

# Shared services and collaborative working in a Welsh context:

**context:** Applying theory to practice





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Applying theory to practice



**The Association for Public Service Excellence (APSE)** is a not-for-profit organisation representing some 250 councils providing front-line services across the UK. As the leading specialist in front-line local government services, APSE hosts performance networks, the UK's largest voluntary benchmarking service, and offers training and tailored consultancy support.



**The Local Government Research Unit (LGRU)**, based at Leicester Business School (De Montfort University), is an internationally recognised centre of excellence for theoretically informed, robust and rigorous policy relevant research into British and comparative local governance. Its recent work focuses on community cohesion and local citizenship, neighbourhood governance, local democracy and local politics. The Unit is committed to providing a strong and vibrant link between academic research and the needs of the research user. It undertakes research for a wide variety of bodies.

The Unit has strong research links with other leading universities in the UK and across Europe and the USA.

The research was undertaken as part of the Knowledge Transfer Partnership (KTP) between APSE and De Montfort University.

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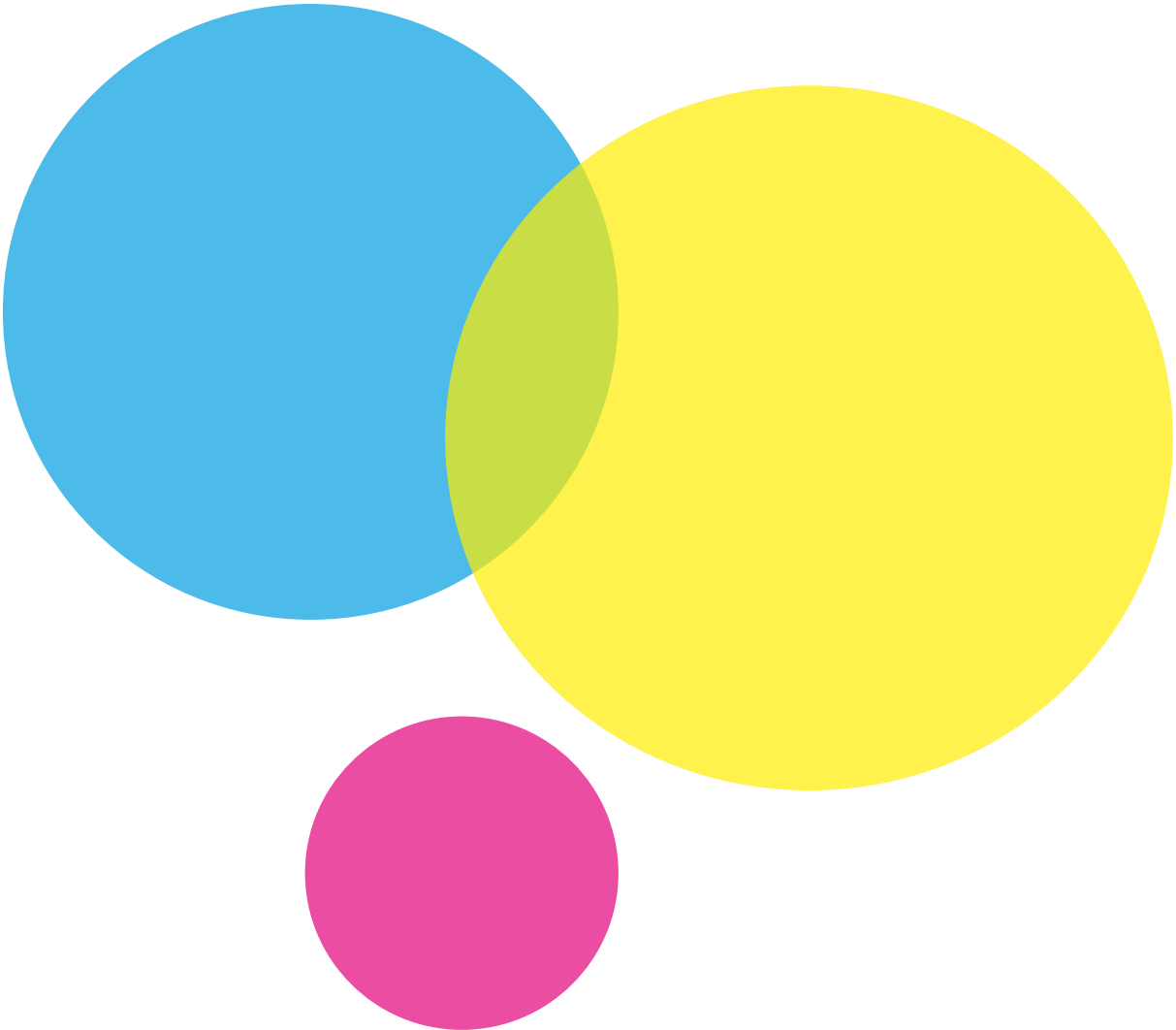
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# 1. Executive summary

## Introduction

When he launched the report of the Simpson review of local government service delivery in Wales in March 2011, the Minister for Local Government and Communities, Carl Sargeant said<sup>1</sup> it *“is not about reorganising local government or amalgamating local authorities. It is about better patterns of service delivery that will allow us to target the delivery of services towards citizens and to do this at the most appropriate level - whether that is at local, regional or national level.”*

The Simpson review has outlined how greater collaboration could enhance local democracy, deliver better value for money and deliver an improvement in services. More recently, the Welsh Government have set out their vision that services should be standardised based on a common set of geographical boundaries, converging around six regions.

APSE Wales therefore commissioned a research report through APSE's Knowledge Transfer Partnership with De Montfort University, to consider some of the practical issues involved in sharing services across local authority boundaries in order to deliver efficiency savings and join up local public services. Local authorities face the challenge of delivering services under tight financial constraints at a time when changing demographics across Wales mean that demand for services such as adult social care will continue to increase.

The report falls into broadly seven sections:

- Policy context in Wales, driving collaboration;
- An outline of the Simpson reform agenda and the Welsh Government's approach to collaboration on a regional basis;
- The advantages and disadvantages of the different types of shared services;
- What case study evidence from APSE member authorities tells us about successful approaches to sharing services;
- The advantages and disadvantages of in house services and alternative models of service delivery;
- Key issues for local authorities to consider when embarking upon shared services;
- The legal framework within which a local authority can share services with or provide services to another local authority, organisation or person.

## What the evidence tells us

What emerges very strongly from our research is that there is no 'one size fits all' approach to shared services that will work across public sector boundaries in Wales. For shared services to work successfully it is critical (as set out in the Simpson review) that collaboration reflects local circumstances and local priorities. There are numerous approaches to shared services across local government, but in many cases there are relatively straightforward informal and administrative arrangements building on well defined legal powers and strong relationships, which can avoid complex corporate and contractual models with all of the consequent costs and risks.

## The case study evidence

As part of the research we looked at a number of case study examples of shared services which broadly fall within the following categories:

- informal;
- administrative;
- contractual;
- corporate.

The case studies were drawn from across Wales and where appropriate other parts of the United Kingdom that illustrate different approaches to developing and delivering shared services.

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<sup>1</sup> <http://wales.gov.uk/newsroom/localgovernment/2011/110329delivery/?lang=en>

## Informal

- In South West Wales the Regional Learning Partnership (RLP) is transforming the way education and regeneration partners work collaboratively across boundaries and sectors;
- In North Wales, local authorities are coming together to share information and work collaboratively as part of a regional highways partnership;
- In North Wales, local authorities in Denbighshire and Conwy have appointed a joint Head of Service for Highways and Infrastructure, which has acted as a catalyst for a wider programme of collaborative working in the area of highway lighting;
- In North Wales, local authorities in Flintshire and Denbighshire have recently appointed a shared maintenance manager to manage the progress of the change programme across both of their housing departments;
- In South West Wales, Carmarthenshire County Council and Dyfed Powys Police are working in close collaboration on the joint delivery of their Information and Communications Technology (ICT) service;
- In Blaenau Gwent, the local authority is sharing assets with other public bodies and the third sector, taking forward a 'one public estate' model;
- In Dumfries and Galloway, the local authority has been working collaboratively with the NHS employing a joint fleet manager under a service level agreement including the co-location of fleet;
- In Central Wales, Powys and Ceredigion County Councils are collaborating and sharing services in a range of areas including; property, engineering, waste and transport.

## Administrative

- In the Tayside area of Scotland, Tayside Contracts brings together Angus Council, Dundee City Council and Perth and Kinross Council to share frontline services across local authority boundaries;
- Prosiect Gwyrdd is a five authority joint waste procurement arrangement committed to finding the best environmental, cost effective and practical solution for waste after recycling and composting has been completed in each area;
- In South West Wales, local authorities are working collaboratively through the integrated transport consortia to develop service level agreements, facilitating the delivery of Pass Plus Cymru training;
- The Welsh Purchasing Consortium (WPC) brings together the sixteen unitary authorities in South, Mid and West Wales to maximise efficiency savings and ensure a consistent and co-ordinated approach to procurement;
- Yorkshire Purchasing Organisation (YPO) is the UK's largest formally constituted local authority purchasing consortium in the UK combining the bulk buying power of their customers to provide a one stop shop for the public sector;
- The Welsh Fire and Rescue Service have worked collaboratively across Wales to identify a cost effective solution to procuring more than 7,500 new uniforms;
- In Nottinghamshire, a number of councils have worked collaboratively to devise a major tender process generating major savings in the procurement of new vehicles and training.

## Corporate

- In North West Wales, Gwynedd Council and Isle of Anglesey County Council are delivering school improvement and support services through 'Cynnal', which is a jointly owned local authority wholly owned company limited by guarantee.



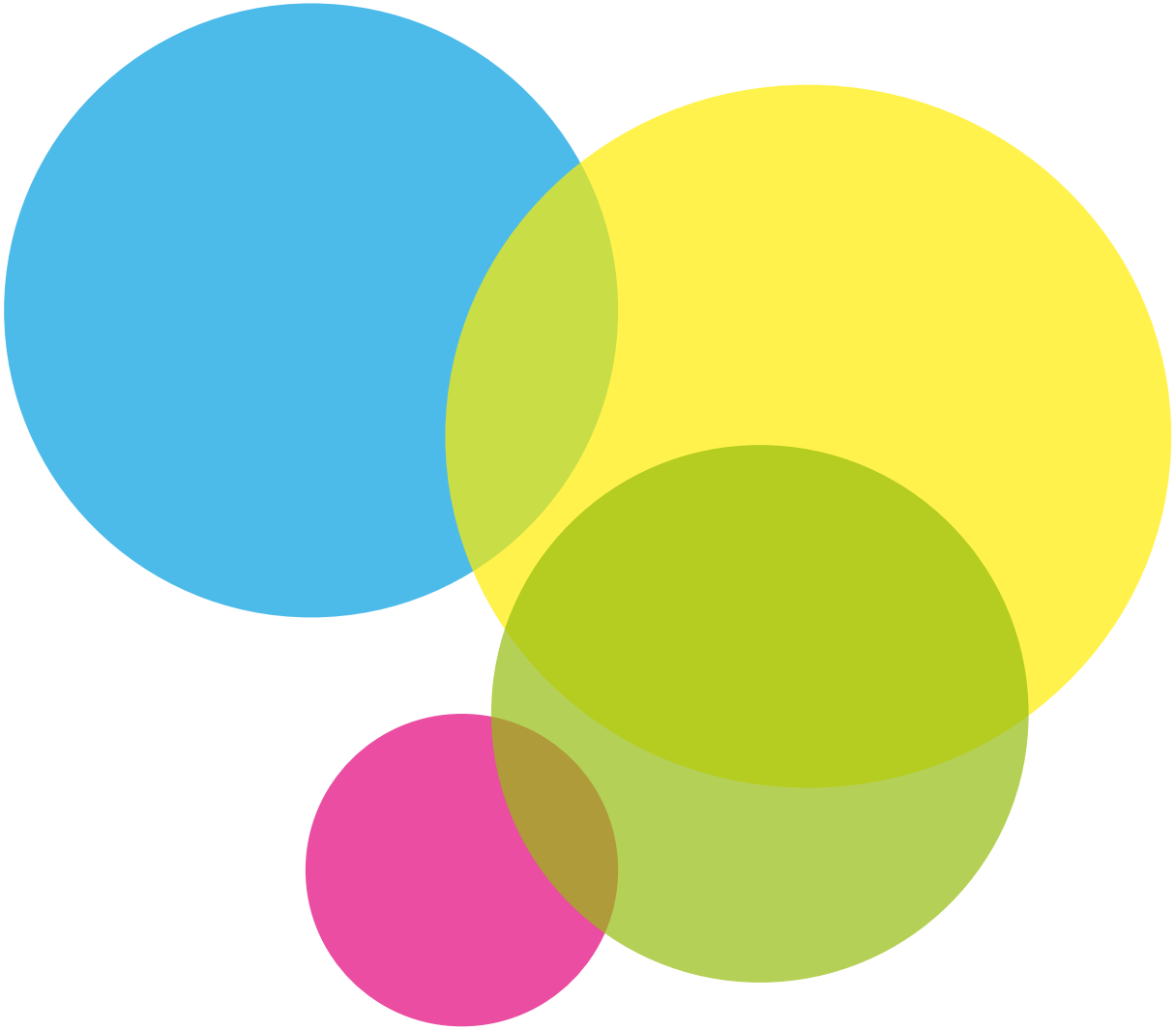
## Recommendations for local authorities

The main recommendations for local authorities emerging from the case study evidence and the research can be summarised as:

- Ensure that there is a **robust business and financial case** for the shared services approach that appraises the options, understands the risks, is clear about expected outcomes and any efficiencies that can be achieved and engages fully with all of the main stakeholders (i.e. service users, local authorities, elected members, staff and trade unions);
- Set out clearly the **governance** issues and arrangements for the preferred shared services model. Remember that for simple administrative models of shared services issues of governance and accountability are easier to resolve than for more complex approaches to shared services;
- It is not just about economies of scale. Whilst some approaches can deliver greater efficiencies through for instance sharing of overheads and costs and reducing duplication of resources and facilities, there are other factors to consider. Local authorities need to think about functions and services in terms of a 'system' that links defined outcomes and outputs to the inputs necessary to achieve them. Avoiding 'failure demand' and focussing on **economy of flow** is crucial to driving out inefficiencies and meeting expectations and need;
- Ensure that **risks** are fully appreciated, managed and minimised within the shared services approach. Again the more complex and ambitious the model, the greater the risks and the potential for failure;
- Consider the impact of your approach to shared services on the **workforce** and on the **local economy**. What may appear attractive in terms of the potential to deliver savings or achieve greater efficiencies may have unintended costs and consequences which will have an impact on the local authority;
- Where the shared services option involves a contractual relationship or an alternative service delivery model, think very carefully about **competition, procurement and state aid issues**. Procurement may seem superficially attractive, but there are resource, timing and cost issues that need to be very carefully balanced in any risk analysis and options appraisal;
- Build on 'tried and tested' means and methods of service delivery. Consider how **in-house services** can be configured to meet the requirements of a shared services approach and redesign services around citizens and service users.

## Further information and support

APSE can provide further information and support on shared services and alternative service delivery models through APSE solutions offering a range of expertise and experience covering all aspects of service delivery. See here for more information <http://www.apse.org.uk/consultancy>



## 2. Welsh policy context: what is driving collaboration in Wales?

Whilst the Welsh Government have recently stepped up their calls for greater collaboration between local authorities, this agenda has been at the heart of public service reform in Wales since the formation of the Welsh Assembly Government.

The **'Making the Connections'** programme for public service reform was established during 2004 and had at its core more co-ordination between public service providers to deliver sustainable, quality and responsive services. In June 2005, a five year action plan for improving public services in Wales, 'Delivering the Connections: From Vision to Action' was published<sup>2</sup>. This plan called for a major review of local service delivery in Wales to identify where improvements could be made.

In 2006, the **Beecham review** team presented their report, 'Beyond Boundaries: Citizen Centred Local Services for Wales'<sup>3</sup> to the Assembly Government. This review distinguished the approach in Wales (citizen model) from that of England (consumer model). The review argued that local authorities should work collaboratively to share services in order to tackle capacity constraints and share expertise across both geographical areas and sectors. APSE has previously published a briefing<sup>4</sup> on the main findings of the Beecham review.

In November 2006, the Welsh Assembly Government responded to the Beecham Review, setting out a five year plan with a key area for action being greater collaboration to deliver more effective services, 'Making the Connections – Delivering Beyond Boundaries: Transforming Public Services in Wales'<sup>5</sup>. APSE has also previously published a briefing<sup>6</sup> on the Welsh Government's response to the Beecham review. Following on from the Beecham Review in 2007, the Welsh Assembly Government made a policy statement setting out their expectations of and support for local authorities in encouraging cross-boundary and cross-sector collaboration.

The terms of the **local government funding settlement for Wales (November 2010)** mean that in the first year councils have experienced a 1.4% decrease in cash funding. However, over the next two years funding will rise by 0.2% and 1.3% respectively. Whilst Welsh local authorities are clearly under pressure, they face very different challenges to local authorities in England. This is outlined further in a briefing<sup>7</sup> produced by APSE on the devolved funding settlements.

The Simpson Report (paragraph 1.4) suggests that if there is a link between levels of investment and the quality of service provided then this more managed commitment to transforming public services from the Welsh Government should lead to recognisable differences in the quality of local government services provided in Wales when compared to England at the end of this public expenditure round.

The implications of the collaboration agenda for member authorities in Wales as set out by the Simpson review are detailed in section 3 of this report.

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2 <http://wales.gov.uk/dpsp/publications/policies/actionplan/actionplane.pdf;jsessionid=J0XyTcsQ6prg2tZvdYJfJy8T41XmQy2LG71IQgl3YZH1LJyww46l-1655144775?lang=en&ts=1>

3 <http://wales.gov.uk/dpsp/publications/policies/boundaries/beyondboundaries.pdf;jsessionid=7vgwTcsTLnzwDgJ02V58TY4Bbd1nCsZhjdnGIQWYf5X6y1ysL28Y!-1655144775?lang=en>

4 <http://www.apse.org.uk/briefings/06/06-40.pdf>

5 <http://www.welshconfed.org/companyData/1898/resources/BeechamResponseEnglish.pdf>

6 <http://www.apse.org.uk/briefings/07/07-11%20Delivering%20Beyond%20Boundaries.pdf>

7 <http://www.apse.org.uk/briefings/11/11-06%20Devolved%20settlements.doc.pdf>

### 3. The Simpson reform agenda and beyond

The Simpson Review<sup>8</sup> was established by Carl Sargeant, the Welsh Local Government Minister and was undertaken by Joe Simpson from the Local Government Leadership Centre. It aimed to drive forward the agenda in Wales on collaboration and joint working. The review outlines how greater collaboration could enhance local democracy and deliver, as a minimum, better value for money and/or an improvement in services. APSE has previously issued a briefing<sup>9</sup> to member authorities on the main findings of the Simpson Review.

The review outlines **ten key principles** that should underpin and inform the work of local authorities in Wales as they seek to pursue greater collaboration:

- The outcome must be better for the citizen and user;
- Focus on functions not whole services;
- It is about better collaboration not just hard geography;
- Collaboration can take many forms;
- Local accountability and freedoms must be enhanced and not diminished through the process;
- We have to ask the right questions;
- Leadership to deliver the change;
- Engaging staff is critical;
- A compact with consequences;
- Supporting the change to deliver the change.

Based on these ten principles, the review sets out a series of recommendations of where greater collaboration could be achieved, broken down by the relevant service area. Outlined below are some of the recommendations from the service areas most relevant to APSE member authorities.

Service Area	Opportunity for collaboration
Catering and cleaning	The procurement of service contracts such as catering and cleaning in education has been marked out as one area that could benefit from greater collaboration. It is recommended that existing preparations for enhanced collaboration are completed over the next year and implemented during 2012-13.
Efficiencies, procurement and service transformation	Local authorities should collaborate in the provision of a range of corporate services including payroll, pensions, legal services and HR. Over time and in some instances this collaboration should progress to a national level.
	Local Authorities should consolidate and build upon existing arrangements for collaborative procurement based on shared approaches to contract documentation, standards and financial limits.
Roads, highways and street lighting	The planning and management of strategic highways should be organised collaboratively at a regional level.
Social Care	Support services for social care should be provided collaboratively.
	Collaborative procurement arrangements in social services should be put in place across Wales for the procurement of high cost care packages for looked after children, mental health and learning disability, domiciliary care, tele-care, emergency duty teams and respite care.
Waste management, refuse collection and street cleansing	Procurement of facilities for the management and reuse of waste should be organised collaboratively by local authorities.

<sup>8</sup> <http://wales.gov.uk/docs/dsjlg/publications/localgov/110325Inrservicesv2en.pdf>

<sup>9</sup> <http://www.apse.org.uk/briefings/11/11-38%20Simpson%20review.pdf>

The Simpson review also emphasises the importance of robust **governance arrangements**. In any given scenario, due consideration needs to be given to the following governance points:

- Definition of purpose;
- Governing body;
- Performance specification and monitoring;
- Funding mechanisms;
- Political scrutiny arrangements;
- Citizen redress.

Collaboration, as set out within the Simpson Review is clearly a pressing agenda for local authorities in Wales. Indeed, ministers within the Welsh Government are now actively moving to implement the findings contained within the Simpson review as soon as possible. Addressing the Welsh Local Government Association (WLGA) Conference in June 2011, Local Government Minister, Carl Sargeant indicated that he sees *'the sort of collaboration that Simpson envisages as a better alternative to reorganisation'*.

### **Beyond Simpson - collaboration on a regional basis?**

Since the Simpson reform agenda was originally set out, the Welsh Government have released a report entitled, '**Approach to regional collaboration: promoting coherence**'<sup>10</sup>. This sets out their concerns that unless a longer term more holistic view is taken, service delivery will continue to become increasingly complex and fragmented. The report goes on to set out their vision that services should be standardised based on a common set of geographical boundaries, converging around six regions, which are as follows:

- North Wales;
- Mid and West Wales;
- Swansea Bay;
- Cwm Taf;
- Cardiff;
- Vale and Gwent.

The Welsh Local Government Association (WLGA) has expressed concerns about moving towards these regional arrangements. The current approach to collaboration in Wales has produced a range of different arrangements with different boundaries in order to support effective service delivery. If the focus is to be on improving outcomes, then forcing services into fixed geographical boundaries is not necessarily the best way forward. Furthermore, this emphasis on a regional approach to collaboration seems to actually run contrary to the majority of recommendations contained within Simpson, which specifically states that how collaboration is achieved should reflect local circumstances and priorities. It emphasises that there is no 'right size' for the delivery of local authority services and not all collaborations need to be based on geographic proximity.

The Welsh Government have responded to these concerns by emphasising that existing collaborative work should not be disturbed; particularly where it is contributing to effective service delivery. However, where possible, future collaborations should be based on the regional boundaries set out above.

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<sup>10</sup> <http://wales.gov.uk/topics/localgovernment/partnership/council/agendas/37thmeeting/?lang=en>



## 4. Types of shared services: advantages and disadvantages

Local authorities have wide ranging powers to share services. The models used can vary greatly; but tend to be informal, administrative, corporate or contractual. Support on options appraisal and specialist advice is available through APSE<sup>11</sup>. The information below sets out an overview of some of the main advantages and disadvantages of the different models of shared services.

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### 4.1: Informal

#### Sharing information between local authorities

*Sharing information between local authorities is a simple form of collaborative working. It involves promoting more effective public services through sharing data across boundaries, sharing good practice in relation to service delivery and strengthening relationships with other local authorities/public bodies.*

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##### Advantages

- Sharing data between local authorities helps to ensure that services are joined up and meet the needs of citizens;
- Benchmarking through systems such as APSE's Performance Networks<sup>12</sup> helps local authorities to demonstrate their competitiveness, efficiency and cost effectiveness;
- Sharing of best practice promotes high quality public services through ensuring that innovative ways of responding to budgetary pressures spread widely throughout the sector as a whole;
- Sharing of information between both local authorities and other public bodies promotes the efficiency and effectiveness of public services by ensuring that where possible resources are not duplicated.

##### Disadvantages

- Often people are unsure about what information they can and cannot share;
- Organisational culture can prove a barrier to the effective sharing of information.

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#### Shared management teams/posts

*Sharing management teams/posts is usually driven by the need to reduce costs and improve the effectiveness of service. The types of posts that are shared often include: Chief Executives, Directors and other strategic posts, other management posts such as Heads of Service and front-line posts i.e. joining up of teams across different local authorities who deliver similar functions.*

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##### Advantages

- Efficiency - sharing posts across local authorities, particularly within two tier areas will help councils to save money;
- Effectiveness – can help to promote more effective, joined up public services;
- Performance - can help to tackle poor performance by providing support to a failing authority;
- Catalyst - sharing posts often acts as a catalyst for a programme of work where teams who are delivering similar functions develop further models of collaborative working.

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<sup>11</sup> <http://www.apse.org.uk/consultancy/index.html>

<sup>12</sup> <http://www.apse.org.uk/performance-network.html>

## Disadvantages

- There are often unrealistic expectations about what shared posts will deliver, so managing expectations is critical. For example, if a Chief Executive is working across two authorities, there needs to be clarity at the outset as to how much time they will be spending at each;
- Cultural/political differences between management teams and elected members across different local authorities can be a barrier to effective joint working;
- There is often a lack of hard data demonstrating the costs and benefits of the arrangements.

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## Co-location of assets/sharing assets between local authorities

*Sharing assets between local authorities and/or co-locating them is usually driven by the need to ensure cost efficiency, environmental sustainability and joined up services. It usually involves one or more of the following;*

- 
- Sharing of buildings across boundaries with other local authorities;
  - Sharing buildings with other public bodies in the local area;
  - Sharing buildings with the third sector and community groups in the local area;
  - Co-location of assets in one location e.g. fleet.

## Advantages

- Selling surplus assets will generate income and long term revenue savings;
- Improves environmental sustainability by reducing energy use;
- Sharing assets as part of a wider strategy to improve the management of assets can lead to better more joined up services across boundaries and across public bodies;
- Sharing assets with the third sector and community groups in the local area supports the council's role as a community leader .

## Disadvantages

- The current economic environment is likely to result in reduced income from the sale of surplus assets until market conditions improve.

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## 4.2: Administrative

### Joint Committee

*Setting up a Joint Committee involves a local authority and one or more other local authorities joining together to effect joined up service delivery of some or all of their functions.*

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The powers to set up a Joint Committee are granted by section 101 of the 1972 Local Government Act. Functions are delegated to the committee and then may be sub-delegated to a sub-committee or officer of one or more of the authorities.

**It is important to note that there are important differences between the powers associated with Joint Committees in England and Wales when compared to Scotland.**

In **England and Wales**, Joint Committees are not corporate bodies so cannot enter into enforceable contracts. They have no power to employ to staff. One of their constituent authorities normally deals with all such activities on their behalf.

In **Scotland**, ministers may order the incorporation of any Joint Committee as a Joint Board. Any such Joint Committee would be a corporate body and therefore can enter into contracts, own property and employ staff.

### Advantages

- The Joint Committee model represents a simple, fast effective option for setting up shared service platforms within local authorities;
- The opportunity to implement a single management structure brings advantages in terms of



- service effectiveness and efficiency savings;
- Is often a more palatable option for the workforce than more complex corporate models of shared services;
- No separate legal entity created so elected members are accountable to their electorate rather than a board. This has benefits in terms of democratic accountability;
- Knowledge, skills, systems, procedures and expertise can be shared leading to economies of scale and better value for money. A Joint Committee can offer services, which might prove too expensive for a single council;
- As setting up a Joint Committee does not involve the creation of a new organisation, continuity of service delivery is more likely.

### Disadvantages

- Not being a standalone legal entity can be problematic. Depending on how it operates, often a Joint Committee can be stuck between being seen as part of the council and being seen as a separate organisation;
- In England and Wales, Joint Committees cannot directly employ staff. They must either be TUPE transferred or seconded to a lead authority;
- Where different local authorities are being brought together and terms and conditions are harmonised, there are equal pay implications;
- The political differences of elected members could prove a potential problem.

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## Service Level Agreement

*A service level agreement is a formal negotiated agreement, which identifies expectations, clarifies responsibilities and facilitates communication between a service provider and its customers. It can be used for a range of activities with limited bureaucracy. It is reliant on administrative rather than contractual law so is best understood as a collaboration agreement, which falls short of a contract.*

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### Advantages

- No new body created;
- Non contractual arrangements do not involve the award of a 'public contract' and therefore do not trigger the EU public procurement regime;
- Helps to ensure that the service provided is tailored to local priorities and the needs of local citizens;
- Provides a basis for building trust, co-operation and partnership between the different parties involved in the shared service.

### Disadvantages

- Poorly written Service Level Agreements can lead to a lack of clarity around expectations of who gets what.

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## Purchasing consortia

*Across the UK, Local Government procurement amounts to around £50bn a year and makes up nearly 40% of local government expenditure. In Wales specifically, the public sector as a whole currently spends in excess of £4.5bn each year on the procurement of commodities, works and services. Collaborative procurement has long been seen as a way for public bodies to group together and achieve efficiencies whilst minimising the impact on frontline services.*

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### Advantages

- Standardising specifications allows public bodies to aggregate demand and compare unit costs;
- Delivers economies of scale;

- Fewer tendering exercises can lead to lower prices;
- Allows local authorities/public bodies to come together and use pricing information to challenge suppliers;
- Helps to assure supply and deal with issues such as short term shortages and long term availability;
- Leads to a better exchange of information, experiences and expertise.

### Disadvantages

- Possible cost associated with setting up purchasing consortia;
- Possible loss of flexibility and control on the part of individual local authorities;
- Different organisations could end up operating in different time frames with existing contracts running out at different times.

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## 4.3: Contractual

### Contract

*The contractual model refers to a contractual agreement between 2 or more local authorities, either jointly delivering services or delivering services to each other. It often involves a contract under 1970 Goods & Services Act (s1).*

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### Advantages

- Relatively easy to set up;
- Gives clarity about what is to be delivered;
- No new body created.

### Disadvantages

- Does potentially involve the 'award of a public contract' therefore triggers EU public procurement regime.

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## 4.4: Corporate

### Company models

*Local Authorities have broad powers to set up companies, which can be jointly owned. There is a link between corporate and contractual arrangements in that if a local authority was looking to provide work under a contract to a neighbour, then the company route would allow this. There are many different types of companies and the most suitable vehicle depends on the specific needs of the authority.*

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### Advantages

- Capable of carrying out multiple purposes;
- Can contract and own property;
- Wholly owned local authority companies can benefit from the Teckal exemption;
- Ability to raise finance;
- Freedom from direct management/standing orders of the local authority. This often helps the local authority to present an external corporate face to the market;
- Able to exploit joint venture opportunities with the private sector and take advantages of private sector perspectives in winning new work.

## Disadvantages

- Potential exposure to taxation;
- Range of competition and state aid issues need to be considered;
- Conflict of interest issues need to be carefully monitored;
- Regulated by Companies Act.

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## Joint Board

*Local Authorities can provide services on a joint basis with other authorities through a Joint Board. They are not directly elected; but made up of councillors appointed from the authorities, which are covered by the service. Typical services run by a Joint Board include; Police, Fire, Transport and Waste Disposal Authorities. Joint Boards are very similar to Joint Committees except that they set up a separate legal entity, whereas a joint committee sets up a separate administrative entity.*

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## Advantages

- The legal structure is relatively well understood;
- Knowledge, skills, systems, procedures and expertise can be shared leading to economies of scale and better value for money;
- Joint Boards can be used to avoid the splitting up of certain services when local government is reorganised.

## Disadvantages

- The establishment of a joint board sets up a separate legal entity. Therefore, all members of the board need to act collectively in the interests of the board rather than their individual local authorities, which may weaken democratic accountability to the electorate.



## 5. Local authorities sharing services: case studies

Set out below are sixteen case studies from local authority services throughout Wales and the rest of the UK, which show real financial and organisational benefits from sharing services. Further information on these case studies including contact details for contributors are available to APSE member authorities by contacting [djohns@apse.org.uk](mailto:djohns@apse.org.uk)

The case studies relate to the models of shared services set out in the table in the section above and include:

- Informal models: sharing information between local authorities, shared management teams/posts and co-location of assets/sharing assets between local authorities;
- Administrative models: Joint Committees, Service Level Agreements (SLAs) and purchasing consortia;
- Corporate models: Local authority companies.

Members of APSE Wales have previously indicated that they are particularly interested in finding out more about **Tayside Contracts**, which operates through a joint committee. It is a commercially based local authority contracting organisation, sharing services across three local authority areas in the Tayside region of Scotland. The case study set out below places the example of Tayside Contracts in a contemporary Welsh policy context, exploring what the opportunities and challenges are associated with introducing a similar model of shared services in Wales today.

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### 5.1: Tayside Contracts

*Tayside Contracts is the commercial trading arm of Angus Council, Dundee City Council and Perth and Kinross Council providing catering, cleaning, roads maintenance, vehicle maintenance and winter maintenance throughout the Tayside region of Scotland. It offers these three local authorities the opportunity to benefit from economies of scale, sharing of resources and retention of specialist services.*

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#### Background

Prior to Scottish local government reorganisation in 1996, Tayside Regional Council operated a vehicle maintenance Direct Service Organisation<sup>13</sup> (DSO) and a construction Direct Labour Organisation<sup>14</sup> (DLO) under one unit. They also set up two DSOs under the education department, one for catering and one for cleaning. By 1991, the catering and cleaning DSO was losing money, whereas the roads DLO was making money. This led to the then Chief Executive of the Tayside region approaching the Head of the roads DLO and asking them to take over catering and cleaning; and so Tayside Contracts was formed. However, in 1996 local government reorganisation in Scotland split up Tayside Regional Council into Perth and Kinross Council, Angus Council and Dundee City Council. At that time, the three Chief Executives of the new councils in Tayside argued that because Tayside Contracts was an effective organisation with a track record of generating income it should continue as a separate entity. There were lots of discussions about how this might happen and the model that was eventually decided upon was a Joint Committee.

**There are some key similarities and differences between the policy context in Scotland at the time that Tayside Contracts was formed and the current policies driving collaboration in Wales.**

The Tayside authorities had a strong track record of collaborating together on a regional basis. Prior to local government reorganisation they were grouped together administratively and delivered services as Tayside Regional Council. This is in some ways similar to the regional approach to collaboration currently being taken by the Welsh Government. There is however a key difference in that in Wales

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<sup>13</sup> A DSO provides council services such as catering, cleaning and refuse collection. Similar to DLOs; but created under a fresh round of compulsory competitive tendering legislation in the late 1980s.

<sup>14</sup> A DLO provides council services such as highways, building maintenance and construction. They were set up under compulsory competitive tendering legislation in the early 1980s, which created a split between the customer (the council) and the service provider (the DLO).

that track record and history of collaborating on a regional basis exists to a much lesser extent with collaboration tending to develop on a more organic bottom up basis.

It is also critical to understand the differences between Wales now and Tayside back in 1996 in terms of who and what is driving collaboration as they are quite different situations. In Wales collaboration is being driven strongly by the Welsh Government initially through the Simpson Review and most recently through their regional approach. Back in the mid 90s, there was not the same push for collaboration in Scotland from above; the key factor was that Tayside Contracts faced a big bang moment where they had to make a decision about how to keep a successful organisation together that was under threat of being shut down due to local government reorganisation.

## Legal issues

One of the main reasons that a Joint Committee model was chosen for Tayside Contracts was that it was legally possible. Under the 1994 Local Government Scotland Act, two or more local authorities can set up a Joint Committee to deliver whatever services they want. If local authorities in Wales are considering setting up a Joint Committee to deliver shared services, then they will need to be aware of the key differences between the powers that Joint Committees have in England and Wales and the powers that they have in Scotland. In **England and Wales**, Joint Committees are not corporate bodies so cannot enter into enforceable contracts. They have no power to employ staff. One of their constituent authorities normally deals with all such activities on their behalf. Whereas, in **Scotland**, ministers may order the incorporation of any Joint Committee as a Joint Board. Any such Joint Committee would be a corporate body and therefore can enter into contracts, own property and employ staff.

In the case of Tayside Contracts, the process of setting up a Joint Committee involved developing a minute of agreement, which was then signed by the three councils. This set up Tayside Contracts as a separate administrative entity. In order to protect everybody, all staff were employed by Dundee City Council, although all three councils were quite happy to be the employing body. Despite not being an independent legal entity, for all intents and purposes Tayside Contracts are treated by the courts and other people as being the employing body.

Tayside Contracts has now been in operation for fifteen years and over that period, the only minor legal issue has been that Tayside Contracts does not own its depots and has to rent them off the three councils. Indeed, the Managing Director of Tayside Contracts has indicated that if the organisation was set up again from scratch, in order to have total control over costs, owning the depots is a key factor. Obviously these issues need to be considered in the context of the differing powers existing around Joint Committees between Scotland and Wales, which are outlined above.

## The approach: Joint Committee

Tayside Contracts operates under a Joint Committee<sup>15</sup>, which is made up of eighteen elected members; five from Angus Council, six from Dundee City Council and seven from Perth and Kinross Council. The number of elected members appointed from each council to sit on the Joint Committee is calculated based on where Tayside Contracts gets its income from and this is subject to recalculation every three years. A senior councillor from each council is appointed to take on a leadership role on the Joint Committee so one will be the Convenor; another from another council will be the Vice Convenor and the other senior councillor from the third council will be the Vice Convenor elect and this rotates each year. Each councillor who sits on the Joint Committee reports back to their group leader on a regular basis on what has happened at the meeting so that the administration and opposition within each of the three councils knows exactly what is going on within Tayside Contracts. Since the Joint Committee was set up, there has been very little political wrangling with elected members across a range of political parties uniting behind a main aim of working for the betterment of the three councils.

Strategic leadership from each of the 3 councils at an officer level is provided by the Deputy Chief Executive of Dundee City Council who acts as the clerk to the Joint Committee and their Director of Finance who acts as the Proper Officer. In the past these roles have also been rotated between each of the 3 councils each year; but because the terms and conditions and working practices of Tayside Contracts are different to those of the individual councils, it added in an additional unnecessary layer of complexity.

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<sup>15</sup> <http://www.tayside-contracts.co.uk/jointcommittee.cfm>

The Joint Committee model also ensures that any financial obligations are complied with. At a strategic level, Tayside Contracts develop an overarching Business Plan in conjunction with the three councils, which is approved by the Joint Committee. This plan underpins the annual budget exercise, which is also approved and monitored by the Joint Committee. Although, obviously performance against each of the targets in the Business Plan is subject to constant review and analysis. If any financial issues do develop then the Corporate Management Team of Tayside Contracts would report it to the Heads of Finance and ultimately the Chief Executives of the councils concerned and agree how to deal with it rather than waiting for a Joint Committee meeting. Tayside Contracts also produce an Annual Report<sup>16</sup>, which incorporates the Annual Accounts and there are also safeguards in place through external auditing bodies. Indeed, Audit Scotland undertake an annual audit of Tayside Contract's annual accounts with progress against the agreed action plans subject to regular monitoring by the Corporate Management Team and the Joint Committee.

### What happened and why?

Operating as a shared service across 3 different local authorities means that **cross boundary collaboration** is at the heart of everything the organisation does. At a strategic level, collaboration is particularly important during the annual budget setting process because the three councils are essentially Tayside Contracts' major customers. Tayside Contracts is bound by a legal requirement to break even over a three year period so there is a constant process of working with the relevant officers at each of the three councils to ensure this happens. Close collaboration with regard to technical accounting is vital because internally Tayside Contracts tend to look at things on a profit and loss basis; but still have to account for their activities as if they were a local authority. The main challenge around collaborating on budgets comes from the fact that Tayside Contracts' shareholders are also their customers. So each of the councils want the best service at the lowest cost; but they also want Tayside Contracts to make a profit in order to return surpluses to them, which is often a delicate balancing act in terms of pitching profitability at just the right level.

At an **operational level**, cross boundary collaboration is also extremely common in order to ensure that everyone across the Tayside region understands the differing needs of each of the different council areas. To give a specific example, a couple of years ago the organisation was short of maintenance workers in Perth and Kinross; but there were more workers available in Angus so the situation was managed by transferring crews between the two council areas. On the catering and cleaning side of the business, regional client meetings bring together colleagues from Angus, Dundee and Perth and Kinross to discuss cross cutting issues. It makes sense to bring them together under the umbrella of the Best Value review group to ensure that whatever gets taken forward as a review of services gets taken forward across the region rather than different agreements across different local authority areas.

There is an increasing drive to ensure that elements of the business are harmonious and what is delivered in one geographical area of the business is exactly what is delivered in the other. That really has been the biggest operational complication to collaborating and sharing services across boundaries. For example, the three councils have radically different prices for school meals, which causes real problems with trying to drive a consistent service. Some of these issues have partially been tackled through the development of a regional primary menu; but the problem still remains that parents in different areas are paying a different price for the same menu. So where councils are looking to come together and develop shared services, identifying and ratifying as many of those anomalies at the outset would make operational sense. It is important that Local authorities in Wales who are considering developing a shared catering and/or cleaning service along the lines of Tayside Contracts consider the differences that exist in terms of schools funding between Scotland and Wales. In **Scotland**, schools funding is completely controlled by the local authority whereas in **Wales**, secondary schools funding is fully devolved to schools; but primary schools funding is controlled by the local authority.

**Sharing services across 3 local authorities** throws up some **key challenges**. It is only natural that both officers and members at the different local authorities will have their own ideas and understanding how those dynamics play out is critical. The repetition involved in going through processes such as budget setting three times can also be testing. As outlined above, although certain

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<sup>16</sup> [http://www.tayside-contracts.co.uk/\\_assets/\\_user/File/2010-11\\_ANNUAL\\_REPORT\\_FINAL\\_15-08-11.pdf](http://www.tayside-contracts.co.uk/_assets/_user/File/2010-11_ANNUAL_REPORT_FINAL_15-08-11.pdf)

aspects of the shared service are 'shared' a lot of it is council specific, so frontline services are often still based on three different operational policies. This is being tackled by building upon a partnering ethos, establishing more cross cutting council working and trying to harmonise as much as is possible. So for street lighting there is currently one partnership that covers Dundee and Perth and Kinross and a separate one with Angus Council. This will eventually become one partnership with standardised specifications making it much easier to manage the supply of materials across the Tayside region.

## Outcomes achieved

Collaborating across different local authorities has certainly driven **better more innovative ways of working** that have delivered mutual benefits. For example, in the summer the council's ground maintenance service take on extra people to cut the grass and Tayside Contracts has to employ people to clear snow, grit footpaths etc in the winter so sharing resources makes perfect operational sense.

As a large organisation with a large turnover that shares services across three local authority areas, Tayside Contracts offers the three councils the opportunity to benefit from **economies of scale**. So on the catering and cleaning side, Tayside Contracts runs a very large facilities service, which is structured in such a way that tight control can be kept over the service; but with fairly low management hours. As Tayside Contracts has increasingly cemented its reputation as a cost efficient organisation, effectively delivering front line local government services it has expanded to take on the delivery of additional services. For example, recently Angus and Dundee City Council have handed over the remainder of their cleaners to Tayside Contracts that they still had from their original set up and in the case of Angus Council this has saved them around £100k a year.

Bringing together three local authorities has delivered real procurement benefits. Tayside Contracts have worked with the three councils through the Tayside Procurement Consortium to develop **innovative procurement practices** working closely with small local companies as well as bigger companies in order to encourage the **economic development** of the Tayside region. Indeed, they were recognised nationally for outstanding achievement at the Annual National Excellence in Public Procurement Awards 2010. This was for innovation in procurement practice through their work with the three councils as part of the Tayside Procurement Consortium.

## What they said...

The Judges of the annual National Excellence in Public Procurement Awards 2010 said:

*'The winner is an organisation, which was well on its way to establishing principles of collaborative best practice before collaboration became a hot topic.'*

The Judges also remarked that Tayside Procurement Consortium *'was a good example of an organisation sharing its experience to benefit others and that it showed the potential that a shared model can realise.'*

## Conclusions and lessons for local authorities in Wales

Tayside Contracts has been in operation for over 15 years, successfully delivering a range of frontline services across three local authority areas. Local Authorities in Wales that are considering coming together to develop shared services can learn a lot from the experience of Tayside Contracts.

## Context matters

There are key differences in context between Wales now and Scotland back in 1996 that local authorities must bear in mind. When Tayside Contracts was set up, it was already a successful organisation in a region where the three local authorities had a long history of collaboration. This track record of collaborating on a regional basis exists to a much lesser extent in Wales. Furthermore, setting up an organisation like Tayside Contracts from scratch is a very different proposition to making a decision about how to continue with an organisation that was already successful. Councils need to think carefully about whether they want to set up something like Tayside Contracts, which is a separate administrative entity or whether allowing collaboration to develop on a more organic basis would be a better approach.



### **Be aware of any differences in legal powers**

The devolved Government's in Scotland and Wales each have different powers, which obviously has major implications for applying Tayside Contracts to a contemporary Welsh policy context. So if a Joint Committee was set up in Wales to deliver shared services, it could not operate in exactly the same way that Tayside Contracts does as it wouldn't have the power to do things such as enter into enforceable contracts.

### **Ensure that there are strong lines of democratic accountability**

Local Authorities in Wales can learn a lot from the Joint Committee approach that Tayside Contracts have taken, which ensures that there are clear lines of democratic accountability from the shared service back to each individual council. A collaborative approach, which emphasises working across political parties has ensured that there has been very little political wrangling over the years.

### **Identify and ratify differences across local authority areas as soon as possible**

The experience of Tayside Contracts particularly on the catering and cleaning side suggests that when developing shared services, for operational reasons it is important to look at what matches across local authority areas and what does not match and plan what can be done to ratify these differences. So rather than sticking to different cleaning specifications that have been negotiated within the separate councils, it would be far easier to sit down and agree one cleaning specification across the different areas. If this doesn't take place then there will almost certainly be operational complications further down the line.

### **Think carefully about how to respond to cultural issues**

When collaborating across different local authorities, it is only natural that there will be different cultures and ways of working that will have built up over time and understanding how those dynamics play out is critical to successfully progressing shared services. At the same time, each local authority needs to enter into the arrangement firmly focused on achieving the best value service in the most efficient way possible. Key to achieving this is ensuring that difficult issues like how to standardise different elements of the service across different areas are agreed up front.

For more information see <http://www.tayside-contracts.co.uk>

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## **5.2: South West Wales Regional Learning Partnership**

*The Regional Learning Partnership (RLP) is transforming the way education and regeneration partners work collaboratively across boundaries and sectors to help provide a better future for learners across South West Wales. It involves working with key regeneration and education organisations across Carmarthenshire, Ceredigion, Neath Port Talbot, Pembrokeshire and Swansea.*

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### **Background**

The concept of the Regional Learning Partnership was first explored in September 2007. At that time there were a number of strategies and reviews emerging from the Welsh Government, which identified the need for a more collaborative way of working in order to improve the effectiveness and efficiency of public services. The Regional Learning Partnership was a direct response to this.

Its main aim is to ensure that publically funded learning providers and associated organisations work collaboratively, effectively and efficiently to meet the needs of learners and the regional economy in South West Wales. It brings together key organisations such as Local Authorities, Higher Education and Further Education Institutions, the Third Sector and Work-Based Learning providers to maximise opportunities for all learners.

### **What happened and why?**

Following the initial inception of the Regional Learning Partnership, the partners settled on their major objectives and translated them into a suitable action plan, which form the three key pillars of the regional learning partnership.

### **Pillar 1: Partnership development and brokerage**

The Partnership Brokerage and Development pillar underpins the whole ethos of the RLP. The principal focus is on encouraging organisations to realise the benefits of collaboration from maximising external funding opportunities to responding jointly to tender opportunities. In this pillar, the RLP also considers the potential development of a common governance model for a shared delivery approach to benefit the learner.

### **Pillar 2: Regional Learning & Skills Observatory**

The aim of the Regional Learning and Skills Observatory for South West Wales is to improve access to local data and intelligence for learning, skills, and the labour market, through a single website. The pilot was rolled out during 2010, was well received and has now formed the basis for the wider regional roll out and development of the observatory.

### **Pillar 3: E-Portal**

The e-portal is currently in the early stages of development. The aim is that it becomes the focal point for a number of audiences including; current learners; training and employment providers; and those not currently engaged in learning or employment. It will do so by raising awareness of the wealth of learning provision available across the region through a single portal.

## **Outcomes achieved**

### **Partnership development and brokerage:**

- Development of a regional common approach to employer engagement;
- Development of a regional action plan for adult community learning across the five counties.

### **Regional Learning & Skills Observatory:**

- Development to mirror the six key priorities identified within the Welsh Government's Economic Renewal Programme;
- Sourcing of new localised data and information, alongside existing national data collections and releases;
- Identification of trends in data relating to employment, learning and skills within the region.

### **E-Portal:**

- Development of a pilot project within Swansea, which will allow the testing of various models, practices and procedures that will make up a regional e-portal.

## **What they said.....**

Meri Huws, Pro-Vice Chancellor, at University of Wales Trinity St David said:

*'The RLP is an opportunity for a large number of us across South West Wales to sit together and plan education according to the needs of employers and learners. We work in collaboration to achieve what's really needed.'*

For more information see <http://www.rlpwww.org.uk>

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## **5.3: North Wales Regional Highways Partnership**

*The North Wales Partner Authorities Consultancy is a virtual consultancy made up of authorities across North Wales who come together to share information and work collaboratively.*

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### **Background**

The partner authority's consultancy has been carrying out a work programme with the aim of standardising the way in which highways projects are managed across North Wales.

## What happened and why?

Consultancy managers meet on a monthly basis at a consultancy board partner authority for a structured meeting where partners come together to share information as well as discussing work streams, capacities and capabilities. Where feasible, partner authorities are also looking to share resources to deal with peaks and troughs of work. Examples of the work being done include looking in greater detail at how work streams are managed and standardising the way a client would issue a brief.

## Outcomes achieved

- Standardisation of the way in which highways projects are managed across the region;
- Partner authorities are actively looking at using the same timesheet capturing system, which will deliver cost savings through the standardisation of systems;
- Expansion of the consultancy from North Wales into Mid Wales. For example, standard forms and processes from partner authority consultancies across North Wales are being uploaded onto a North and Mid Wales partner authority website so that they can also be accessed by local authorities in Powys and Ceredigion.

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## 5.4: Joint Head of Highways between Denbighshire County Council and Conwy County Borough Council

*In 2009, Denbighshire and Conwy appointed a joint Head of Service for Highways and Infrastructure. This has catalysed a programme of work between Denbighshire and Conwy where teams who are delivering similar functions have been developing models of collaborative working through a public-public partnership.*

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## What happened and why?

From the outset, teams from both authorities were encouraged to meet their colleagues to discuss working practices and share best practice. This helped to catalyse further cross-border working.

Collaborative working has delivered a range of service improvements in highway lighting:

- The development of a common lighting management system for both authorities;
- Alignment of the following policies across both authorities:
  - Electrical Safety Policy to ensure all electrical equipment placed within the highway conforms to industry standards,
  - Code of practice for festive lighting,
  - Fly posting on traffic signs lighting columns,
  - Cutting/felling overhanging tree,
  - Restrictions on placing equipment over the highway,
  - Attachment of equipment to lighting columns,
  - Temporary electrical supplies from lighting columns;
- Standardisation of equipment used on similar roads across both authorities, meaning that the number of different spares and stock items held in the stores has reduced significantly;
- A single team of electricians and installation operatives jointly covering both authorities;
- Scope to jointly tender for materials has been expanded to cover all street lighting equipment, reducing stock holding and improving lead time on items;
- Shared use of specialist equipment.

Moving forward, there will be a step-change from collaborative working to delivering a **fully integrated highways service** between the two authorities. Both authorities have come to the realisation that more could be achieved if services were integrated. Work on planning further integration is ongoing with five different models of integrated services being considered. Further integration is subject to a final consultation process with stakeholders.

## Outcomes achieved

Thus far, savings have been delivered of approximately £260k for each authority leading to combined savings of £520k.

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### **5.5: Joint maintenance manager between Flintshire County Council and Denbighshire County Council**

*In October 2011, Flintshire and Denbighshire appointed a shared maintenance manager to work across both housing departments on a six month trial basis.*

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#### **What happened and why?**

The shared maintenance manager works on a Monday and Tuesday at Denbighshire, where they take on a strategic role managing the progress of the change programme within their housing department. This role involves transforming methods of working within the housing service by progressing issues such as compressed hours and mobile working. They are supported in this strategic role by two principal officers, one of whom manages the Direct Service Organisation (DSO) and the other who manages the capital programme.

The shared maintenance manager works Wednesday, Thursday and Friday at Flintshire, where they take on a similar role under the job title of 'Housing Asset Manager' also managing the change programme within the housing department. Whilst they are working at Denbighshire, a member of staff at Flintshire acts up in that position for those two days.

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### **5.6: Joint Head of IT between Carmarthenshire County Council and Dyfed Powys Police**

*Carmarthenshire CC and Dyfed Powys Police are working in close collaboration on the joint delivery of their Information and Communications Technology (ICT) service.*

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#### **What happened and why?**

Agreement was reached in early 2011 to move forward with the appointment of a Joint IT Manager to initially manage the two IT Units. With the new joint IT Manager now in post (from 1<sup>st</sup> October 2011), a key issue for both partners is to review arrangements to encourage and develop closer working across the two organisations to make better use of resources.

A joint IT Management Board has been established to oversee the development and consider options in determining the way forward. The business case for moving forward with a joint IT Service serving both organisations will be considered. The arrangement could be broadened with other partners potentially coming on board.

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### **5.7: Sharing assets with other public bodies and the third sector – Blaenau Gwent County Borough Council**

*The local authority is currently working to establish a third sector and public sector asset board to take forward a 'one public estate' model for Blaenau Gwent. In addition, a collaborative asset management plan will identify opportunities for co-location.*

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#### **Background**

Blaenau Gwent have been working informally on asset sharing for a while, as one of the pilots for the National Asset Working Group, they now plan for a more formal and structured approach.

## What happened and why?

The potential is currently being explored for a new civic centre/public sector hub building in Ebbw Vale, which could accommodate a range of public sector partners including; the police, the local health centre, Job Centre Plus and the Courts Service who own part of the land.

Work is ongoing with Gwent Police who are coming out of some of their smaller Police Stations and into some of the council's community centres.

Blaenau Gwent are placing quite a strong emphasis on working with the third sector and giving them opportunities to make use of any buildings that become empty as the council's programme of asset rationalisation proceeds. This emphasis is particularly important in Blaenau Gwent as there is a very strong third sector presence in the local area.

A project piloting agile working in a building that is currently shared with the local health board is about to commence. (**Agile working** is the term used to describe how employees can work flexibly from any location.) The project will involve a refurbishment of the building as well as bringing in aspects of smarter ways of working and agile working. This initiative will enable all of the council's Social Services and Education departments to work in one building in partnership with the local health board. This merger will take the numbers accommodated in the building from two hundred and fifteen to just over four hundred. The benefits of this partnership approach are that the local health board are looking to reduce their accommodation in the building by about 50%, which will both deliver savings for them and enable the council to further pursue better co-location of services.

## Outcomes achieved

- The council has just secured funding from the National Asset Working Group to take on a collaborative programme manager;
- Offices are being shared with the local health board.

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## 5.8: Co-location of fleet – Dumfries and Galloway Council

*Since March 2011, Dumfries and Galloway Council have been working collaboratively with the NHS in the local area employing a Joint Fleet Manager under a Service Level Agreement. This collaborative approach has been enhanced through introducing other innovative practices such as reviewing workplace design and introducing car pooling.*

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### Background

Dumfries and Galloway occupies the South West corner of Scotland and there are two key transport links passing through it, the M74 and the A75 'Euro Route'. Dumfries and Galloway Council is the area's largest employer and together with the NHS, they employ around 14.25% of the local population. The council retains significant in-house service provision and in recent years have been taking a new approach to their transport service. Key to this new approach has been collaborative working with NHS Dumfries and Galloway including the co-location of fleet.

## What happened and why?

### The introduction of a new fuel management system

This system saves a significant amount of time at depot level (equivalent to one full time member of staff) dealing with fuel issues, checking tank levels and allocating costs via spreadsheets.

### The introduction of a vehicle tracking system

This system was introduced because of the need to locate vehicles and their drivers as well as better monitor the mileage and utilisation of vehicles in order to drive the further sharing of fleet. The 'Masternaut' system has been procured and tracking devices have been installed in more than 200 vehicles moving and re-allocating the fleet as well as mapping/reviewing routes.

### **Rationalisation of the fleet**

Major re-procurement of the fleet is scheduled for 2012/13. Negotiated rebates have been secured from existing providers for extended leases on out-of-contract vehicles, which were worth £120k to the council in 2011/12. Standardisation and central control have been key to ensuring that further cost reductions are delivered in the future. Additionally, the use of framework agreements will deliver a further £500k worth of savings in 2012/13 based on the cost reduction on the contract hired fleet.

### **Review of workplace design**

Fleet management was relocated with the rest of the department and the eleven different office and depot locations that previously existed in Dumfries have now been rationalised and reduced to two. A former factory premises was converted by the in house team with building services acting as the lead contractor. This accommodation provides a high quality workshop. It is now used to accommodate all Dumfries based staff, apart from roads.

### **The implementation of a corporate car pool**

The pool was introduced in response to a number of issues including; cost pressures from fuel prices, single status removing car allowances, an under developed car hire market and the need for the council to reduce carbon emissions, staff mileage and travel costs. The procurement of the car pool itself has been conducted in collaboration with the NHS and has led to a seventy five tonne reduction in CO2 emissions without reducing mileage.

### **Outcomes achieved**

- Reduced joint managerial and administrative costs;
- Opportunities to integrate transport provision including maintenance;
- Standardised procedures within the two main employers in Dumfries and Galloway.

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## **5.9: Prosiect Gwyrdd**

*Prosiect Gwyrdd is a five-authority joint-waste procurement arrangement between Caerphilly, Cardiff, Monmouthshire, Newport and Vale of Glamorgan Councils.*

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### **Background**

The National Waste Strategy for Wales, 'Wise about Waste', identifies policies for waste management and targets and actions to meet them. The Welsh Government has outlined the need to achieve a 70% recycling and composting rate by 2025. The Welsh Government has also expressed the view that local authorities should jointly develop sustainable regional waste management.

The combined municipal waste of the five authorities makes up 40% of the total municipal waste of Wales. The project is committed to finding the most environmentally friendly, cost effective and practical solution to dealing with waste after recycling and composting has been maximised in each area.

### **What happened and why?**

The decision making body governing the procurement process of the project is a Joint Committee. The committee is made up of two Executive members from each authority and operates under an agreed legal-joint working agreement. Final decisions on procurement and tenders will go back to each local authority full council. The Joint Committee is also able to refer matters back to each full council during the procurement process. Meetings of the Joint Committee are open meetings and the public are welcome to attend.

It is possible that Prosiect Gwyrdd may well become the most significant collaboration between local authorities in Welsh history. The project may also involve a significant amount of private investment.

For more information see <http://www.caerphilly.gov.uk/prosiectgwyrdd>

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## 5.10: Central Wales Infrastructure Collaboration

*In September 2010, Powys and Ceredigion County Councils signed an inter authority agreement, which establishes a firm and lasting basis for both councils to collaborate together and share services in the areas of property services, engineering strategy, transport services, waste services and engineering operations.*

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### What happened and why?

A Joint Committee made up of elected members from Powys and Ceredigion has been set up to oversee collaboration at a strategic level between the two authorities. In addition, there are regular meetings of the five main work streams in order to; pursue collaboration between the two authorities, ensure that the wishes of elected members are met regarding regional working in Central Wales and also ensure that the ongoing agenda for collaboration being promoted by the Welsh Government is pursued.

Throughout 2011, the **property groups** in Powys and Ceredigion have been sharing work. Much of this work relates to the school modernisation and major improvements programmes being undertaken in the two councils.

The Welsh Government intends to move towards a **two Trunk Road agency basis in Wales**. The existing Mid Wales Trunk Road Agency will become part of a newly commissioned Mid and North Wales Trunk Road Agency led by Gwynedd Council. CWIC has suggested that Ceredigion and Powys could be represented in the new agency as a region, which would reduce the administration involved in the new arrangements. Discussions are ongoing around how this might work; but a number of key principles have been agreed such as work staying within existing council boundaries and the retention of existing jobs in the area. Staff working for the new agency are expected to transfer to Gwynedd Council under TUPE; but their base is expected to remain in the region.

Over the next two years there is range of developments planned around shared services and collaborative working, which are outlined below:

- April 2012 – Engineering consultancy is proposing shared management arrangements with a view to amalgamating the two consultancies;
- Property Services aims to achieve 15% cost savings or cost avoidance over the next five years;
- By October 2013, Waste Services will have set out a proposal for establishing a Joint Waste Authority;
- Passenger Transport will come under a single Regional Manager who will merge the services over the course of 2011/12;
- Fleet Services will continue to work closely together and will establish mutual support.

### Outcomes achieved

#### Joint posts

The Passenger Transport Units in Ceredigion and Powys County Councils will soon have a Joint Passenger Transport Manager.

The purpose of this joint post is to look at ways of bringing the services provided by the two units closer together to find efficiencies and improve services in Central Wales. This approach is seen as a model for further collaboration between the councils in the Highways and Transport sector.

#### Joining up of ICT arrangements

ICT networks in Ceredigion and Powys have been joined up, ensuring that staff can view both intranets and use their computers on both networks. For example, officers from Ceredigion attending Powys for meetings are able to use the Powys Wi-Fi facilities and vice versa.

Further work has been completed recently or is in the process of being completed. This includes Lync instant messaging to Powys staff and access to shared drives, SharePoint and other network facilities .

## What they said...

Reflecting on some of the successes of the last year and the challenges ahead, Councillor Geraint Hopkins, Chair of CWIC said that: *'I think I can speak confidently and also on behalf of my fellow members of the board to state that through CWIC we have consolidated a firm partnership to deliver the fundamental modernisation of our public services everyone wants.'*

Commenting on UNISON's involvement in the Central Wales shared services project, Cathy Graham, Branch Secretary of UNISON at Ceredigion County Council said:

*'I am pleased to say that UNISON has been a full partner both challenging and supporting throughout each stage as the programme has matured and evolved.'*

*'Now, over 2 years on and with the joint venture company option rejected I see the Central Wales Infrastructure Collaboration as a way to protect public sector jobs in a very different financial climate with services under pressure. There is certainly the potential to do more work in house; by coming together we increase our capacity and gain more specialist expertise regionally.'*

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## 5.11: Road safety collaboration between Neath Port Talbot County Borough Council, Pembrokeshire County Council, Carmarthenshire County Council and the City and County of Swansea

*Neath Port Talbot (NPT) CBC's Road Safety Unit have developed Service Level Agreements (SLAs) to facilitate the delivery of Pass Plus Cymru training. These have been developed through negotiation with those authorities involved in the South West Wales Integrated Transport Consortia (SWWITCH).*

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### Background

South West Wales Integrated Transport Consortia (SWWITCH) comprises of Neath Port Talbot County Borough Council, Pembrokeshire County Council, Carmarthenshire County Council, and the City and County of Swansea grouping of Councils. The collaborative ethos driving this consortia predates the report 'Local, Regional, National: What services are best delivered where?' commissioned by Carl Sargeant, Minister for Local Government and Communities. This paper clearly demonstrates that the SWWITCH region and local government evolution is already occurring on the ground in relation to functional change in the south west. The focus of the new Minister is effective and efficient collaboration across Local Council boundaries.

### What happened and why?

Neath Port Talbot (NPT) CBC's Road Safety Unit have developed Service Level Agreements (SLAs) through negotiation with SWWITCH Authorities to facilitate delivery of Pass Plus Cymru training.

The Pass Plus Cymru project provides a two-part approach to further driver training for newly qualified drivers through classroom based delivery and on road training. The scheme is recognised by the Department for Transport (DfT) and supported by several insurance companies as a way of addressing the rising number of young driver casualties across the UK.

Since April 2006, all authorities across Wales have been utilising their Road Safety Grant to part fund Pass Plus Cymru training for newly qualified drivers within their Authority areas.

During this time, NPT Road Safety Team developed a full classroom component with subsequent training for the classroom presenters which has been adopted as best practice by DfT and subsequently rolled out across the other 21 authorities by Road Safety Wales.

Between April 2006 and March 2011, an SLA was entered into between Road Safety Wales and MAC training in North Wales, who deliver road risk management and driver development training. The SLA sets out the provision of administrative support to include an on-line booking service at a cost to



individual authorities. This was followed by a decision that the administrative function for delivery of this initiative would revert to individual authorities, however there was concern right across the region as to their capacity to facilitate this function. The result of these concerns being raised is that Neath Port Talbot CBC's Road Safety Unit has developed and entered into SLA's on the Authority's behalf to facilitate this administrative support by utilising existing staff within the Road Safety Team to deliver the function on a collaborative basis.

At present, the NPT Road Safety Unit are developing for delivery on behalf of the SWWITCH region a motorcycle rider training package in association with Driving Standards Agency objectives, which will commence in April 2012 in line with Welsh Government guidelines.

The SWWITCH Road Safety Group are actively developing and considering lead authorities for a number of other road safety initiatives that could be delivered collaboratively amongst constituent authorities.

## Outcomes achieved

### Effectiveness gains

- A regional road safety group has been established to reduce duplication and stimulate the shared development of education, training and publicity (ETP) initiatives;
- Pooling of knowledge and expertise, and sharing of good practice.

### Efficiency gains

- Economies of scale;
- Minimised procurement time and costs.

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## 5.12: Welsh Purchasing Consortium

*The Welsh Purchasing Consortium (WPC) has been in existence since 1974 and was reformed as part of local government reorganisation in 1996. The consortium now consists of the sixteen unitary authorities in South, Mid and West Wales. Over the last 12 months, Mid and West Wales Fire and Rescue Service, South Wales Fire and Rescue Service and National Library of Wales have joined the consortium as associate members, making the consortium the largest collaborative organisation in the Welsh public sector.*

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### Background

The aims of the consortium are as follows:

- To obtain value for money and maximise efficiency savings for members of the consortium through the use of joint collaborative contracts and framework agreements;
- To ensure a consistent and co-ordinated approach to procurement;
- To ensure that procurement activity reflects best practice, the requirements of public accountability and WPC sustainability priorities as well as corporate social responsibility and regeneration policies;
- To promote a supplier development policy which promotes the national, regional and local economies within Wales; as well as encouraging the small and medium enterprise (SME) sector and supporting an increase in the level of business activity with the third sector.

### What has happened and why?

Ongoing strategic management is provided by a Joint Committee made up of senior officers and elected members from constituent authorities. This meets on a quarterly basis to improve the co-ordination of local authority purchasing. There is also a central management team who work to ensure a consistent and co-ordinated approach to procurement. Individual category groups consisting of officers from member authorities progress the forward contract plan, which is a rolling 18 month programme of forthcoming WPC procurement projects.

Formal links have also been developed with the North Wales Procurement Partnership (NWPP) and moving forward both organisations will seek to provide a much more 'joined up' local government

procurement voice. The WPC also plays a critical role in terms of cross sector collaboration on an “All Wales” basis.

## Outcomes achieved

### Building Materials, Environmental Services and Highways

- Facilitation of a range of contracts delivering significantly lower tendered rates than those previously in place.

### Construction Services

- Completion of asbestos procurement project;
- Identification of savings and efficiencies for construction services.

### Corporate Needs

- Various contracts have been established and let since the formation of the group in 2009, e.g. supply of office furniture.

### Energy Procurement

- Negotiation and maintenance of favourable commission rates charged by the Office of Government Commerce (OGC) to WPC, which are considerably below the standard rates charged to other parts of the UK public sector;
- Maintenance of competitive energy costs;
- Cited as an example of ‘best practice’ as part of its recent award for procurement excellence for the Pan Government Energy project;
- Successful addition and integration of the spending and sites of the new WPC members into the arrangements;
- Delivery of substantial procurement savings;
- WPC Energy Forum is made up of each participating council and meets on a quarterly basis, which has proved very successful in sharing best practice.

### Food

- Successful award of contracts for fresh & pasteurised milk delivering efficiencies of £331,452;
- Rationalisation of food safety procedures across the consortium;
- Developing opportunities for Welsh food producers;
- Development of a forward work plan, alignment of contract arrangement and sharing of best practice.

### Professional Services

- Analysis of WPC expenditure via the Spikes Cavell portal allowing the group to make informed and intelligent decisions on sourcing strategies for each area of spend;
- WPC expenditure was mapped against each council’s contract renewal programme and a work plan was developed in the following areas; legal services, banking services, agency staff, cash collection and occupational health.

### Social Care

Members of the consortium are providing lead procurement support on the following projects:

- Commissioning capacity and capability review;
- Looked after children’s framework;
- Analysis of high cost packages of care;
- Market analysis in domiciliary care leading to renegotiated costs;
- Care home framework.

The **efficiency savings** identified and reported since the establishment of the expanded WPC in 1998 are as follows:

- 2008/9 - £2.3 million;
- 2009/10 - £3.01 million;
- 2010/11 - £3.96 million.

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## 5.13: YPO

*YPO is an example of a particularly successful local authority purchasing consortia. With an annual turnover of over £400 million, it is the UK's largest formally constituted local authority purchasing consortium in the UK.*

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### Background

YPO combines the bulk buying power of their customers to provide a 'one stop shop' of the best value products and fully compliant contract services to the education, local government and wider public markets.

### What happened and why?

YPO is governed by a Joint Committee made up of elected representatives from 13 constituent local authorities. It is free of subsidy from any member authority and any surplus is reinvested in business development and expansion. More information on the governance of YPO can be found here <http://www.ypo.co.uk/index.jsp?t=governance>.

In 2010, YPO launched its new profit share loyalty dividend scheme, which provides customers with further savings through a percentage of the organisation's profits based on their spend throughout the year (on products: stock, direct and food purchases). This allows the public sector to embrace the buying power and cost savings associated with organisations like YPO.

YPO is also a member of the Pro5 Group of professional buying organisations, committed to producing leading contracts to help deliver efficiency savings. From July 2010, YPO, on behalf of the Pro5 Group have been working closely with Government Procurement Service. This collaboration provides even more benefits to the public sector including: cost savings through aggregation, efficiency savings and sharing of procurement expertise.

### Outcomes achieved

A portfolio of case studies demonstrating how YPO have provided valuable cost and efficiency savings to public sector customers can be found here <http://www.ypo.co.uk/index.jsp?t=casestudies>. These include:

- Facilities Management – work with Kirklees Council to rationalise their cleaning product range and supplier base enabling the council to save time and money, see here [http://www.ypo.co.uk/assets/files/k/kirkleescleaningcasestudy\\_877.pdf](http://www.ypo.co.uk/assets/files/k/kirkleescleaningcasestudy_877.pdf);
- Fleet procurement – work with Swindon Commercial Services to procure new refuse vehicles without the council having to undergo the lengthy tendering process itself, see here [http://www.ypo.co.uk/assets/files/c/casestudyfleetswindon\\_793.pdf](http://www.ypo.co.uk/assets/files/c/casestudyfleetswindon_793.pdf).

For more information see <http://www.ypo.co.uk>

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## 5.14: Collaborative procurement: protecting Welsh firefighters and budgets

*YPO has worked with the Welsh fire and rescue service to create one corporate identity, streamline the procurement process and cut costs significantly.*

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### Background

A fire fighter's uniform is much more than just clothing. It's potentially life-saving armour that allows them to brave the most extreme conditions to safeguard billions of pounds of property and thousands of lives on a regular basis. Because of this, it's crucial it meets the highest possible standards of safety, performance, comfort and durability, as well as taking advantage of the very latest developments in technology to allow the fire-fighter to perform his or her job as effectively and safely as possible.

Due to historical procurement practices, firefighters across Wales were equipped with various uniform ranges from a number of different suppliers. The Welsh Fire & Rescue Service recognised the need to

streamline its procurement process across the key catchment areas of Mid and West, North and South Wales. By working collaboratively they hoped to achieve a modern and unified corporate identity and, most importantly, identify a cost-effective solution to procuring more than 7,500 new uniforms utilising the latest and very best in fire protection technology.

### **What happened and why?**

Using the compliant YPO framework agreement meant that the Welsh Fire & Rescue Service saved considerable time and effort by not having to undertake the lengthy tendering process required under EU procurement legislation themselves, safe in the knowledge that all major suppliers had been considered. They could also benefit from the specialist purchasing expertise and technical advice available from YPO and its suppliers. The framework covers the supply of uniforms in addition to laundry, maintenance and repair services and is in use with: Cornwall, Derbyshire, Humberside, Nottinghamshire, South Yorkshire, West Midlands, West Yorkshire and Wiltshire fire and rescue services.

### **Outcomes achieved**

- Creation of a modern and unified corporate identity for the Welsh fire and rescue service;
- Streamlining of the procurement process, which has delivered efficiency savings that can be re invested in the frontline service.

### **What they said...**

Chris Margetts, all Wales PPE Project Manager said:

*'Until now, all three brigade areas had different protective equipment and we didn't have a recognised identity. This made the procurement process confusing as we had to approach different suppliers to replace worn kits. We put a proposal into place whereby we created a corporate identity, streamlined the process and cut costs significantly. The results YPO delivered exceeded our expectations.'*

Barry Crowther, Managing Director of YPO said:

*'The work of fire fighters is vital to local communities. Ensuring they're armed with the latest protective equipment is crucial. YPO are proud to have worked alongside the Welsh Fire & Rescue Service who we understand are among the first in the world to take advantage of this latest technology. Together, we've been able to deliver a practical, quality solution which met the needs of the service in the most cost-effective way possible.'*

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## **5.15: Joint procurement of refuse vehicles across Nottinghamshire led by Gedling Borough Council**

*In 2005 a number of councils in Nottinghamshire joined forces to devise a 'single tender process which generated massive savings in their procurement of new vehicles and training'. It proved so successful that there are now nine members of a consortium that has generated £1.75million worth of savings.*

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### **Background**

In 2005 a group was created from the council's transport managers, and given the task to look into how to generate savings and efficiencies in procurement. By 2006 the Consortium consisted of eight authorities working together to procure Refuse Collection Vehicles (RCVs). The main objective of the Consortium was to outline a single common specification for the RCVs and initiate a single tender process.

### **What happened and why?**

Once the specification was devised, the tender was put out publicly and published by the Official Journal of the European Community. The tender was for the procurement of 40 vehicles, amounting to approximately £6 million worth of business, which attracted a great degree of interest from suppliers.

This gave the Consortium a significant advantage in buying power - acquiring discounts that wouldn't

have been possible for a single buyer. After negotiating the single tender contract, there was an immediate efficiency made from not having to draw up eight separate contracts, specifications, and pricing schedules or tenders separately.

Following the success of the initial contract, in 2008 they extended the joint procurement process to include other vehicles, such as panel vans, transits and minibuses weighing up to 3 ½ tonnes. This gave Nottinghamshire County Council an opportunity to join the group, which resulted in a contract for a total of 400 vehicles to be purchased over three years; and a commitment was made to supply vehicles just 13 weeks from order - generating total savings of £270,000.

Training was the next service to be jointly procured. New legislation requires drivers of large goods vehicles to gain a Drivers' Certificate of Professional Confidence (a total of 35 hours training over five years). After a public tender the contract was awarded to Sandy Arthur Training in February. Over the next five years 450 drivers will be trained at a cost of £250 per driver – resulting in savings of about £45,000.

The success of the Consortium's procurement process has led to the development of a number of exciting projects and ideas for the future; including a new Fleet Management System funded by the East Midlands RIEP, a four year tyre management contract set to save £130,000 over the four years and ongoing research and development work on further alternative fuel vehicles.

### **Outcomes achieved**

- An initial two year contract for new Refuse Collection Vehicles has been re-tendered and a new four year contract has been entered into resulting in £1.3 million savings over the two contracts;
- Extending the contract on panel vans by a further year will save £270k over the three year contract period;
- Savings of around £130k on vehicle tyres by signing up to a four year joint contract with Vaculug Tyres;
- A new five year training contract for drivers operating vehicles over 3.5 tonnes has been awarded to Sandy Arthur Training Services Limited saving in the region of £45k.

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## **5.16: Joint company between Gwynedd Council and Isle of Anglesey County Council**

*'Cynnal' is a local authority wholly owned company limited by guarantee, which is jointly owned by Gwynedd Council and Isle of Anglesey County Council to deliver school improvement and support services.*

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### **Background**

The company was established in 1996 when local government reorganisation took place in Wales. The imperative for sharing services across the two areas was based on a consensus that the two Local Education Authorities (LEAs) were not big enough to offer the range of expertise required in terms of school support services.

### **What happened and why?**

It was set up as a company rather than a Joint Committee because at that time there were issues with allowing LEAs to trade. Effective governance is ensured through a management board, which is made up of elected members, the respective Directors of Education, as well as representatives from the department of education and the schools.

Cynnal provides a range of services to schools ranging from curriculum support, inspection support, ICT repair and maintenance as well as support for Management Information Systems (MIS). The company, although publically funded through the two LEAs, also has to generate some income to make ends meet.

In terms of what the future may hold for further sharing of school improvement services across North

Wales, it is important to note that legislation has moved on a lot since 1996 and there are now a whole range of governing structures that could be used. Any further collaborations will need to be looked at against a number of relevant criteria.

**Outcomes achieved**

As things have evolved, delivering services in other neighbouring authorities has provided a good way to generate income. In this context, Cynnal provides a range of services for Conwy.



## 6. In house services and alternative models of service delivery: advantages and disadvantages

In recent years as the principles of choice, competition and marketisation have become more prominent; the framework within which public services are delivered has radically altered. Indeed, the Open Public Services White Paper<sup>17</sup> published in July 2011 by the Coalition government enshrines the principle of diversity in public service provision, moving away from 'the state provides' towards the 'state commissions from a wide range of providers'. Assessing just how much these principles apply to Wales can become quite nuanced. On the one hand, the government have stated that 'the scope of the paper is UK wide, but at the same time they have stated that in devolved areas of policy it is for the devolved administrations to determine their own approach to public service reform'.

Carwyn Jones, the First Minister of Wales has recently outlined the different approach that is being taken to public reform by the Welsh Government, reinforcing the importance of the state. He said that: *'I don't think that the public want to see more private providers; they want to see, quite simply, good public services.'* He then goes on to outline the fact that while some councils are collaborating, more should be working together across education, social care and waste disposal in order to deliver 'significant savings'<sup>18</sup>.

Whilst local authorities have never delivered all services 'in house', there are a whole range of different forms of local service provision, which have emerged that were traditionally delivered through 'in house' methods. These include but are not restricted to:

- Local Authority Companies;
- Non Local Authority Companies;
- Leisure Trusts;
- Partnerships;
- Co-operatives, mutuals and social enterprises.

More information setting out the features of each of these models as well as their respective advantages and disadvantages is set out in the section below. Regardless of the specific delivery vehicle used, public services should:

- Be democratically accountable to citizens and service users;
- Deliver high quality and value for money local services;
- Ensure the highest possible employment and training standards.

### The case for in house services

There are a range of reasons why local authorities continue to deliver services in house. Increasingly in an era of budget constraints local authorities that have previously outsourced services are choosing to return them to in house provision<sup>19</sup>. Some of the key benefits and advantages of delivering services 'in-house' are set out below. Many of these issues are explored further in research<sup>20</sup> produced by APSE on the benefit and value of public employment.

### Value to the local economy

- Direct employment and in house services can be used to drive and influence the development of the local economy;
- The value of directly provided services to local economies was covered extensively in APSE's economic footprint research<sup>21</sup>, which showed that for every £1 spent by a local council there is an economic return of £1.64.

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17 <http://www.cabinetoffice.gov.uk/sites/default/files/resources/open-public-services-white-paper.pdf>

18 <http://www.guardian.co.uk/society/2011/jul/19/welsh-assembly-new-direction-public-services>

19 <http://www.unison.org.uk/acrobat/20122.pdf>

20 <http://www.apse.org.uk/page-flips/2011/future-for-public-employment/files/towards%20a%20future%20for%20public%20employment.pdf>

21 <http://www.apse.org.uk/page-flips/2011/economic-footprint/files/economic-footprint.pdf>

### **Value in shaping places**

- Direct employment and in house services can be used to build community cohesion and address quality of life issues;
- Retaining a strong core of directly delivered services ensures that local authorities retain the capacity to intervene in local communities and deal with complex strategic issues such as climate change.

### **Value in managing costs and transactions**

- In house services can help to ensure that scarce resources are managed efficiently and the costs of procurement and contract management are avoided;
- In house services help to finance and support the corporate and democratic core of the council;
- They give the flexibility to change priorities and reduce budgets without having to revert to the use of a contract.

### **Value in sustaining democratic networks and accountability**

- In house services help to retain the link between service provision and democracy, ensuring accountability to elected representatives and wider communities.

### **Value in realising the potential of the local workforce**

- In house services help to ensure that localities are able to access the skills and training necessary to support local economies;
- The public sector as a direct employer can act as an employment standard setter in promoting fair employment practices, skills, training and apprenticeships.

## **Alternative models of service delivery: advantages and disadvantages**

Recent years have seen an increase in the use of external service delivery vehicles. There are a wide range of potential models and some confusion remains about how different vehicles can be applied to different situations. Whether a particular model of delivery is appropriate for a particular service will depend on a range of factors that will need to be assessed on an individual case by case basis. The starting point should always be to develop an understanding of the objectives of the service and how well they are currently being met. The information below sets out the features of each of these alternative service delivery vehicles along with their respective advantages and disadvantages.

Before embarking upon an options appraisal of different models of service delivery, local authorities should note that they don't need to set up a company in order to undertake public-public trading or provide services to the private sector as long as the purpose of trading is linked to cost recovery. For example, at South Gloucestershire Council, a review of fees and charges has provided a catalyst for income generation and helped support the local economy without needing a trading company operation<sup>22</sup>.

Local authority companies can only benefit from the 'Teckal exemption' in certain circumstances. These circumstances are often referred to as the 'Teckal tests' and are set out below. In the case of companies that trade commercially, these are particularly unlikely to benefit from the Teckal exemption. Local authorities also need to be aware of the fact that even if a company is set up using the Teckal exemption, it doesn't automatically follow that they will benefit from the exemption forever, so the structure of the company must be reviewed on an ongoing basis. For example, if a Teckal company starts to bid commercially for work then a section 95 company may be required.

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<sup>22</sup> <http://www.apse.org.uk/charging-trading/pdfs/dn-extracts/8-9.pdf>



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## 6.1: Local Authority Companies

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### 'Teckal' service delivery companies

Authorities are able to establish companies to provide services to themselves. This type of company is distinctive because provided there is no private sector involvement and the company does not seek to trade more widely, contracts can be let without competition in some circumstances. These circumstances are often referred to as the 'Teckal tests', which are set out below:

1. The local authority exercises over the person concerned a control which is similar to that which it exercises over its own departments;
2. At the same time, that person carries out an essential part of its activities with the controlling authority.

The key thing to remember here is that **for the company to benefit from the exemption it must behave like a department of the council.**

#### Examples

- Swindon Commercial Services;
- Greenwich Service Plus.

#### Advantages

- Can benefit from Teckal exemption;
- Potential to operate in a more commercial manner;
- Potential to generate revenue provided it is not in breach of the exemption;
- Streamlined decision making through board structure;
- Cultural and organisational change.

#### Disadvantages

- Burden of proof rests with the local authority to ensure that the tests within Teckal are strictly applied;
- Some of the efficiency savings delivered will stay with the company;
- Possible impact on service delivery as a new legal entity is set up;
- Increased transactional costs;
- Subject to council's capital controls;
- Inability to undertake extensive internal trading;
- Tax issues – distribution of profits and dividends.

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### Wholly owned trading companies

A trading company is an independent entity with limited liability, which can trade in the public or private sectors. Powers to set up a trading company come from the 2003 Local Government Act.

#### Examples

- Norse Group;
- Essex Care;
- Greenwich Service Solutions.

#### Advantages

- Represents an opportunity to raise income through external trading;
- Commercial outlook;
- Outside of local authority decision making processes and bureaucracy;
- Cultural and organisational change;
- Ability to raise external finance.

#### Disadvantages

- Staff can be employed on different terms and conditions to local authority;
- Procurement rules apply – contracts above relevant thresholds will usually have to be won in competition;

- Some of the efficiency savings delivered will stay with the company;
- Possible impact on service delivery as a new legal entity is set up;
- Increased transactional costs;
- Governance and accountability to the host authority;
- Distribution of profits and dividends;
- Cross boundary tendering.

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## Hybrid 'shell' companies

*A shell company is a hybrid model, which involves directing non commercial operations through a simplistic charging route. A shell company can be set up to trade through if needed. Staff can be seconded in and out as required to do the traded work.*

### Example

- Gateshead Trading Company model.

### Advantages

- Allows the use of charging where work is not guaranteed; but additional income will help offset service costs/CEC charges;
- Flexible option – work can be expanded or contracted to suit service needs and provide best use of staff, increasing productivity and maximising use of resources;
- No complicated staff transfer arrangements;
- Minimal risk;
- Allows trading for a 'commercial purpose' with the private sector;
- Can be 100% owned by the local authority.

### Disadvantages

- Award of work becomes more complex if the company is part owned by the private sector.

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## 6.2: Non Local Authority Companies

### For profit company limited by shares

*This type of company is often used as a vehicle for trading under Section 95 of the 2003 Local Government Act in England and Wales where the private sector is involved.*

### Examples

- Manchester Working Limited;
- North Lanarkshire JVC with Morrisons.

### Advantages

- Distinct legal status;
- Permanent solution;
- Can be used for multiple purposes;
- Recognisable vehicle for raising finance.

### Disadvantages

- Range of state aid and competition issues;
- Potential exposure to taxation;
- Conflict of interest issues need to be carefully monitored.

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## Not for profit company limited by guarantee

*A company limited by guarantee is a not for profit entity so there are no shares issued. Members normally have equal voting rights and elect a board of directors. Profits are not distributed as dividends but put towards the company activities. Examples are Leisure Trusts.*

### Example

- Wigan Leisure and Culture Trust.

### Advantages

- Members have limited liability.

### Disadvantages

- Must abide by the rules governing local authority 'controlled' or 'influenced' companies;
- The directors of the company, even if nominated by a local authority, have a primary duty of care to the company and its charitable purposes, not to the local authority.

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## Partly/jointly owned trading companies

*A jointly owned trading company is jointly owned by the local authority and one or more public/private sector partners. As with wholly owned trading companies, the powers come from section 95 of the 2003 Local Government Act.*

### Advantages

- Opportunity to raise income;
- Commercial outlook.

### Disadvantages

- Staff are often employed on different terms and conditions to local authority;
- Elected members/officers responsible to company as directors rather than the local authority;
- Procurement rules apply – contracts above relevant thresholds will usually have to be won in competition;
- Some of the efficiency savings delivered will stay with the company;
- Possible impact on service delivery as a new legal entity is set up;
- Increased transactional costs.

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## 6.3: Leisure Trusts

*A Leisure Trust is a non profit distributing organisation, which runs leisure centres. They can take a number of different legal forms, which are detailed below.*

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### Advantages

There are a number of advantages generic to leisure trusts as a whole. For more detail on the advantages of individual forms of leisure trust, see the types of trusts detailed below:

- Trusts commonly receive NNDR relief of up to 100%. (80% statutory, 20% non statutory);
- Transferring local authority activities to a not for profit body can have positive VAT advantages;
- Gifts to charities are free of capital gains tax and inheritance tax;
- As long as income is applied to charitable purposes, charities are exempt from income and corporation tax;
- Potential to raise capital.

### Disadvantages

There are a number of disadvantages generic to leisure trusts as a whole. For more detail on the disadvantages of individual forms of leisure trust, see the types of trusts detailed below:

- Some leisure trusts have gone into liquidation;

- Savings from NNDR and VAT may be diluted by set up costs, high corporate costs, and loss of economies of scale and contract management /monitoring costs;
- Publically funded so just as vulnerable to cuts in public spending as a local authority leisure service;
- Company law requires board members to act in the interests of the trust above other responsibilities and interests, which weakens democratic accountability;
- Evidence suggests that in practice, leisure trusts have limited ability to raise capital.

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## Voluntary or unincorporated charitable trusts

*This form of trust can be established by an individual, group or public body. The purpose of the body must fit one of the categories for charitable status. It is managed by trustees who have a 'duty of care' to the charity.*

### Advantages

- Simple to set up with very few associated costs;
- Fairly easy to wind up at the end of their existence.

### Disadvantages

- The trust cannot enter into legal agreements such as leases, contracts of employment;
- 'Trading' by such charities is legally constrained and often requires the establishment of a separate trading company whose profits are dedicated to the charity;
- Trustees have unlimited personal liability, which makes this a difficult structure for local authorities operating leisure centres with high and variable turnovers.

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## Not for profit company limited by guarantee

*This is the most popular form of trust established by public bodies. It is managed by a board of directors or management committee.*

### Example

- Rochdale Link4Life Cultural Trust.

### Advantages

- It is a well understood corporate model;
- The trustees or directors of the company have a limited liability.

### Disadvantages

- Must abide by the rules governing local authority 'controlled' or 'influenced' companies;
- The directors of the company, even if nominated by a local authority, have a primary duty of care to the company and its charitable purposes, not to the local authority.

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## Industrial and provident society

*This form of trust has become more popular in recent years. The role of employees as shareholders means that existing employees of a public body can set up a trust to carry out the functions of a local authority. The legal powers to set up this type of trust are contained under the Industrial and Provident Society Act 1965.*

### Example

- Greenwich Leisure.

### Advantages

- Can register as charities by adopting charitable purposes and rules;
- Long leases enable local authorities to provide security against borrowings so that leisure trusts can re invest in the buildings.

### Disadvantages

- Shareholders and trustees or board members have limited personal liability;
- If they take the form of co-operative societies where employees are shareholders, then cannot register as charities.

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## 6.4: Partnerships

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### Limited Liability Partnerships

*A Limited Liability Partnership sets up a separate corporate entity. It is a partnership where the liability of each partner is limited through the Limited Liability Partnership Act 2000. It must be formed for the purpose of making profits or securing a surplus of income over expenditure.*

#### Example

- Glasgow City Building partnership with Cordia.

#### Advantages

- Transparent for tax purposes;
- Limited liability for partners;
- Distinct legal status;
- Can contract and own property;
- Liability of members restricted to their contribution;
- Can form part of the trading structure for fiscal advantage.

#### Disadvantages

- Need to consider vires issues such as award of contracts without competition;
- Cannot be used for trading in England and Wales;
- Similar reporting arrangements to private sector companies;
- Same member/officer conflict of interest issues as companies;
- Cannot be used for non profit making activities.

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### Limited Partnerships

*A limited partnership is not a separate corporate entity. The liability of some partners is limited but the liability of at least one partner must be unlimited. Limited partners cannot participate in the management of the partnership without losing limited liability status.*

#### Example

- British Waterways ISIS.

#### Advantages

- Limited liability for limited partners;
- Tax transparent.

#### Disadvantages

- Limited partners cannot be involved in management;
- Unlimited liability for at least one partner.

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## 6.5: Co-operatives, mutuals and social enterprises

The advantages and disadvantages of these models are set out below. For more information on these models, please refer to APSE's publication, *Proof of delivery? A review of the role of co-operatives and mutuals in local public service provision (2011)*.

#### Advantages

- Some support available to develop these models of service delivery. For example, mutuals support programme;
- Can work well when applied to small niche services, for example, Lancaster City Council, Bulky Matters.

## Disadvantages

- The case for these models of service delivery is unproven;
- Sustainability – businesses so must generate an income stream;
- Pressure on staff pay, jobs and pensions;
- Financial stability;
- Taxation issues;
- Ability to raise capital;
- Liabilities;
- Accountability and democracy.

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## Co-operatives

*A co-operative is an organisation owned and controlled by its members. They work on the basis of one member, one vote and sign up to an agreed set of values and principles<sup>23</sup>. Whilst a co-operative has no specific legal form, they tend to take three main legal forms, which are detailed below;*

### *Community Interest Company*

A CIC is a normal company, which has secured a community interest designation. It must commit itself to working in the community interest and create an asset lock to ensure that its profits cannot be distributed to its shareholders.

### *Company limited by guarantee*

see section above on non local authority companies

### *Industrial and Provident society*

see section above on Leisure Trusts

## Examples

- Oldham Community Leisure (also an IPS);
- Pearls of Rochdale (worker co-operative);
- Springs Tenant Management Co-operative, Bury MBC.

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## Mutuals

*A mutual in a public sector context is a business, which is owned by its members. There is no single agreed definition or specific legal form; but they all share several common characteristics. They are established to serve a specific community, owned by their members, operate democratic voting systems and have governance structures that formally incorporate stakeholder interests.*

### Example

- Sunderland Home Care Associates.

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## Social Enterprises

There is currently no legal definition for a social enterprise. However, the Government's definition of a social enterprise is, 'an organisation with primarily social objectives whose surpluses are principally reinvested for that purpose rather than being driven by the need to maximise profit for shareholders and owners'.

### Examples

- Central Surrey Health;
- Ealing Community Transport.

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<sup>23</sup> <http://www.ica.coop/coop/principles.html>

## 7. Key issues for local authorities to consider

There is no reason why shared services need to be particularly complicated. Simple administrative arrangements building on well defined legal powers and strong existing relationships often offer the best way to avoid many of the issues set out in this section. For more information on the advantages and disadvantages of the different administrative models of shared services, see section four. For more information on how administrative models work in practice, see 5.1, 5.9, 5.10, and 5.11.

The main messages emerging from the research supporting the argument that local authorities should first consider simple administrative arrangements of shared services are as follows:

- It **costs very little** to set up a joint committee or reach a service level agreement;
- Simple administrative models **minimise the exposure of the local authority to risk**;
- Administrative models don't create a separate legal entity, so give the best opportunity to maintain a **direct democratic link** between elected members and their electorates. This is in contrast to corporate models of shared services where elected members are often responsible to a board rather than to the electorate;
- Simple administrative models such as joint committees potentially offer an equitable way for local authorities involved in the shared service to **share the local economic benefits**. (See section 7.5 for a discussion of how this works in practice);
- In many cases, simple administrative models **avoid complex staffing issues** associated with corporate or company models;
- Simple administrative models **avoid most competition, state aid and taxation issues**, which tend to be associated with delivering shared services through arms length models.

These issues are set out in more detail below:

### 7.1: Governance and accountability

Certain models of shared services do trigger a range of governance issues. However, because simple administrative models don't create a separate legal entity, they can avoid many of the issues by maintaining the direct democratic link between local elected members and their local electorate. In the case of a joint committee, councillors from each council involved in the shared service would be elected to the joint committee from within their authority and each elected member would then report back and be democratically accountable to their own authority.

Where councils are considering embarking upon more complicated shared services arrangements it becomes even more important that a clear framework of relationships and accountabilities are established so that officers and members know exactly what is expected of them. The three main areas that local authorities should consider relating to governance are board representation, the potential for conflicts of interest and reporting back to the council.

#### Board representation

This is controlled by the rules governing local authority 'controlled' or 'influenced' companies as set out in Part V Local Government and Housing Act 1989. This legislation doesn't inhibit local authorities from establishing a company; but does put in place a range of controls in respect of local authority influence on companies. Before embarking upon setting up a company, **councils must take detailed legal advice about structure**.

#### Conflicts of interest

Directors of arms-length companies have a primary duty of care to the company and not to the local authority even if they have been nominated by the local authority. This requires local authority nominees to be particularly careful when balancing their roles as company directors and democratically elected representatives of their local communities.

#### Reporting back to the local authority

Performance management arrangements are a key governance issue that should be sorted out at the outset. Local authorities should ask and answer the question; how will the body being set up be held

to account? Reporting back is often dealt with through making arrangements for council committees to scrutinise the shared service and ask questions of members and officers who are appointed as directors. Overview and Scrutiny is one potential vehicle for this.

Governance arrangements in relation to the collaboration agenda in Wales are covered in pages 46-51 of the Simpson Review. This outlines the factors that local authorities should consider when seeking to implement effective governance for shared services<sup>24</sup>.

## **7.2: Workforce matters**

There are a number of potential benefits for the workforce that can come about as a result of shared services and local authorities should ensure their approach to shared services maximises these benefits, which are as follows:

- Pooling of specialist skills;
- Access to a wider range or depth of expertise;
- Increased staff development and/or career opportunities;
- Retention of skilled staff as more variety and challenges are offered.

Simple administrative models such as delegation of responsibilities or establishing a joint committee can sometimes avoid many of the staffing issues associated with more complex models of shared services. For example, staff employed by one local authority can be lent to one or more other local authorities. Staff could also be seconded from one authority to another.

Local authorities need to consider how they will deal with some of the workforce challenges associated with shared services, which are set out below:

### **Consultation**

Local authorities need to comply with the 2005 Information and Consultation of Employees regulations<sup>25</sup> and ensure that trade unions are fully involved through existing mechanisms, e.g JCC committees. Where more than one employer is involved, consultation will need to take place on a cross boundary basis.

### **Equal pay**

Local authorities need to take into consideration both the law on equal pay and the way in which it interacts with TUPE.

### **Managing a reduction in the workforce**

Sometimes shared services may involve a managed reduction in the number of staff that work for the local authority. The exact facts of each situation will determine any statutory, contractual or procedural obligations.

### **Pensions**

TUPE regulations ensure that earnings in the pension scheme operated by the former employer are protected.

### **Terms and conditions**

It is important that local authorities consider the implications of having sets of staff working together that are on different sets of terms and conditions. Where shared services involve travel to a central hub, local authorities need to consider harmonising travel allowances.

### **Transfer of Undertakings (Protection of Employment) Regulations 2006 TUPE**

TUPE protects employee's terms and conditions when a business or undertaking or part of one is transferred to a new employer. Therefore, if the chosen model of shared services involves moving the responsibility of providing a service to another employer then it is likely that TUPE will apply. Further information on TUPE regulations can be found through the Local Government Employers (LGE)<sup>26</sup>,

<sup>24</sup> <http://wales.gov.uk/docs/dsjlg/publications/localgov/110325lnservicesv2en.pdf>

<sup>25</sup> <http://www.acas.org.uk/index.aspx?articleid=1598>

<sup>26</sup> <http://www.lge.gov.uk>



Department for Business Innovation and Skills (BIS)<sup>27</sup> or the Advisory, Conciliation and Arbitration Service (ACAS)<sup>28</sup>.

This section has highlighted some of the key areas associated with workforce matters that local authorities should consider when planning shared services. However, this is an area of significant complexity and local authorities should take detailed advice. APSE can provide more information about workforce matters and how they apply to shared service arrangements. To take advantage of this please contact Mo Baines by email on [mbaines@apse.org.uk](mailto:mbaines@apse.org.uk) or by phone on 0161 772 1810.

### 7.3: Competition and procurement

Simple administrative models of shared services have the advantage of avoiding many of the competition and state aid issues associated with more complex models. Furthermore, non contractual arrangements do not involve the award of a 'public contract' and therefore have the advantage of not triggering the EU competition regime.

The issues that local authorities need to be aware of with regard to competition and state aid are set out below. (These are particularly relevant to the creation of external service delivery vehicles):

- The majority of public contracts sit within the competition framework and European law largely outlaws the granting of 'soft' contracts and/or advantages;
- However, **Teckal** does allow for exemptions from the competition regime. Local authorities who are seeking advantages that require the body to be independent from the council (e.g. in the case of Leisure Trusts) need to be particularly careful about the issue of control as set out by Teckal and should take detailed tax and legal advice.

Those authorities who are considering the creation of a company or other body that is intended to become a provider of services to the authority and will also be expected to trade externally need to pay particular attention to EU procurement legislation. **Local authorities should take detailed legal advice on both competition and state aid issues.**

Some more complex models of shared services raise a number of issues in relation to taxation, which are considered below. When considering service delivery options, **local authorities should take detailed taxation advice from the outset.**

More complex, corporate models of shared services are much more likely to trigger taxation issues than simpler arrangements. Indeed, arms length companies and joint venture companies are likely to be liable to pay tax on at least a portion of their profits (corporation tax). Local authorities therefore need to consider what the most tax efficient way is to distribute any profits.

### 7.4: Risk and scale

Simple administrative models of shared services minimise the exposure of local authorities to risk from the outset. The risk can be managed and controlled directly by the local authority rather than being partially removed from democratic governance as is the case with some arms length models.

The risk associated with shared services tends to increase if delivery arrangements involve entering into a partnership with a third party. This is confirmed by a recent Audit Commission report (2008), 'For Better, for Worse: Value for Money in Strategic Service delivery partnerships.'<sup>29</sup> It said that: '*Complex, long term partnerships with the private sector can succeed but they're far from easy ... Local Authorities should not be seduced by the warm language of partnerships.*'

Where local authorities are considering embarking upon company arrangements for shared services, it is critical they realise that a company structure cannot offer protection from the reputational risk to the local authority.

Local authorities also need to think carefully about the **scale** on which they wish to share services. Through combining services, local authorities can benefit from economies of scale by reducing costs as the size increases. There is however an optimum point up to which this applies, after this

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<sup>27</sup> <http://www.bis.gov.uk>

<sup>28</sup> <http://www.acas.org.uk>

<sup>29</sup> <http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/ForBetterOrWorseJan08REP.pdf>

diseconomies of scale start to creep in and the service starts to get more expensive to deliver.

It is important to note that in the context of delivering local government services, 'economy of scale' is not the same as 'efficiency'. What we mean by 'efficiency' is really 'process efficiency', so the extent to which the process can be controlled and managed. This is compromised when the scale of a service gets to the size where managers are less able to control the process. The ideal situation is to optimise both economies of scale and flow through the process.

## **7.5: Financial and local economic factors**

When developing the business case for shared services, local authorities should bear in mind that simple administrative models of shared services such as joint committees or service level agreements cost very little to set up.

However, other more complex models of shared services are likely to have greater costs associated with them. Where this is the case, financial assumptions must be backed up by clear evidence. There are examples of shared services business cases where estimates for costs such as systems, infrastructure and redundancy costs look overly optimistic. Where different councils operate different software and service delivery models these can be expensive to harmonise. It is also vital that councils are clear about the savings that shared services are likely to deliver. Past experience, particularly in setting up large back-office shared service centres for support services is that claimed savings are often displaced to operational staff.

Research undertaken by APSE, 'Creating resilient local economies'<sup>30</sup> has identified that for every £1 spent by a local authority an extra 64 pence is generated in the local economy. This would seem to suggest that when local authorities are looking at aggregating services, they should consider how to ensure that funds don't leak out of the local area.

Simple administrative models have the advantage of allowing member authorities to take the lead in identified areas, which helps to stop the leakage of funds from local areas. For example, the Greater Manchester Combined Authority (GMCA) operates through a joint committee but different local authorities take the lead in specific identified areas.

These types of shared services also offer a good way to share the local economic benefits amongst member authorities. For example, Manchester Airport is owned by the ten local authorities that make up GMCA. Aside from the obvious commercial benefits, over the years this arrangement has acted as a driver for additional regeneration in Greater Manchester drawing in additional jobs, businesses and inward investment into the area.

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<sup>30</sup> <http://www.apse.org.uk/page-flips/2011/economic-footprint/files/economic-footprint.pdf>

# Appendix 1: legal framework

This section sets out the legislative framework that underpins collaboration and shared services, explaining what can be achieved under each power and what local authorities need to consider.

This section addresses the:

- Local Authority (Goods and Services) Act 1970;
- Local Government Act 1972;
- Local Government Act 2000;
- Local Government Act 2003;
- Local Government Wales Measure 2009;
- EU procurement legislation.

## Local Authority (Goods and Services) Act 1970

The act allows local authorities to provide goods and services to other authorities to secure the benefits of economies of scale. It gives local authorities a wide power to collaborate for the principal areas covered in the legislation, which are:

- The supply of goods;
- The provision of any administrative, professional or technical services;
- The use of equipment;
- Works of maintenance.

The act is however limited in its scope. For example, it does not allow local authorities to provide services to the private sector, individuals or voluntary bodies. Essentially the act gives local authorities the power to provide goods and other public bodies. It is important to be aware that the definition of public bodies is quite wide ranging and incorporates a variety of institutions from housing associations to the NHS.

## Local Government Act 1972

The act allows one or more local authorities engaging in collaboration or shared services to delegate one or more of their functions to another local authority (**s101a**) or a joint committee (**s101b**).

## Local Government Act 2000

The act allows one or more local authorities engaging in collaboration or shared services to delegate one or more of their functions to the executive of another local authority (**s19 and 20**).

The act (**s2**) can also facilitate collaboration between authorities by allowing local authorities to provide staff, goods, services and accommodation to any person in connection with their power to promote the economic, environmental and social wellbeing of their local area (the **'wellbeing power'**).

The act (**s2(4)**) specifically empowers a local authority to:

- Incur expenditure to give financial assistance to any person;
- Enter into arrangements or agreements with any person;
- Co-operate with, or facilitate or co-ordinate the activities of, any person ;
- Exercise on behalf of any person any functions of that person;
- Provide staff, goods, services or accommodation to any person;

There are however, two limitations on the use of the wellbeing power. It cannot be used to:

- Do something that the council is unable to do due to a prohibition, restriction or limitation on its powers contained in other legislation;
- Raise money by way of a precept borrowing or otherwise.

The wellbeing power has now been superseded in England by section one of the Localism Act<sup>31</sup>, which provides a General Power of Competence for local authorities to act in the same way as an individual

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<sup>31</sup> <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

can. The starting point is that there are no limits as to how the power can be used; but there are boundaries to the new GPC.

The wellbeing powers no longer apply as they are effectively covered by the new General Power of Competence. APSE has recently published a briefing<sup>32</sup>, which provides more details on the General Power of Competence and the wider provisions contained within the Localism Act. **The power to introduce a General Power of Competence in Wales is conferred on the Welsh Government.**

### Local Government Act 2003: Trading and Charging

The act (**s93**) allows local authorities to raise charges for the supply of goods and services where these are provided in connection with a function of the council. Local Authorities should be aware that certain forms of trading and charging may help to avoid complex state aid and competition issues. These issues are discussed in section 7.3 but it is vitally important that legal advice is taken.

The act also allows goods and services to be made available under trading, i.e. at a commercial rate in connection with a function (**s95**). This power allows local authorities to sell goods and services to private companies, individuals or to any other party including other public sector bodies. This means that a local authority entering into a shared service arrangement can either do so on a cost sharing basis (*1970 powers*) or on a fully commercial basis (*2003 section 95 powers*). Under the 2003 act the power to trade under section 95 must be exercised through a company.

It is however important to note that the setting up of a trading company is a big leap for local authorities to make if they are uncertain as to future work and income.

**It is important to be aware of the differences in powers around trading and charging between England and Wales.** When the new power to trade originally came into force, it excluded those authorities in England that had been rated weak or poor under the Comprehensive Performance Assessment (CPA). Because CPA did not apply in Wales the Welsh Assembly Government needed to make its own decisions about any required restrictions on the trading and charging powers.

Circumstances where these powers might be restricted in Wales include:

- Sustained and serious trading losses, which call into question the financial health of the authority;
- Clear evidence of an authorities non traded services (particularly those that are statutory) suffering a significant drop in standards due to a heavy focus on traded operations;
- Irregularities in trading accounts or a lack of proper management controls;
- Where there are breaches of the rules around subsidy to local authority companies or competition and state aid law.

The Wales Programme for Improvement (WPI) requires authorities to include in their improvement plans a summary of the uses to which trading powers have been put and for that to also be addressed in the WPI risk assessment.

### Further sources of information on trading and charging

- 'A guide to Local Authority Trading and Charging'<sup>33</sup> (2004) examines trading in its modern context following the enactment of the 2003 Local Government Act;
- 'Charging and Trading in Local Government'<sup>34</sup> (2005) explains the powers available under the Local Government Act 2003;
- Member Authorities may also wish to look at APSE's trading and charging web portal<sup>35</sup>, which provides case studies and relevant information in relation to trading and charging (split out by geographic areas).

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32 <http://www.apse.org.uk/briefings/11/11-67%20The%20new%20Localism%20Act%20.pdf>

33 Cirell, S. et al. (2004) *A guide to local authority charging and trading*. Eversheds

34 Cirell, S. and Bennett, J. (2005) *Charging and Trading in Local Government*. London: Sweet and Maxwell

35 <http://www.apse.org.uk/charging-trading/index.html>

## Local Government Wales Measure 2009

This measure (**s9**) provides authorities with the ‘**power to collaborate**’ in order to secure continuous improvement, meet improvement objectives and/or meet specified performance measures. Under this power an authority can:

- Provide financial assistance;
- Enter into arrangements or agreements;
- Co-operate with or facilitate or co-ordinate the activities of another person;
- Exercise functions on behalf of another person;
- Provide staff, goods, services or accommodation.

The measure (**s12**) also requires authorities to consider whether such collaboration would assist in the discharge of their improvement duties. If so they must seek to exercise that power. APSE has previously produced a briefing<sup>36</sup>, which provides more detail on this measure.

## EU procurement

Where local authorities seek to engage in shared services activity, those activities need to be examined to determine whether EU procurement rules apply. Local Authorities should not assume that they can undertake work for other local authorities without considering whether the issue of procurement arises. Many simple shared services arrangements do not require lengthy deliberation on EU rules. The circumstances where this applies are set out below:

- Where there is an administrative arrangement between the local authorities;
- Where the ‘Teckal’ exemption applies;
- Local authorities are involved in the alignment of processes rather than a contract for services;
- Local authorities establish a central purchasing body.

‘**Teckal**’ is a reference to an EU case brought by a company complaining about the award of work by EU public bodies to a publicly established consortium. Teckal concerned the award by an Italian local authority of a contract for the management of heating services for certain municipal buildings to a consortium set up by several local authorities (including the awarding authority) and without an EC public procurement tender procedure having been followed. The court held (ECJ judgement reference C-107/98) that contracts can be granted without competition providing certain tests are met. For a further discussion on how these tests work in practice, see the information in section six, which refers to Teckal service delivery companies.

In the case of alternative service delivery models, it is important that where local authorities seek an advantage that requires the body they are setting up to be independent, they pay particular attention to the issue of control as set out by Teckal. For example in the case of **Leisure Trusts**, a major driver behind their formation is likely to be the possibility of NNDR relief; but this is only available to organisations where the property is being used wholly or mainly for charitable purposes and the institution/organisation must be established for charitable purposes only. Registration under the 1993 Charities Act is conclusive proof of charitable status; but other bodies may also be eligible for mandatory relief.

Given that independence from the local authority is a requirement of registration as a charity, it is difficult to see how a leisure trust could achieve tax efficiency whilst at the same time also being treated as a ‘Teckal’ service delivery company. Many local authorities have discovered that their Leisure Trusts are operating under a contract and should be subject to EU procurement. That is why it is very important to ensure that proper consideration is given to grant and lease arrangements on the formation of a Leisure Trust to ensure that they do not become subject to competition by default. This in itself gives local authorities less control in specifying how services will be delivered because it may give rise to a more formal contractual relationship.

Local Authorities must also ensure that in all situations (even where contracts fall below the threshold) the principles of equal treatment and non discrimination under the Treaty of Rome preventing distortion of competition under the common market are applied. These principles imply an obligation

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<sup>36</sup> [http://www.apse.org.uk/briefings/09/09-69%20Local%20Government%20\\_Wales\\_%20measure%202009.pdf](http://www.apse.org.uk/briefings/09/09-69%20Local%20Government%20_Wales_%20measure%202009.pdf)

of transparency ensuring a degree of advertising sufficient to enable the services market to be opened up to competition and the impartiality of procurement procedures to be reviewed. (Obviously in the case of contracts that fall below the threshold, local authorities should exercise a degree of proportionality.) Regardless of EU rules, local authorities must ensure that they comply with their own financial standing orders and procurement rules.

**The issues surrounding shared services; but particularly alternative models of service delivery is an area of significant legal detail and technical knowledge. External legal advice should be commissioned from the outset prior to implementation. It is also important to note that this area is subject to a large degree of ongoing change.**

## Appendix 2: useful sources of further information

Listed below are further sources of information that local authorities may find it useful to refer to:

APSE (2011) *UNISON insourcing update: The value of returning local authority services in-house in an era of budget constraints*. Manchester: APSE

Audit Commission (2008) *For better, for worse: Value for money in strategic service delivery partnerships*. London: Audit Commission

Barnes, J. (2006) The Collaborative Model. *Municipal Journal*, 26<sup>th</sup> May

Bennett, J. (2006) Public Procurement Implications of Shared Service Arrangements. *Municipal Journal*, 2<sup>nd</sup> June

Cirell, S. (2006) Making Joint Working and Collaboration a Reality. *Municipal Journal*, 8<sup>th</sup> May

Cirell, S. and Bennett, J. (2005) *Charging and Trading in Local Government*. London: Sweet and Maxwell

Cirell, S. et al. (2004) *A guide to Local Authority Trading and Charging*. Eversheds

Cooper, D (2006) Governance Implications of Shared Service Arrangements. *Municipal Journal*, 26<sup>th</sup> June

DCLG (2006) *Structures for Collaboration and Shared Services: Technical Notes*. London: DCLG

Mousdale, M. (2006) The Corporate Model Implications of Shared Services. *Municipal Journal*, 8<sup>th</sup> June

Reynolds, A. et al. (2011) *Proof of delivery? A review of the role of co-operatives and mutuals in local public service provision*. Manchester: APSE

Simpson, J. (2011) *Local, Regional, National: What services are best delivered where?*



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