencies and/or enhance capacity and service resilience.</p>
1.11	<p><u>Social Enterprise</u> A social enterprise is an entity where profits generated are reinvested back into the organisations social purpose.</p> <p>Social enterprises are a model that help ensure maximum social and/or community benefit.</p>

1.12	As the above explanations allude, each alternative delivery model will be able to meet different needs and fulfil different purposes. There will also be varying impact in terms of employees, level of control retained by the Council, as well as on potential benefits, limitations and challenges.
1.13	<p>The Council's Approach</p> <p>The Council has a track record of seeking out opportunities for redesigning services and utilising alternative delivery models to sustain service provision.</p> <p>This has included some significant and innovative changes, such as the creation of a Local Authority Trading Company (LATC) – NEWydd Catering & Cleaning Limited; assisting with the 'spin out' of some services, into new delivery models, such as Aura Leisure and Libraries Limited; the implementation of Community Asset Transfers (CATs), such as the swimming pools in Holywell and Connah's Quay, and the creation of shared services, such as the Regional Minerals and Waste Service.</p>
1.14	Rather than looking at specific alternative delivery models, when reviewing a service with a potential for a change in how it is delivered, the Council considers all potential, appropriate models, with a full appraisal undertaken which includes financial and non-financial benefits and limitations, as well as other key criteria, of each model.
1.15	<p>The other key criteria the Council needs to consider, as a public sector organisation, are linked to broader core principles such as value for money; quality; effect on stakeholders, including service users, residents and employees; and broader impacts such as those related to equality and accessibility through to environmental impact.</p> <p>The Council has a system in place whereby an integrated impact assessment, which ensures some of the above core principles are considered in detail, is required for any change in service.</p>
1.16	<p>Welsh Government Guidance</p> <p>The Council also needs to consider appropriate government guidance.</p> <p>In December 2022, Welsh Government launched its guidance "A toolkit for insourcing in Wales" which had been produced by The Centre for Local Economic Strategies (CLES) with help from the Association of Public Services Excellence (APSE).</p> <p>This toolkit provides advice and guidance and clearly outlines that insourcing should be a model considered in any review and/or appraisal of options for service delivery. This appears to be on the basis that as an approach insourcing could support a number of wider benefits, including the application of the Well-being of Future Generations (Wales) Act 2015.</p>

2.00	RESOURCE IMPLICATIONS
2.01	<p>The financial benefits and limitations of any alternative delivery model are likely to vary depending on the specific model, activity or collaborative venture undertaken, the desired outcomes at the time of action and a host of other factors that will have shaped decision making and which may be unique to the specific situation.</p> <p>There will also be a range of other potential benefits, and limitations and challenges, which go beyond those purely related to finances.</p>
2.02	<p>The implementation of alternative delivery models in most cases will have solely a revenue budget impact related to ongoing operational delivery costs, which may include human resource costs.</p>
2.03	<p>To successfully move to any alternative delivery model requires significant time and staff resource to prepare and implement. The preparation time is likely to vary depending on the model and scope but 12 to 18 months preliminary work would not be unreasonable as a guide.</p>
2.04	<p>In most cases use of an alternative delivery model will require some form of contractual arrangement between the Council and the provider. In this respect there will be an ongoing resource requirement from the Council in terms of ensuring those contractual arrangements are compliant with legislation and regulations. For example, a dedicated contract manager may be needed to provide ongoing contract monitoring and management, including checking performance is within contractual requirements.</p>

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	<p>An integrated impact assessment has not been completed as the purpose of this report is to provide an exploratory overview of alternative delivery models.</p>
3.02	<p>When outsourcing services, the Council needs to ensure it is compliant with certain regulations and legislation, including The Public Contracts Regulations 2015.</p>
3.03	<p>Before making any change in how services are delivered, the Council will need to check it has the appropriate power(s) for the change. For example, the power to outsource services and provide services through a shared service delivery model is provided under the Local Government Act 1972 (and as subsequently modified).</p>
3.04	<p>Alternative delivery models have varying impact on employees. When a decision is made to move to an alternative delivery model the impact on any existing employees needs to be considered.</p> <p>If any employees are to be transferred as a result, they must be covered by the Transfer of Undertakings (Protection of Employment) Regulations as amended. These Regulations look to protect the rights of employees.</p>

	Although, in some cases secondment of staff may be possible.
3.05	<p>Workforce (two-tier) code of practice: standards for the public sector</p> <p>The Circular: Code of Practice on Workforce Matters 2014 is directed at public sector bodies in Wales, including County Councils. It relates to how workforce matters should be approached when proposing to enter into, or extend, contracts for the provision of services. The guidance aims to improve the social and economic well-being of Wales by ensuring better protection of employee terms and conditions for transferred staff and fairness for new joiners working alongside transferred employees.</p> <p>Contracting exercises, which includes the retendering of contracts, should be conducted on the basis that TUPE Regulations should apply, unless there are exceptional reasons not to. Even where TUPE may not apply in legal terms it is the expectation of UK Government that the principles should apply and employees "...should be treated no less favourably than they would have been had the regulations applied."</p> <p>Employees of a County Council who transfer to a new employer should still have access to the Local Government Pension Scheme (LGPS) or, offered an alternative that is certified as broadly comparable.</p> <p>Any new joiners who work alongside transferred employees are to be offered terms and conditions which are no less favourable overall to those of the transferred employees. Whilst this does not apply to pensions, new joiners should be offered a reasonable provision. This is to prevent a two-tier system – employees working together with some having less favourable terms and conditions than others.</p> <p>The impact of the Code is that whilst it offers protection for employees it may make outsourced contracts/services less desirable to potential suppliers/providers as it limits their options for making economic efficiencies through changes to employee terms and conditions. As such these contracts may be less commercially desirable, particularly if tenders are evaluated/weighted on price.</p>
3.06	The Council is required to confirm on an annual basis, that it ensures, through monitoring arrangements, that the organisations it transferred staff to under any form of outsourcing contract are complying with the terms of the code.
3.07	<p>The Code of Practice: ethical employment in supply chains introduced in 2017 reinforces the obligations of the Workforce code, requiring the Council to:</p> <p>Ensure all those undertaking work on an outsourced contract are treated fairly and equally, and</p> <p>Ensure that public sector staff who are transferred as part of a public service which is outsourced to a third party retain their terms and conditions of employment, and</p> <p>Ensure that other staff working on an outsourced public service are employed on terms and conditions that are comparable to the transferred public sector staff</p>

3.08	Even when the Council has an alternative delivery model in place for the provision of services, the Council in most cases will ultimately remain responsible for those services. If the service does not deliver as anticipated or desired, and/or it fails to deliver for customers, then the Council is likely to be held responsible for this but may have less control to be able to resolve those issues.
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4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	Not applicable

5.00	APPENDICES
5.01	Not applicable

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>The Welsh Government sourced documents used to inform this report were available under the terms of the Open Government Licence on the National Archive.</p> <p>Under the terms of this licence, sources have been listed below and where an attribution statement is not made it is noted that document(s) contains public sector information licensed under the Open Government Licence v3.0.</p> <p>Further information on the terms of the Open Government Licence for Public Sector Information can be found online: https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/</p>
6.02	Welsh Government (2014) <i>Circular: code of practice on workforce matter 2014</i> , available online: https://gov.wales/workforce-two-tier-code-practice-standards-public-sector
6.03	Welsh Government (2014) <i>Workforce (two-tier) code of practice: guidance for the public sector</i> , available online: https://gov.wales/workforce-two-tier-code-practice-guidance-public-sector
6.04	Welsh Government (2017) <i>Ethical employment in supply chains: code of practice</i> , available online: https://www.gov.wales/ethical-employment-supply-chains-code-practice
6.05	Welsh Government/The Centre for Local Economic Strategies (CLES) (2022) <i>A toolkit for insourcing in Wales</i> , available online: https://www.gov.wales/a-toolkit-for-insourcing-in-wales-html

7.00	CONTACT OFFICER DETAILS
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8.00	GLOSSARY OF TERMS
8.01	<p>Alternative Delivery Model (ADM): Services that are not delivered in-house by councils normally require some form of alternative delivery model to provide them, i.e. outsourcing via a contract with another provider for them to provide services on the council's behalf.</p> <p>Workforce two-tier code of practice: A code directed at public sector bodies which states how workforce matters should be approached when contracting for the provision of services.</p>