

Better business:

Councils shaping markets for public value



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The Association for Public Service Excellence (APSE) is a not-for-profit local government body working with over 300 councils throughout the UK promoting excellence in public services. APSE is the foremost specialist in local authority frontline service provision in areas such as waste and refuse collection, parks and environmental services, leisure, school meals, cleaning, housing and building maintenance and energy services. APSE leads a research programme exploring a range of issues which impact upon both local authority frontline services as well as strategic public policy issues.



New Local Government Network (NLGN) is an independent think tank and collaborative network of leading edge local authorities and dynamic private sector thinkers. We connect members of the network to each other through our high level events programme and creative research work.

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Forewords

APSE commissioned this report from NLGN as part of our research programme which aims to develop the Ensuring Council, a positive model for local government, moving forwards towards 2020.

We welcome this report as a valuable contribution to the debate on how councils can ensure they get maximum public value from the markets and businesses that operate within their local areas.

Local government is leaving no stone unturned in its attempt to transform the services it provides to meet public need, it therefore follows that similar principles should be applicable to private sector markets. Whilst an Ensuring Council will seek to have positive relationships by collaborating with its partners in the private, public and voluntary sectors of the local economy, it will not be a passive bystander if the local community is being short changed.

With councils themselves seeking to be more efficient, innovative and entrepreneurial it's time to ensure that local private sector markets also provide the maximum value possible for the public. Local government has a fundamental role to fulfil as steward of local place, if markets operating in that local place are not operating as effectively as possible in meeting public need, then this report recommends a number of strategies local authorities can deploy to encourage better outcomes.

Whether its energy or housing, when markets fail or operate unfettered in their own interest it's the public that suffer. From coaxing and coercion to direct intervention, now more than ever, local authorities need to take action on behalf of local communities to ensure the vigorous pursuit of public value from every penny they spend, and every penny spent over which they have influence.

Paul O'Brien, *Chief Executive, APSE*

For the foreseeable future, the job of local government will be taking things away. The question is not whether councils can maintain their current services, but whether they can find new ways of working that will mitigate the impact of a smaller local state. As this report shows, one of the areas we must rethink is the way that local regulation works.

We do not often think of councils as regulators – they do not have the legal powers or scope of an Ofgem or CQC – and yet authorities intervene in markets on a daily basis to ensure they provide safe, high quality goods and services to their customers.

This research report makes the argument that we need to reimagine this activity by turning regulation into part of a preventative strategy for the future of public services. Rather than carry the cost of poorly performing markets in terms of poor health, insufficient housing or debt, councils need to find new ways to challenge the private sector to offer people better choices.

This is not a report that calls for banning and inspecting, but one which asks for the full weight of a council's business strategy to be put behind the creation of markets that meet social need. This means that purchasing power must be used to encourage pro-social business behaviour and that councils should set up their own businesses to cope with gaps in the market, or provide better choices where only poor ones currently exist.

Better regulation is an under-appreciated tool for social change. I hope this report will change that fact.

Simon Parker, *Director, NLGN*

Introduction and executive summary

Introduction

Most businesses provide valuable social and environmental, as well as economic, benefits to local places. Some £172bn of tax revenue from businesses supports valuable government services; employment is one of the most important protective factors against a host of wider social outcomes; private markets drive innovation and provide useful goods and services we all love to use; and many companies are active in supporting communities and the voluntary organisations that work with them.¹

However it has become clear that some private sector markets are failing to meet social needs. While many markets function perfectly well, some do not and involve business models which lead to damaging outcomes for individuals and for society. Problems in markets ranging from payday lending to energy, fast food and sections of the private rented housing sector are limiting residents' options and reducing them to consumption choices which are inconsistent with both their own goals and the wider interests of society. This is leading to a range of interconnected negative outcomes for local residents relating to ill health, debt and financial vulnerability, and poor educational attainment which the public sector is paying to fix. In a time of austerity, these costs are increasingly insupportable.

In light of this, and in the context of an increasing reliance on markets to supply public goods and services, it is clear that we need to take a new look at the role of the state in influencing markets. This idea is in tune with the public mood², and at a national level parliamentarians from across the political spectrum have spoken about their visions for a more 'socially responsible' capitalism.³ But whilst national governments have a clear role to play, local intervention can be preferable, or complementary, to a wider national approach.

Councils want to see local people and places thrive. Encouraging good behaviours among their citizenry and the markets that serve them should be a key part of this. If councils can influence negative market behaviours, they can improve the wellbeing of their residents and reduce demand on the public purse. This is particularly important given local government's new powers over public health spending.

This report lays out the case for local government to take a role in actively shaping some markets and influencing businesses for the public good. Councils have a role to play in ensuring that markets live up to their promise of efficiently delivering beneficial services for society. Where the market does not provide real choice to citizens, or where particular marketing practices are leading people away from the decisions they would like to make, councils have a role to play in ensuring better options are available and that decision-making is on a more level playing field.

This may mean nudging or 'budging' business towards more socially responsible products and marketing practices, and in some cases it will mean councils providing goods and services themselves to put competitive pressure on the private sector. We do not call for a new generation of 'restrictive' local regulatory powers which limit citizens' choices and believe that councils should think carefully before banning products and curbing markets. By directly engaging in commercial activity, as well as rethinking some local levers for regulation, councils can achieve better outcomes for local places whilst increasing choice.

¹ CBI, (2014), 'The Great Business Debate: What's the value of business to the UK?'

² Only 53% of the population believe that businesses make a positive contribution to society and only 32% think that the majority of British businesses behave ethically. Source: CBI, (2014), 'The Great Business Debate: What's the value of business to the UK'; CBI/YouGov survey June 2014

³ David Cameron, 19th January 2012, 'Moral Capitalism' Speech <http://www.politics.co.uk/comment-analysis/2012/01/19/cameron-s-moral-capitalism-speech-in-full>; Ed Miliband, (2012) 'Building a Responsible Capitalism' in Juncture (IPPR) Friday 25 May 2012 <http://www.ippr.org/juncture/building-a-responsible-capitalism>

This report sets out theoretical and practical considerations for councils to bear in mind when choosing different local levers and approaches, it highlights and explores innovative practice in the sector, and presents a series of recommendations for councils to take this work forward. It is the result of an NLGN research project commissioned by APSE, which contributes to APSE's work on the 'Ensuring Council'⁴

Key findings and enablers of market shaping

Some private sector markets and irresponsible businesses are failing to efficiently deliver social and economic value to citizens and are delivering outcomes which local authorities and their partners are paying to fix. This can be clearly seen in examples relating to the energy market, payday lending market, and in relation to the sale of food and drinks high in sugar and fat. Many councils recognise this and are **starting to carve out a greater market shaping role for themselves** in order to prevent problems and make savings.

In particular, innovative councils are beginning to **use their assets and buying power to regulate within the council domain** and **enter the market to provide socially beneficial alternatives** to combat both localised and more widespread problems. Some councils are also engaging with central government to **call for more local tools to tackle challenges in their places**, and for bolder national leadership and policy where this is preferable.

We highlight a range of examples and three in-depth case studies where councils are using their powers and role to shape markets, but we also recognise that this can be taken much further. At present market shaping activities tend to be isolated to particular issues or approaches such as basic information provision, market shaping activities could be made more effective, and there is a **lack of awareness and confidence about some approaches** and the rationales which support these. For example councils are confident with the narrow use of well-established powers such as those relating to environmental health, but they would benefit from a better grasp of a wider range of interventions such as more creative approaches to licensing and council trading. Across the board there are **opportunities for market shaping activity to be scaled up and made much more effective.** Based on our roundtables and in-depth case studies we highlight six enablers of local government market shaping.

1. Creative consideration of tools from across the council

Councils should think beyond the conventional market shaping activities of education and restrictive regulation, and think more creatively about the tools at their disposal to influence businesses and shape markets. In particular councils should think about how they can increase choice for consumers by supporting new socially beneficial alternative products and services to enter the market, whether by providing these themselves directly or through council owned companies, or by backing social enterprises.

Councils should also consider using their assets and buying power more effectively, for example by reviewing contract terms for assets such as council owned advertising space; giving more weight to social value in procurement; and leading by example by committing to buy sustainable products and services. Use of insights from behavioural economics could increase the effectiveness of all market shaping levers.

2. Pragmatic approach to evidence

When choosing tools to deal with market failures, councils need to consider and model the potential costs and benefits of interventions. This is often difficult for councils to do in a sophisticated way, especially when they are treading new ground. However councils must take a pragmatic approach, drawing on international evidence, taking an open yet critical approach to

⁴ APSE, (2013), 'The Road to 2020: A Manifesto for the Ensuring Council', Griggs, O'Brien et al

the views of industry, and mitigating against uncertainties and government failure by ensuring consumer and business behaviour is well understood. Similarly whilst councils must be bold, they should not forget to consider the political practicality of different approaches.

3. Collaboration between councils

Gaining the necessary expertise to assess how best to intervene in markets can be resource intensive for councils. To overcome this councils must share solutions to a greater extent and develop local approaches to shaping markets in collaboration with each other. As well as avoiding reinventing the wheel, collaboration can mean that local market shaping initiatives have a much wider cumulative impact. Collaborative forums such as APSE Energy are therefore useful in this regard.

4. Benefits and limits to business partnerships

Partnerships with business can be extremely helpful, most notably these can lever in investment for preventative measures. But councils should also consider the limits to partnership with business. Some partnerships with business may inadvertently promote less beneficial products to communities and the costs of these may outweigh the benefits.

5. Adopting an advocacy role

Part of local government's market shaping role is to adopt an advocacy role, engaging both the public and politicians. Councils can play a more strident role calling for national action on issues, for example easier entry for smaller renewable energy companies into the energy market. But they should also lobby for greater local discretion to shape markets in order to tackle local problems where this is preferable, or a beneficial addition, to national measures. In particular councils might continue to influence central government on issues such as greater local controls over advertising, local licensing for sunbed outlets, the creation of a fifth licensing objective relating to public health, and greater local discretion to vary the level of local levies and disincentives such as the 'late night levy' so that these can be structured in the most effective way.

To advocate successfully councils should continue to grow coalitions of support and work with third sector campaigns and organisations such as the LGA, APSE and LocalWorks. Crucially, they must also shape and be shaped by local public opinion. By acting on residents' concerns about business behaviours and showing that councils care about citizens as consumers as well as service users, local government can not only identify market failures and create an environment where these can be tackled, but can also increase respect for local government as an institution.

6. Strong councillor leadership

Strong political backing and leadership on efforts to engage with businesses and tackle problems with private markets is extremely helpful. In our case study areas leadership on market shaping activity by individual councillors or cabinet members brought issues to officers' attention, enabled cross-departmental collaboration to tackle particular issues, and meant that councils did not shy away from less familiar paths.

Recommendations

For councils just starting to think more about their market shaping role, we present three recommendations:

1. Use local insight and wider evidence to understand local market problems

- Policy and public health staff to use Joint Strategic Needs Assessments to highlight negative outcomes in the area, and liaise with frontline staff, councillors and consumer organisations such as CAB and Which? to highlight how private markets and business practices are contributing to these.
- Use existing channels or establish new points of contact such as 'Community Business Challenge' events to allow local residents to directly raise issue with business practices which are leading to problems for them.
- Policy staff should review secondary research, including a review of insights on behavioural economics, to understand the drivers of these market problems on both the supply and demand side. Commission local research to understand local drivers to behaviour where necessary.

2. Review current and potential market shaping activities from across the council to address market problems

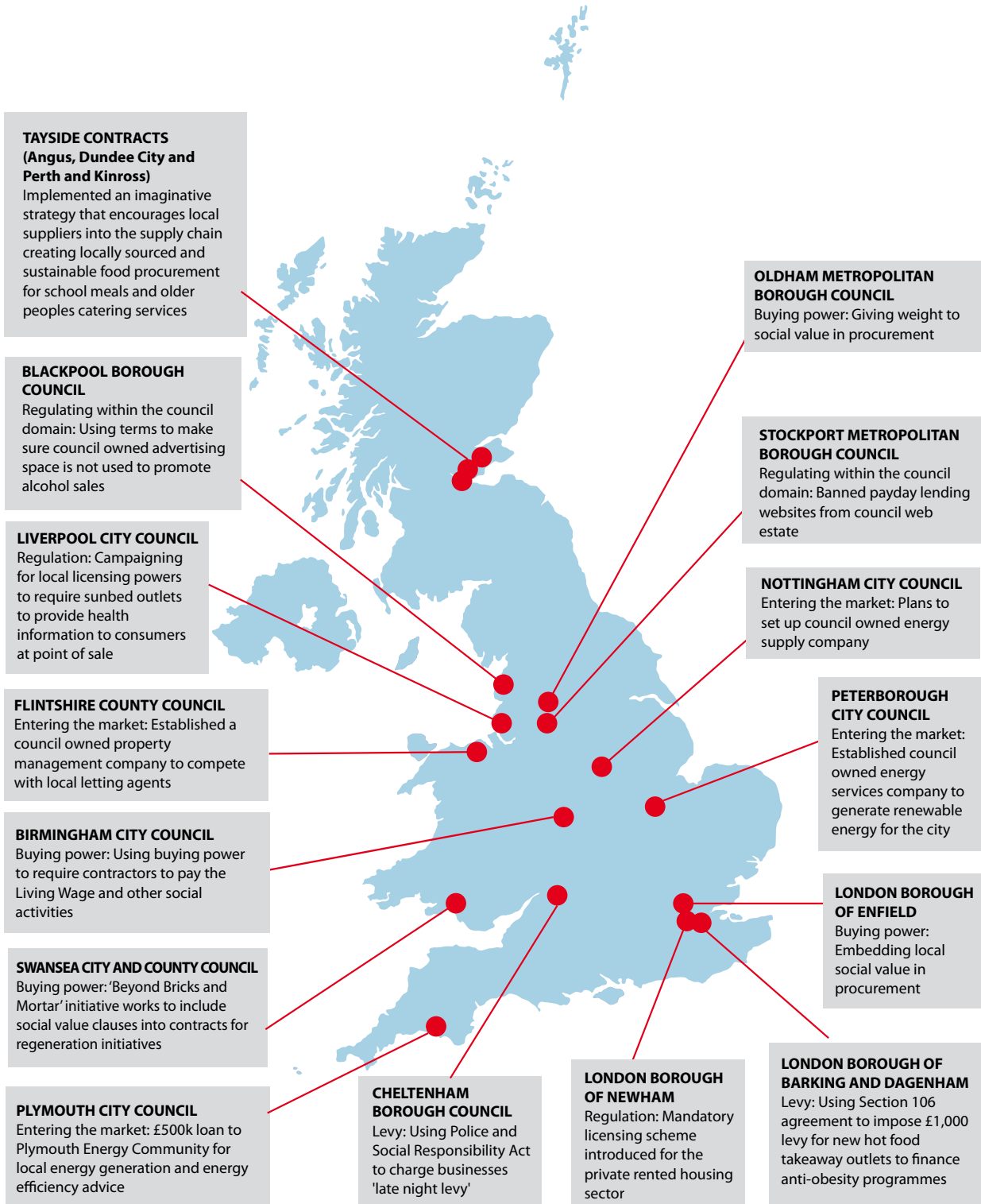
- Policy and public health staff to bring together other staff from across the council to review current cross-council activity and interaction in relation to businesses within the markets which have been identified as problematic. This should include review of initiatives such as existing information provided to consumers in relation to these businesses, voluntary schemes or 'kite marks' for business, council contracts, and existing taxes, incentives and other regulatory activity.
- Bring together council staff from departments ranging from licensing to procurement to rapidly identify further tools which might be used to address market failures identified, or how existing tools might be made more effective. Staff should be gathered either virtually or in-person for short focused sessions. Responsibility for this should be led by the Public Health Team where relevant or lead councillors or policy officers, and use the Market Shaping Intervention Typology and Choice Framework within this report as well as examples of innovation from other councils as impetus. In particular, attention should be paid to the way in which the council might use its buying power, contract terms and assets to influence businesses; or support new socially beneficial entrants to the market.

3. Assess the impacts of potential market shaping tools on local consumers, the council and the local economy

- Working in partnership with businesses and the academic community, lead officers must pragmatically consider the impacts of potential market shaping tools on local consumers. This should involve using local or national data and cost/benefit analyses, but most importantly should involve an open yet challenging conversation with businesses to gauge the impact of different approaches, as well as discussion with councils already pioneering in their usage of certain tools.

Good practice map

Three in-depth explorations of market shaping activity in Liverpool City Council, Peterborough City Council, and Birmingham City Council are also presented at the end of this report.



1. The case for influencing markets

Market problems

In the standard neoclassical model of economics, economic markets function so that supply and demand allocate goods or services in the most socially efficient way possible, in a way that leaves all parties involved satisfied. In theory, if the result of a trade were not good for either party (if the cost outweighed the benefits) the exchange of goods in a market would simply not take place. In this way markets should naturally allocate resources between businesses and consumers in the optimum and most efficient way possible without external influence, and there would be no need for government at any level to get involved.

But this model does not always match up to how markets and businesses act in the real world. Whilst there are huge benefits to competitive economic markets, we know there are some particular situations where markets may fail to be efficient, in that they may produce negative outcomes for consumers and society in general, and create costly burdens to be picked up by the state. There are various reasons or types of market failure, four of which are outlined in Box 1.

The negative fallout from irresponsible business practices and these sorts of market failures can be extremely costly for councils and citizens themselves. This can be seen in three market examples relating to: payday lending; energy; and food and drink.

Payday lending

There are clear market failures surrounding payday lending. Payday lending meets a demonstrable need by allowing those with squeezed incomes who are otherwise excluded from mainstream lending to access credit quickly and easily in order to make ends meet. Whilst it is important that this need is met, this can lead to negative impacts for the often vulnerable borrowers, who are subject to extremely high interest rates and rollover charges if they do not repay in time. This creates a cost to society when debt leads to other difficulties for these individuals, for example social housing need, which councils must address.

The problems of the payday lending market can be linked to various failures, including problems relating to competition and information failure. Indeed, the whole sector has been referred by the Office of Fair Trading to the Competition Commission and amongst other issues they raised clear problems with the difficulty consumers have identifying and comparing the full costs of loans, and a lack of price competition.⁷

The energy market

The energy market is also uncompetitive; six large vertically integrated energy companies control 95% of the market⁸ and there is little room for entry from smaller companies. While energy prices have increased to levels that are unsustainable for many low and middle income families, large energy companies still appear to be making large profits. As a result of this, consumer confidence within the market is low and Ofgem has called on the big six to explain to customers why falling wholesale prices have not been translated to falls in customer prices. Additionally the number of consumers actively engaged with the energy market is relatively small. A mere 11-12% of consumers report that they switched supplier in 2012, and 62% of people have never recalled switching – citing the time and effort to do so as barriers.⁹ This lack of engagement lessens competition between providers. Additionally, although the energy efficiency sector is well established, uptake for energy efficiency improvements is still limited – again leading to increased bills for consumers. The government is investigating the

7 IPPR, (2013), Jumping the Shark http://www.ippr.org/assets/media/publications/pdf/Jumping-the-shark_Apr2014.pdf p.1

8 Ovo Energy, (2014), Community Energy White Paper http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fwww.ovoenergy.com%2FuploadedFiles%2FContent%2FDifferent_Approach%2FCommunity_Energy%2Fcommunity_energy_whitepaper.pdf&ei=djwhVNqZKsnmyQP644KgDQ&usq=AFQjCNG2lQqE544bNe0k2B5E8oh3V_S1XQ&sig2=DKKfMYBxu2ntJ1FBST6QCg&bvm=bv.75775273,d.bGQ

9 Ofgem, (2014), 'State of the Market Assessment - March 2014' <https://www.ofgem.gov.uk/publications-and-updates/state-market-assessment>

Box 1: Four ways markets can fail

1. Negative externalities – negative outcomes for society

In economics one type of 'market failure' is the problem of 'negative externalities'. Sometimes whilst a market may work well for both the immediate consumer and the supplier, the exchange may have negative outcomes or costs for others in society who are external to the immediate exchange, and which are therefore not accounted for in the cost of sale.

For example, the cost and benefit of the purchase and production of cars with low fuel-efficiency for those directly involved might not take into account the cumulative environmental and health costs that pollution has on those not doing so, and on the world. In this instance private rewards may differ from social returns as third parties, and those in the future, are indirectly suffering as a result of the actions of consumers and producers attempting to pursue their own self-interest by purchasing and manufacturing these vehicles.

2. Information issues and reasoning failure – negative outcomes for individuals

But in addition to these 'external' social costs, the sale and production of goods can lead to unwanted outcomes for the individuals directly purchasing the good. This is often linked to 'information issues': consumers may not have enough information to correctly judge if a purchase is in their 'best interests'. But we now know that this is not just an issue of having enough information, but having information and goods presented in particular ways.

Contrary to the maxims of standard economic theory, insights from behavioural economics and psychology show that the idea that people rationally weigh up the costs and benefits of choices based on the information they have available, and choose so that their fixed and stable preferences are maximised, is a myth. My preference might be to eat healthily and lose weight

and from information provided I may know that chocolate will not help me reach this outcome. But when I am at the supermarket checkout I may purchase and then consume a chocolate bar nonetheless. This is because our decisions are strongly influenced by our emotions, our immediate choice environment, and a range of 'heuristics' and 'cognitive biases' – all of which may constitute 'reasoning failure'.⁵ In this instance my choice to consume the chocolate bar is influenced by the concept of 'present bias' - that people place a very heavy weight on immediacy and heavily discount the future effects of their actions. These are features which businesses have been exploiting in marketing practices in order to sell goods for many years, and are evident in many everyday situations.

3. Monopolistic markets and lack of competition

Perhaps the best known sort of market failure is when markets become monopolistic. When a single or small number of companies have hold of the market there is little competition, which means businesses can artificially elevate prices, which negatively impacts on consumer welfare, and thus impacts on social efficiency.

4. Equity – negative impact on equality

When left alone private markets can fail to distribute resources fairly, and can entrench poverty and inequality in society. Entrenched inequality is something we widely view to be unfair in itself. But more than this, many economists argue that social inequality also hinders economic stability, leading to financial crises, debt and inflation. In addition it has been shown to cause stress and anxiety which can damage health, and leads to increases in property crime and violent crime: both of which are costly for the state.⁶

5 Le Grand, J. and New, W. (Forthcoming) *Paternalism*. Princeton University Press; Le Grand, J. (2013) 'Nudge Theory and the Nanny State' <http://www.lse.ac.uk/government/research/resgroups/BGatLSE/Documents/Julian-Le-Grand-Nudge-LSE-2013.pdf>

6 See <http://www.equalitytrust.org.uk/about-inequality/effects>

energy market and has piloted a number of initiatives to make switching easier for consumers, but overall Ofgem has arguably done little to challenge the problems engrained in the current market, particularly the market dominance of the 'Big Six'.

Together this reliance on predominantly imported and non-renewable energy from a small number of large providers, combined with widespread energy inefficiency, is leading to serious problems for councils and society as floods and other symptoms of climate change begin to wreak havoc on communities. It also creates problems when high energy prices and insufficient energy efficiency lead to expensive bills for councils and push vulnerable households into fuel poverty, which in turn creates further burdens on local public services.¹⁰ Living in cold homes impacts on children's educational attainment and residents' physical and mental health – problems which councils have a responsibility to remedy.¹¹

Food and drinks industry

Similarly the public health problems associated with the food and drinks industry have wide impacts which create costly burdens for councils. The sale and consumption of foods and drinks high in fat and sugar, combined with a lack of physical activity, are related to a range of negative outcomes for individuals including poor mental and dental health, and physical health issues such as type 2 diabetes, hypertension, coronary heart disease and stroke, osteoarthritis and some cancers.¹²

Food consumption behaviours are affected by a wide variety of factors, but the pivotal Foresight Report into obesity emphasised the importance of economic and social drivers such as the industry's promotional and marketing techniques for convenience and fast foods and drinks (such as positioning, packaging and labelling, and advertising and sponsorship) as well as the cost, accessibility and availability of these products.¹³ Unclear labeling and marketing contributing to information failure issues was a particular factor emphasized in the 2011 House of Lords report on behaviour change.¹⁴

The impact of these practices on local places is significant. The most recent estimates are that excess body weight and poor dental health costs the NHS alone £4.7 billion and £3.4 billion a year respectively.¹⁵ This has knock on implications for social care dependence, educational performance, and a wealth of other outcomes for individuals and society.¹⁶ NHS costs attributable to overweight and obesity are projected to reach £9.7 billion by 2050, with wider costs to society estimated to reach £49.9 billion per year.¹⁷ At a local level, the impact of market problems is therefore substantial.

A local response

In the light of these sorts of market failures, there is a strong case for a fresh look at government interventions in private markets to prevent these sort of problems arising and to provide and enable better choices for local residents. This is arguably all the more important now, at a time when the UK government is increasingly relying on markets to allocate resources. If private markets are being looked to in order to supply more of our previously public goods and services, it is vital that these markets are shaped as much as possible so that they have social efficiency at their core.

10 NLGN, (2012), *More Light, More Power* p.50-65; Ofgem, (2014), 'State of Competition in the Energy Market Assessment' <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/state-competition-energy-market-assessment>

11 LGA, 'Tackling Fuel Poverty Through Local Leadership Briefing Paper' http://www.local.gov.uk/c/document_library/get_file?uuid=6886a205-2985-4dea-8fbe-3e45bd456473&groupId=10180;

12 Government Office for Science, (2007), *Foresight: Tackling Obesity: Future Choices – Project Report 2nd Edition* <https://www.gov.uk/government/publications/reducing-obesity-future-choices>

13 Ibid

14 House of Lords, (2011), 'Science and Technology Committee Second Report – Behaviour Change' p.55-6 <http://www.publications.parliament.uk/pa/ld201012/ldselect/ldstech/179/17902.htm>

15 Department of Health, (2014), 'Reducing Obesity and Improving Diet' <https://www.gov.uk/government/policies/reducing-obesity-and-improving-diet>

16 Ibid

17 Public Health England, (2014), *Sugar Reduction: Responding to the challenge* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324043/Sugar_Reduction_Responding_to_the_Challenge_26_June.pdf

In 2012 David Cameron laid out his vision for a “socially responsible and genuinely popular capitalism. One in which the power of the market and the obligations of responsibility come together.”¹⁸ As we near the 2015 election it is no surprise that national approaches to ‘responsible capitalism’ and making sure ‘the market works for everyone’ are in the spotlight again.¹⁹ But it is vital that any new look at market shaping also confronts local government’s role.

As a result of their proximity to these problems and their relationships with their citizens, councils are well placed to identify business practices and the aspects of markets that are failing citizens. Additionally, whilst there are some instances where problems need national solutions which will apply equally across the country, councils can provide a beneficial addition, or preferable option, to national activity. Indeed, some problems are only local, and require only localised solutions.

Additionally councils are in a strong position to shape markets in ways over and above those open to central government. Councils can sometimes enact significant changes at a pace far faster than that brought about through lengthy national law making. They are also able to engage and influence local businesses more easily, and are able to do so in a way that is sensitive to their individual situations and the impact that any market shaping activities will have on their growth and the positive impacts businesses bring to an area. Where blunt and blanket central government measures may in some cases lead to costs outweighing benefits, councils can provide a more sensitive and collaborative approach.

Additionally, although market shaping is often a pragmatic response to local problems, it is also often political, and councils are ideally placed to decide when and how to shape their local markets on the basis of the views of citizens in their area. This political legitimacy means that councils may be able to pioneer approaches to market shaping which may not yet be nationally acceptable, but which may later be adopted by other councils, or scaled or taken up on a national level. For example Liverpool City Council’s innovative resolutions to turn the city SmokeFree through the regulation of smoking in public places later gained national momentum and became national policy. Central government should embrace and enable greater local approaches to market shaping so that councils’ initiatives might serve as test cases for national policies.

Even if tools make only small indents in much larger problems, as one Cabinet Member at one of our research roundtables stated, “we have to start somewhere if we are to challenge the market ... we know we can never do enough [as councils to tackle some wider problems], but if we show a council can do it – we showcase this politically as well as practically – that will filter into national policy”.

¹⁸ David Cameron, ‘Moral Capitalism’ Speech on 19th January 2012 <http://www.politics.co.uk/comment-analysis/2012/01/19/cameron-s-moral-capitalism-speech-in-full>

¹⁹ Demos, (2014), ‘Skin in the Game’, Demos Quarterly <http://quarterly.demos.co.uk/article/issue-2/skin-in-the-game/>; Skelton, D, ‘To make the markets work for everyone, we must confront vested interests’, Conservative Home, January 13 2014 <http://www.conservativehome.com/platform/2014/01/from-djskelton-to-make-the-market-work-for-everyone-we-must-confront-vested-interests.html>

2. Choosing tools and approaches

Having identified a market problem, councils must then decide how best to tackle it. There are a range of sorts of intervention which can be used to influence businesses, which are outlined in our Intervention Typology below. Governments can regulate what is sold, who it is sold to and at what price, where and how goods are sold and advertised, and who they are sold by. They can also use market mechanisms such as incentives to influence choices, and they can use information to influence and inform businesses and consumers. But how should councils decide which approach, and what specific tools, to use?

Figure 1: Intervention Typology

Type of intervention	Type of approach
Regulating businesses	What is sold
	Who sold to
	Pricing and costs of goods or services • Minimum pricing
	When/where goods sold or consumed
	How sold and advertised (advertising/information)
	Who sold by (preventing monopolistic markets)
Utilising market mechanisms	Market mechanisms – pricing and cost of goods/services or business types • Disincentive/levies/taxes • Incentive/subsidy
	Establishing or supporting ‘socially beneficial’ competitor products/services to enter the market
Informing and persuading businesses and consumers	Persuading businesses to change practices relating to what sold/who sold to/when and where sold/cost sold at/how sold
	Informing and influencing consumers so as to reduce demand for unsustainable goods or services (with or without industry funding)
	Informing businesses of gaps in the market

Our research roundtables and interviews suggest that at present decisions are somewhat informed by assumptions about what sort of intervention is justifiable on theoretical grounds, but that most considerations are pragmatic. Ethical considerations are sometimes unspoken and not questioned, and councils are at times not confident engaging in debates about the more abstract rationales for different tools.

This focus on pragmatic rather than theoretical considerations is not surprising. But if councils only focus on the practical, they risk failing to challenge their own assumptions about what works. This is likely to mean that they focus on a small section of the tools they have at their disposal. This chapter therefore goes back to first principles and shows how a consideration of ethical and economic justifications for regulation can open up a more diverse toolbox for local regulators.

Moral and theoretical considerations

Harm to others

From a moral and theoretical perspective, it is widely accepted that – following the philosopher John Stuart Mill’s ‘harm principle’ – governments have a right to use any of the approaches outlined in our Intervention Typology, including those which restrict people’s autonomy, when the actions of one agent in a market can cause harm to others. Environmental standards which ban businesses from dumping certain chemical waste in rivers, and laws prohibiting the consumption of cigarettes in public places where staff might be affected by passively inhaling others’ smoke, exist for this very reason.

J.S. Mill and the Harm Principle: Choice and harm

The ‘harm principle’ holds that the actions of individuals should only be limited to prevent harm to other individuals. According to the principle, restricting people’s liberty for their own good – on ‘paternal’ grounds – is not justified. This was articulated by John Stuart Mill in 1859:

“The only reason for which power can be rightfully exercised over any member of a civilised community against his will is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.”

John Stuart Mill, (1859), On Liberty. Oxford University. pp. 21–22

Grey areas, and harm to selves

But some consumption choices and business practices sit in an ambiguous area, where it is debatable if the main reason for intervention would be that they are harming others or because they are harming the individuals involved. One example is the sale of fatty foods to consumers: is this intrinsically harmful enough to the population’s health and society as a whole that it would be legitimate to restrict consumption choices on these grounds, given that consumption in small quantities is not necessarily harmful to health? Similarly does the cost of smoking to the NHS, and thus restriction of spending for other diseases, count as a ‘harm to others’ which would justify its prohibition and limiting people’s autonomy to smoke if they so wanted?

These are grey areas in policy, and deciding how to intervene when it is not clear cut if businesses are causing direct harm to consumers is more tricky. In these instances, and where purchasing or consumption behaviour is clearly just with the paternalistic intention to ‘save people from themselves’, councils and public bodies therefore tend to focus on interventions towards the bottom of the ladder which aim to influence rather than restrict choices.

However, even in these instances this report argues that there are clear cases when market failures justify action, and that there are a range of ways in which councils can legitimately act beyond sitting back or ‘giving information’. Entering the market to provide a socially beneficial alternative to poor practices, for example, increases choice and enables councils to foster the sort of markets and businesses which meet consumer and social needs.

Additionally, even in these instances there are some justifications to regulate if it is done creatively.²⁰ Regulation need not restrict consumers’ choice, as is outlined in the Ladder of Intervention in Figure 2 and in Chapter Three. For example using planning policy to regulate against cumulative clustering of alcohol or fast food restaurants does not limit choices, as people may buy the same product, with still adequate competition, nearby.

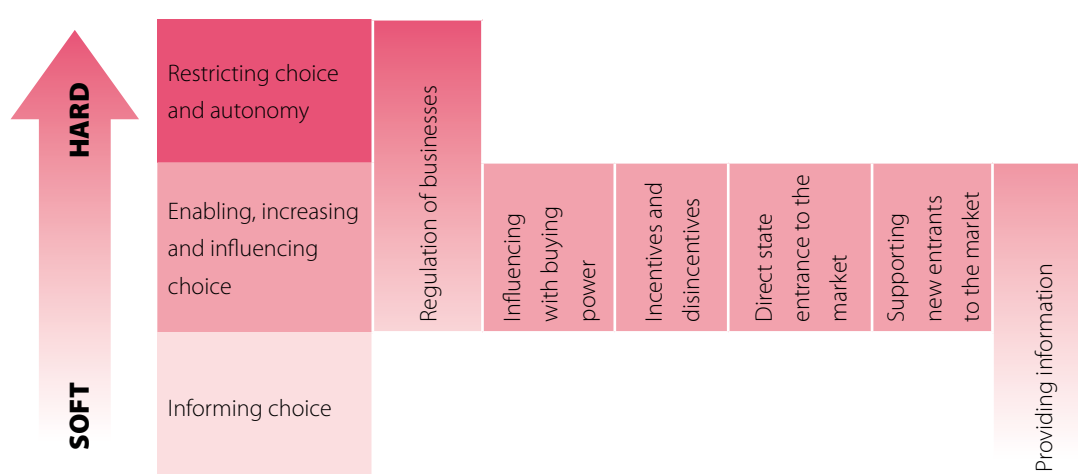
Regulating against some sorts of advertising can in fact arguably improve consumer choice, as

20 Which?, (2009) ‘Intelligent Regulation: Making Markets Work For Consumers and Businesses – Which? Briefing’ p.12 <http://www.staticwhich.co.uk/documents/pdf/intelligent-regulation-making-markets-work-for-consumers-and-businesses-which-briefing-182208.pdf>

proponents of behavioral economic-informed regulation, or ‘budge policy’, argue.²¹ For instance regulating to mandate businesses to present information to consumers in certain ways does not restrict consumer choice but rather enables consumers to make better informed decisions about the best loan offer, lunch option, or energy provider for them. Examples of this sort of approach might be regulation which does not ban the sale of certain goods or services, but just requires companies to present ‘traffic light’ data about nutritional content on food packaging and menus, or requires that loan costs are presented in ways that are particularly salient and comprehensible to consumers.

Similarly, regulating against some advertising would not limit consumers’ ability to buy these goods. Rather it would just level the playing field and free consumers from influences which play on aspects of their cognitive limitations and reflexive decision-making which have been brought to attention by behavioural science and which some profit-oriented businesses exploit for their own ends.

Figure 2: Ladder of Intervention



Additionally there are some strong arguments to support restrictive regulation even in some purely paternalistic instances. For example when those affected are less autonomous, such as children; or where the regulation is to counter a ‘reasoning failure’ which prevents people reaching the goals they set for themselves, and when certain other conditions fulfilled.²²

When making decisions councils should thus consider:

- **Harm:** If the intervention is to prevent harm caused by others or harm caused by oneself
- **Impact on autonomy and goals:** What the impact of the intervention is on the autonomy of consumers and businesses, and people’s ability to reach the goals they set for themselves

Practical considerations

Aside from these moral and theoretical considerations, the biggest concerns for choosing tools are undoubtedly pragmatic and require councils to understand the nature of the problem, then consider the range of actions legally and politically possible, and the proposed costs and benefits of these for the council and for wider society.

Practical considerations should cover:

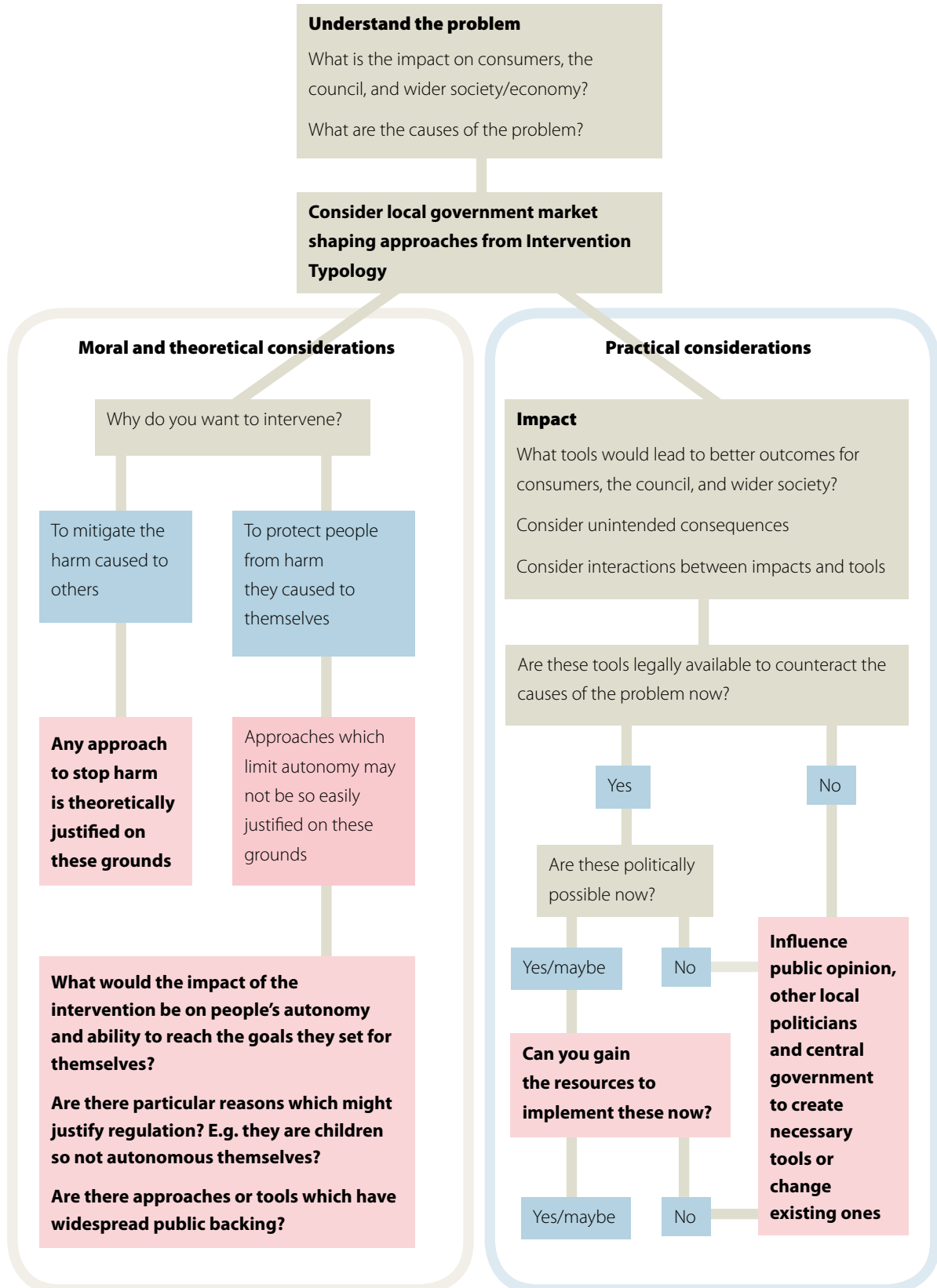
21 Oliver, A, (2013), ‘From Nudging to Budging’, *Journal of Social Policy*, p.13 <http://journals.cambridge.org/action/displayAbstract?fromPage=online&id=8988774>; Oliver, A (2013) ‘From Nudging to Budging’ <http://www.lse.ac.uk/government/research/resgroups/BGatLSE/Documents/Nudge-verses-Budge.pdf> p.12

22 Camerer, C. et al. (2003) ‘Regulation for Conservatives: Behavioural Economics and the Case for “Asymmetric Paternalism”’, *University of Pennsylvania Law Review* 151: 1211-1254 <http://www.hss.caltech.edu/~camerer/paternPLR.pdf>; Le Grand, J. and New, W. (Forthcoming), *Paternalism*. Princeton University Press; Le Grand, J., (2013), ‘Nudge Theory and the Nanny State’ <http://www.lse.ac.uk/government/research/resgroups/BGatLSE/Documents/Julian-Le-Grand-Nudge-LSE-2013.pdf>

- **The impact and cause of the problem:** What is the nature of the problem, how is it impacting on consumers, the council and society in general? What are the specific drivers causing the problem which need to be addressed? What will the positive and negative impacts of the tools under consideration have? In particular councils should try and consider interactions between these – for example if a decision negatively impacts on the local economy the loss in jobs may negatively impact on people’s health, which is known to be strongly related to income. Similarly might there be any unintended consequences? These assessments are difficult to make, and often a pragmatic approach to this sort of evidence is necessary. Legal and implementation costs should not be downplayed.
- **Legal availability:** What specific tools does the council currently have to tackle the causes of the problem?
- **Political backing:** Does the issue have political backing? This important consideration should not be overlooked. Whether or not a measure has the backing of a political party, can be included in a manifesto, and if the party proposing the intervention has a majority are important considerations. However these can be overcome if the cost/benefit and theoretical case for an intervention is strong. Additionally council backing alone is not sufficient, and before embarking on a path it is wise to consider whether there is support for the initiative from local residents, especially where planning permission might be an issue.
- **Resources:** Does the council have the resources to implement the intervention? If not can this be gained from partners in the public or private sector who might benefit from it?

Figure 3: Choice Framework

This is a framework developed by NLGN to help guide councils through the process of choosing between different approaches to market shaping. This summarises the practical and moral considerations councils should consider when choosing approaches and tools to use to shape markets.



3. Councils leading the way

Councils have a long history of shaping markets and have a range of tools for doing so. However it is arguable that in recent years most council activity in markets has been around the top and bottom of the Ladder of Intervention shown on page 17. Councils have taken a 'hard' approach by enforcing central government regulation to restrict choices, and they have often taken a 'soft' approach by providing information to consumers about dangerous or unhealthy products to reduce demand, and lightly persuading businesses to change supply.

Whilst each decision should be individual, there is an opportunity for councils to re-examine their approaches to influencing businesses and think about how they can use these tools more effectively and in more creative ways. In particular councils can think about how they can better use the tools at their disposal to influence, enable and increase choice, and better use their assets and buying power. Thankfully a number of councils are beginning to do just this, and are leading the way for other councils to follow. This section highlights good practice from some of these councils, outlining how they are innovating in the ways that they influence businesses for better public value.

Using contracts to regulate within the council domain

One way councils are starting to be more creative is by using their assets to regulate within their domain. Councils are increasingly reviewing the way that they can directly influence business behaviour through contract terms for services they buy, and specifications on how their assets are used. It is not unusual for councils to introduce specific clauses within large capital contracts, such as those relating to property development, for contractors to employ locally or provide work experience to local people. For example Swansea's 'Beyond Bricks and Mortar' initiative works to include social value clauses into regeneration initiatives.²³ Yet some councils are going further than this. For instance in Birmingham and Oldham they have taken a more strategic approach to all contracts, and have adopted provisions from the Public Services (Social Value) Act 2012 to require all organisations gaining contracts over a certain value to adopt more socially sustainable practices including paying the Living Wage, and to contribute to their local areas.²⁴

Birmingham City Council:

Living Wage and Social Value in Procurement

Birmingham City Council is using its buying power to motivate local businesses to take actions to contribute to the social value of the area. To this end it has developed the Birmingham Business Charter for Social Responsibility (BBCSR), which includes a commitment to employ locally and pay the Living Wage, as well as commitments to sustainable and ethical business practices. All newly contracted council suppliers are required to sign up to the Charter and draw up action plans which become terms of their contracts. The wider business community can also commit to the charter on a voluntary basis. Using the Public Services (Social Value) Act 2012 around 10-20% of the scoring of contract bids is based on social value, with quality and price comprising the rest to varying amounts.

Since its launch in 2013 80 companies, including Amey and Barclays, have signed up to the BBCSR, with 100 on a clear timeline to full signatory status. The BBCSR team expect to reach their target of having 30% of Birmingham's £1bn annual spend to be with Charter signatory companies by March 2015, and to have 250 accredited organisations by this date. BBCSR actions aim to be preventative and to go beyond 'tokenistic' CSR activities, and action plans must be specific, measurable, relevant and proportionate.

An in-depth case study of this initiative can be found on page 42.

²³ See <http://www.informswansea.co.uk/business/beyond-bricks/>

²⁴ See <http://www.birmingham.gov.uk/cs/Satellite?c=Page&childpagename=Corporate+Procurement-Services%2FPageLayout&cid=1223429308337&pageName=BCC%2FCommon%2FWrapper%2FInlineWrapper>

Contractual terms can also be introduced on how council assets are used by businesses. Whilst many councils have disposed of assets such as buildings, other assets are often overlooked by councils. For example many councils are encouraging 'food markets' on local street-space, and there are perhaps greater opportunities for councils to consider how trading terms might encourage participating vendors to offer healthier lunch options.

Similarly council owned website space and roadsides, buildings and urban infrastructure across the country are being used to gain revenue for councils through their lease to media agencies for advertising space. Recently many councils from across the political spectrum have utilised their computer and web estates to ban access to payday loan websites from council computers and redirect users to local credit unions offering better lending rates.²⁵ However, councils can expand their remit and, following the example of pioneering councils like Blackpool, consider how future leases for council owned media space can be tailored to prohibit certain sorts of advertising: for example adverts for alcohol sales or fast food chains. Whilst this could affect lease values, councils need to balance this loss against the potentially greater longer-term costs that certain sorts of advertising have on local places.

Blackpool Council:

Challenging alcohol advertising

Blackpool council recognised that alcohol consumption in the city was causing an issue for residents and putting pressure on the public purse. In 2012 local services spent more than £100m tackling the negative social ramifications of alcohol consumption.²⁶ As a result their public health team worked with Drinkwise UK to review a number of levers the council could use to tackle this, including reviewing the terms of use for advertising space.

This outlined the impact that alcohol advertising has on consumption and the inadequacy of educational and parenting programmes in countering the alcohol industry's success in targeting customers. The review outlined the various ways in which the council could limit the products advertised on council operated advertising space and publications produced by or on behalf of the council, as well as how taxi, tram and bus firms could be persuaded or required as part of their contracts to prohibit alcohol advertising on their vehicles.

Supporting socially beneficial entrants to the market

Pioneering councils are thinking beyond regulation and taking a new approach by supporting socially beneficial alternative businesses to enter markets. There are a range of ways councils can, and do, do this. Some councils are supporting social enterprises such as community supermarkets or energy co-operatives with reduced business rates, grants, loans or free office space. Through this they hope to support viable socially beneficial rivals to uncompetitive payday lending and hire purchase businesses and large energy companies.

Others are entering the market by establishing socially conscious businesses themselves. For example in the London Borough of Islington they are concerned about the private rented housing sector and the high fees and poor services which lettings agencies are providing to renters and to landlords. To counter this they are planning on establishing a council owned lettings agency which will increase choice for private landlords and renters. This would offer lower fees and fairer standards whilst also leading to a small income for the council.²⁷ Similarly Flintshire Council have already established a council owned property management company. In addition to owning

²⁵ These include Labour authorities such as Manchester, Birmingham and Liverpool and also Conservative controlled authorities such as Surrey, Trafford, Essex County Council and Cheshire East. Source: <http://brightonhovelabour.com/2014/04/05/labours-call-to-ban-payday-lenders-from-council-computers/>

²⁶ Blackpool City Council, 'Alcohol Advertising Scrutiny Review Final Report'

²⁷ See <http://www.islington.gov.uk/islington/news-events/news-releases/2014/march/Pages/PR5221.aspx>

properties this provides lettings services to private landlords and tenants, as well as brokerage services to help older tenants wishing to downsize.²⁸

Other councils such as Peterborough and Nottingham are following in the footsteps of municipal leaders of the 1900s and have established council owned energy companies.²⁹ These companies will allow councils to enter the renewable energy generation and supply markets themselves, in order to offer fairer electricity rates to local consumers, grow the low carbon economy and by doing so mitigate fuel poverty and climate change. Other councils such as Newham and Sutton are working towards establishing council owned development companies to build and buy up properties for private rent which aim to offer stable, reliable and high quality homes at market or affordable rents to residents.³⁰

As well as establishing council-owned companies, local authorities are able to provide goods and services directly without setting up separate vehicles. Local authorities have a wealth of historic, and newer, powers to charge and trade in goods and services. For example following from Second World War concerns about nutrition, the 1947 Civic Restaurants Act was introduced to enable local councils to provide public meals and refreshments which were affordable and nutritious. Many other such powers, although differing slightly between the different administrations of England, Wales, Scotland, and Northern Ireland are available to local councils who may see real value in directly intervening in local markets in order to better shape those markets to meet local needs and preferences.

This approach to influencing markets and businesses is useful because rather than just restricting businesses it actively promotes a beneficial alternative to meet consumer needs and widens choice. As one roundtable attendee noted: “we are thinking about not just how you can restrict the market, but influence it and create new positive alternatives, and we are using direct influence to do that.”

Peterborough City Council:

Entering the energy generation market

In 2011 Peterborough City Council established ‘Blue Sky Peterborough’, an Energy Service Company (ESCo) wholly owned by the council in order to trade energy generated on behalf of the council. Whilst councils can generate energy for their own usage without establishing an ESCo, the establishment of an ESCo is necessary in order to sell energy back to the grid. Whilst the ESCo’s initial plans for large scale energy generation from wind and solar farms on council owned land are not going ahead, the council is soon to cover its own energy needs from the 7.2MW of energy to be generated in its energy from waste plant, and other activities. After this point the council will trade energy, and in doing so offer more choice to local residents, gain income for the council, and inoculate local consumers from future hikes in prices. The ESCo also plans to use council land and borrowing abilities to invest in other renewable energy generation locally or nationally, to support this important sector and bring benefits to residents and the council.

In addition to entering the market the council has also developed frameworks with the private sector to lever in up-front funding for energy efficiency improvements to council buildings and local housing, and pioneered a collective switching scheme run in partnership with 15 other councils to enable residents to more easily compare and change energy offers. These initiatives have reduced local CO2 emissions, and led to cheaper bills for the council and consumers.

An in-depth case study of these initiatives can be found on page 35.

²⁸ See <http://www.northeastwaleshomes.co.uk/>

²⁹ See <http://m.nottinghamcity.gov.uk/article/27124/Plans-for-Nottingham-City-Council-energy-company-are-hotting-up>

³⁰ See <http://www.newham.gov.uk/Pages/News/Mayor-of-Newham-launches-Red-Door-Ventures-an-ambitious-new-company-which-will-build-thousands-of-private-rented-homes.aspx> and <http://www.out-law.com/en/articles/2014/july/sutton-council-votes-to-apply-for-housing-zone-status-and-set-up-development-company-to-build-homes/>

Incentives and disincentives

Incentives and disincentives are another way in which councils can influence markets and businesses and are being considered by more councils, especially to influence non-contracted businesses. Disincentives in particular offer a way of internalising the negative externalities or social costs caused by problematic markets. Fines are a standard way of enforcing bans of certain business practices, but councils can go beyond fines as a means of enforcing regulation and consider using discretionary local disincentives to prevent or offset costs of harmful business practices.

For example in Newcastle, Cheltenham, Gloucestershire and Islington they are using local powers outlined in the Police and Social Responsibility Act 2011 to charge businesses a 'late night levy'.³¹ This requires businesses such as bars and clubs to pay a nationally set charge which goes towards offsetting some of the policing, waste and healthcare costs caused by alcohol and the night time economy.³² Similarly in the London Borough of Islington they have consulted on using Section 106 agreements to introduce fines for 'buy to leave' landlords who purchase properties but leave these vacant and thereby put further pressure on housing demand, which will go towards providing affordable housing elsewhere.³³ In Barking and Dagenham they have also introduced a £1,000 levy requirement under a Section 106 agreement for developers of new hot food takeaway outlets, which will go toward tackling childhood obesity, including support to enable fast-food businesses to consider healthier options, recipes and ingredients.³⁴

Given the state of local government finances it's unsurprising that financial disincentives and levies rather than incentives are being considered. The challenge for any use of disincentive is to decide if it is to discourage and prevent certain practices or just to go towards 'offsetting' the costs of problems which they cause, and making sure that the level and structuring of the disincentive is appropriate to meet this aim.³⁵ For example if contributions by businesses to the 'late night levy' were linked to the number of NHS hospital admissions, alcohol-related arrests or volume of bin bags collected after every Saturday night, this would give businesses more reason to prevent levels of drunkenness and littering leading to short term ill-health and environmental damage. Whilst this would not contribute to tackling longer term impacts, it illustrates the principle.

Information and marketing provision

Innovative councils are considering the way in which they provide information to consumers to challenge markets from the demand side. Providing information such as leaflets or posters warning consumers against payday loan companies or about consuming too much unhealthy food; advertising socially beneficial alternatives; or referring citizens to consumer organisations like Citizens Advice or Which? is not new. However leading councils are employing behavioural insights and market intelligence to make old tools more effective at changing consumer behaviour.

Many local council leaflets use marketing techniques which, whilst well-intentioned, may in fact scare and disengage residents, or at worst increase the behaviour intending to be changed. Indeed, highlighting problem behaviour, for example that 'too many people are binge drinking', is a technique often used by councils in their communications with residents. However this has been shown to inadvertently communicate that the behaviour is widespread and by signalling others are doing a behaviour, even if it is one which is to be avoided, it can result in an increase in the problem behaviour.³⁶

31 See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98126/late-night-levy.pdf

32 See http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=17535%3Aislington-becomes-first-london-council-to-back-late-night-levy&catid=61&Itemid=29

33 See http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=17946%3Alondon-borough-to-use-s-106-agreements-to-tackle-buy-to-leave-homes&catid=60%3Ahousing-articles&Itemid=28

34 GLA, (2012), Takeaways Toolkit https://www.london.gov.uk/sites/default/files/TakeawaysToolkit_0.pdf https://www.london.gov.uk/sites/default/files/TakeawaysToolkit_0.pdf p.36

35 Demos, (2014), 'Skin in the Game', Demos Quarterly <http://quarterly.demos.co.uk/article/issue-2/skin-in-the-game/>

36 Behavioural Insights Team, (2014), EAST – Four Simple Ways To Apply Behavioural Insights http://www.behaviouralinsights.co.uk/sites/default/files/BIT%20Publication%20EAST_FA_WEB.pdf

However areas such as Liverpool City Council have embarked on large-scale consumer oriented campaigns which are informed by detailed consumer and behavioural insights to encourage citizens to, for example, limit their use of sunbeds. Others are taking smaller steps to improve the impact of routine communications, for example by ensuring that leaflets sent by the council to parents informing them of their children's BMI following measurement on the National Child Measurement Programme do not chastise but are delivered in a way which encourages parental engagement and behaviour change – for example by accompanying feedback with pro-active personal follow up to parents and advice and referral to programmes which can help them to be more critical of 'healthy' branded goods and to change the often emotionally rooted patterns of family food purchasing and consumption.³⁷

Liverpool City Council:

Behavioural insights to challenge sunbed usage

Liverpool City Council have undertaken innovative work influencing the market for sunbeds within the city. Research by Cancer Research UK (CRUK) in 2010 identified that, compared to the rest of the country, the city had an especially high rate of young women using sunbeds. They predicted that this would lead to high rates of skin cancer in the future. As a result the city launched an approach focusing on the provision of information to consumers about the risks of tanning to reduce demand for sunbeds, alongside a high profile campaign for greater local licensing powers to require sunbed outlets to provide information and introduce new safety measures to protect consumers.

The initial 'The Look To Die For' online and offline consumer campaign aimed to change individual perceptions and social norms relating to the risks and acceptability of sunbed usage and promote fake tan as a healthier alternative. This was based on local qualitative research with young women and their mothers to understand the drivers of sunbed usage, which was commissioned by the local Public Health team in Liverpool. This team joined the council as part of the transfer of public health to the council, they are recruited from the private as well as public sector, and are experts in approaches to behavioural change and marketing.

The interactive campaign developed by the team and with external agencies involved a social media and PR campaign featuring local celebrities and skin cancer patients highlighting their personal skin stories, as well as 'roadshows' in the city centre featuring interactive quizzes, fake tan advice consultations and free samples of the affordable fake tan brand St Moriz, as well as behaviour change literature and 'skin check' pop-in consultations provided by NHS clinicians. An interactive educational unit on sunbed usage is also now included within an existing wellbeing package for schools delivered by Brooke; and the curriculum for the beauty course delivered at the city's further educational college now includes a unit on the issue.

The behaviour change campaign reached thousands of teenage girls, young women and mothers across Liverpool. The successful use of consumer insight has led the campaign to gain two prestigious marketing awards: The Drum 2014 'Cause Related Marketing Strategy' Award and Marketing Week 2014 'Research and Insight Strategy' Award.³⁸ Effects will be long term, but initial metrics suggest the campaign is effective, with a larger evaluation due out in later 2014.

An in-depth case study of Liverpool's full approach to this issue, including their national campaign for local sunbed licensing powers, can be found on page 39.

Other forms of useful information provision involve providing information to businesses about the benefits of making their products and business practices more socially sustainable, particularly

³⁷ Statham, J et al, (2011), 'Taking Stock: A Review of the National Child Measurement Programme' [http://eprints.ioe.ac.uk/6743/1/Statham2011Taking\(Report\).pdf](http://eprints.ioe.ac.uk/6743/1/Statham2011Taking(Report).pdf)

³⁸ See <http://www.marketingweek.co.uk/events/research-and-insight/4010747.article>

if consumers and buyers are more concerned to purchase from socially sustainable businesses. Organisations such as the Aldersgate Group are leading the way in outlining the clear business case for a more sustainable economy.³⁹ But council-backed voluntary 'kite marks' and engagement initiatives such as Birmingham City Council's Business Charter for Social Responsibility and Kirklees Council's 'Healthy Choice Award' for food outlets are also part of this.⁴⁰ These can play an important role in communicating the benefits of these 'better businesses' and their practices to consumers if combined with consumer awareness raising.

Regulating with licensing and planning

Some councils leading the way in market shaping are also revisiting regulation – in particular licensing and planning – to restrict what and where goods are sold, who they are sold to, and what price they are sold at but also to mandate how they are sold and advertised.

Whilst local government are the enforcers of much national regulation in relation to health and safety and planning, some councils are using the few local discretionary regulatory powers within their remit to limit certain business practices which are causing problems locally. For example some boroughs have utilised provisos in the Localism Act 2011 and local planning frameworks to prevent the over concentration of fast food restaurants and their presence within close proximity to schools, youth facilities and parks in response to local problems with child obesity.⁴¹ Other councils such as Newham are embarking on mandatory licensing schemes for the private rented housing sector (PRS) to ensure standards in the sector can be better enforced.⁴²

London Borough of Waltham Forest:

Restricted planning permission for fast food outlets

The London Borough of Waltham Forest were the first council to develop a Supplementary Planning Document (SPD) in 2009 specifically to tackle the health impacts of hot food takeaways, by restricting their development around 'the school fringe'.⁴³

Their decision was closely informed by a public consultation, as well as research by London Metropolitan University on the growing market for hot food takeaways on the 'school fringe'. It found that these shops' nutritionally poor food products were especially popular with students.

A food takeaway corporate steering group was established with representatives from across the council. Using the research conducted and existing policy guidance they developed a hot food takeaway SPD. The SPD attempted to emphasise both the negative environmental and health impacts of hot food takeaways and tackled the issues of over concentration and clustering as well as proximity to schools, youth facilities and parks.

In the first year following the adoption of the SPD, the council turned down five applications for new A5 premises including one which went to appeal, when the decision to refuse planning permission was upheld. Between 2009 and 2012, 82% of planning applications for fast food outlets were refused.

Whilst this is a useful step forward, it is important to mention that as of 2012 the council had only won appeals on the basis of over concentration, potential noise nuisance, likelihood of anti-social behaviour and parking problems rather than on the basis of public health impacts. The reason for this is that health impacts are harder for the council to prove – an issue flagged by councils elsewhere.

39 See <http://www.aldersgategroup.org.uk/>

40 GLA, (2012), Takeaways Toolkit https://www.london.gov.uk/sites/default/files/TakeawaysToolkit_0.pdf p.55

41 Ibid p.36

42 See <http://www.newham.gov.uk/Pages/Services/Private-rented-property-licensing.aspx>

43 GLA, (2012), Takeaways Toolkit https://www.london.gov.uk/sites/default/files/TakeawaysToolkit_0.pdf p.38

Yet as well as just implementing local regulations to ban or restrict sales, regulation can be far more creative and can enable consumer choices. For example thinking creatively about the terms of licenses can allow councils to implement behavioural economic-informed regulation, or what the academic Adam Oliver has termed 'budge policy'.⁴⁴ Behavioural economics and consumer insight should not just be used to influence the demand side, but can inform and provide a theoretical justification for regulation of the supply side too.⁴⁵

Rather than just banning certain practices or restricting trading, regulation informed by behavioural economics could require information to be presented to consumers, and require businesses to provide it in certain ways which are most likely to have an impact. For example councils could consider the ways they could require restaurants and fast food outlets to introduce mandatory calorie counts or 'traffic lights' on menus – initiatives which have been proven to be effective in changing food purchasing patterns, yet have so far been rejected following lobbying from industry.⁴⁶ Liverpool City Council's campaign to require mandatory licensing of sunbed outlets including requirement that outlets give health information to consumers comes within this sphere, but could perhaps be enhanced by mandating that information is presented in ways which behavioural psychology suggests are most effective at engaging consumers.

Alternatively or additionally councils might require fast food outlets to have their food assessed and receive a 'healthy content' rating which consumers can use to compare between types of outlets, or between similar dishes in different outlets. Whilst some councils have introduced voluntary educational packages and awards for takeaways to, for example, encourage them to decrease the oil or salt content in their foods, professionals involved in our research commented that requiring a wider range of restaurants to commit and making the results more widely comparable to consumers would strengthen the success of these initiatives.

44 Oliver, A, (2013), 'From Nudging to Budging', *Journal of Social Policy*, p.13 <http://journals.cambridge.org/action/displayAbstract?fromPage=online&id=8988774>; Oliver, A (2013) 'From Nudging to Budging' <http://www.lse.ac.uk/government/research/resgroups/BGatLSE/Documents/Nudge-verses-Budge.pdf> p.12

45 Ibid

46 Ibid

4. Enablers of local government market shaping

Councils have always played a role in shaping and challenging local markets. This is not new. But at a time when councils are faced with unprecedented spending challenges, we believe there is a significant opportunity for councils to scale up this kind of work and bring it into the heart of their strategies for leading place. The prize is a combination of new income streams, social benefit and savings from prevention.

This chapter draws on our research roundtables and three in-depth case studies to discuss factors enabling and hindering councils' innovation in this area. We highlight six factors enabling councils' market shaping role:

1. Creative consideration of tools from across the council
2. Pragmatic approach to evidence
3. Collaboration between councils
4. Benefits and limits to business partnerships
5. Adopting an advocacy role
6. Strong councillor leadership

1. Creative consideration of tools from across the council

The key message of this report is that councils should think beyond the conventional market shaping activities of education and regulation and think more creatively about the tools at their disposal to influence businesses and shape markets. Just educating consumers and businesses about the risks of certain products and practices and benefits of others is unlikely to change consumption behaviour and deal with the market failures we have mentioned. Whilst choices about how to influence markets should be made on a case by case basis, there are tools and approaches councils could be considering more. In particular there are opportunities for councils to better use their assets and buying power to budge businesses, and to embrace commerciality and support socially beneficial alternative products and services to enter the market – whether through services provided directly by the local authority, social enterprise or council owned companies.

Additionally councils can rethink and improve the effectiveness of all approaches – including education and regulation – by using insights from behavioural economics. As well as the potentially large practical benefits of taking these steps, there are also strong theoretical justifications to support councils from across the political spectrum engaging in these sorts of new activities.

In addition to thinking more creatively about the tools available, councils need to join-up these tools to a greater extent. This means that politicians and officers need to come together to discuss an issue and how a wide range of market interventions could support the delivery of outcomes in areas such as public health, identify the right tools for the job, and join up the right combination of these to bring about change. For example in Liverpool they are seeking to challenge the excessive sunbed usage in the city using a range of different tools in conjunction: more stringently enforcing existing health and safety standards; running social marketing behaviour change and education campaigns; developing a voluntary code of practice for salons; using business rate reduction; and seeking powers to license salons on a mandatory basis. This sort of activity is enabled by more cross-council collaboration. For example in Blackpool they used an 'in a day' review involving contributions from stakeholders from across the council to consider what could be done to tackle the problem of advertising – and found this to be a useful method to use on future issues.⁴⁷ This same joined-up approach should be extended to issues beyond public health.

⁴⁷ Blackpool City Council 'Alcohol Advertising Scrutiny Review Final Report' p.3

Councils can also further their activities by making sure that they have firm policies about the problem and their preventative aims. For example planning decisions about cumulative clustering are more likely to be upheld if they are supported by thorough articulation of the policy in a development plan document, supplementary planning document, or supplementary planning guidance. Enfield's 2020 Action Plan is a good example of a cross-council policy tying individual actions to strategic objectives.⁴⁸

2. Pragmatic approach to evidence

When making decisions about which tools to choose to influence markets, it is important for councils to consider and model the potential costs and benefits of interventions. However where councils are treading on new ground impacts can be difficult to model in a sophisticated way. This was evident in our case studies where most councils didn't have detailed evidence about all the likely costs and benefits to the council and to wider society, and had to take a more pragmatic approach.

This involved speaking to individual industries which would be affected to gain their opinions on impacts to their business practices, and using available data to attempt to model impacts on consumers. Whilst councils should take a balanced approach to arguments from industry, having an open and flexible relationship is important. For example in Birmingham City Council they conducted an 'open book' exercise with adult social care providers.

To mitigate against uncertainty, it's vital that councils undertaking any market shaping work spend a good deal of time understanding the market and the drivers of consumer behaviour before implementing initiatives. This is especially important when councils are considering going into business themselves. For example whilst in some instances council branding may confer trust to the consumer, in other instances it may deter interest or carry stigma. Research into the motivations informing citizens' use of payday lending companies suggests that the privacy and anonymity of online lenders is important because it eases the discomfort of the stigma that citizens reported feeling when having to borrow money on a short term basis.⁴⁹ Councils seeking to establish and support alternative lending options for short term credit should consider insight such as this in developing their offer – for example it may be best to establish the alternative so that it is at arms length from the council and offers more anonymity for the customer. This was acknowledged by one roundtable respondent: "Councils come over as puritanical in pushing credit unions. It's not 'sexy', and some people won't go in there due to the stigma attached."

To build up an evidence base for the future, councils should ensure that they measure and evaluate impact as they go along. Ideally research partnerships should be built with academic institutions to make sure this evidence is as robust as can be. Where possible and relevant, establishing more partnerships beforehand with institutions such as the Behavioural Insights Team would greatly help the sector.

Central government can take a role in supporting councils to better model and assess the costs/benefits of different approaches to influencing businesses for public value. This might be by providing support to Public Health England to implement its statement to provide an evidence base for councils by outlying cost/benefits of different interventions more clearly, or encouraging the Behavioural Insights Team (now in partnership with NESTA) to go beyond a focus on demand side 'nudge' experiments and work with councils to conduct supply side experiments in behavioural economic-informed regulation.

48 See <http://www.enfield.gov.uk/enfield2020>

49 Department for Business Innovation and Skills, (2013), 'Making Consumer Credit Markets Fairer: Payday lending advertising research for BIS Conducted by Ipsos MORI Social Research Institute' https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246031/bis-13-1228-payday-lending-advertising-ipsos-mori-social-research.pdf p.3

3. Collaboration between councils

Partnerships are fantastic enablers to innovation in this area, and were important for all our case studies. Partnerships across the council, and with local public services and national third sector organisations and consultancies can bring new insights, highlight new tools and help drive the implementation of initiatives.

However there is scope for councils to work in closer partnership with each other when forming initiatives. Gaining the expertise needed to understand markets, explore the range of tools legally available, and implement new approaches can involve a considerable investment from councils and this does present a barrier to innovation. There will always be councils like those featured in our case studies who lead the way. However at present there is a strong risk of councils reinventing the wheel as whilst information and approaches are shared between councils, in relation to some solutions local government has a poor history of sharing and buying specific innovations from each other. For example Peterborough City Council have made their frameworks and expertise relating to renewable energy and energy efficiency available to other councils at a small fee. Yet whilst some councils recognise the benefits of following in their path, others are determined to invest money in developing very similar solutions themselves, or decide not to move along these paths at all.

Councils need to overcome their reservations about providing revenue to other councils, and recognise that fees go towards the considerable resources that innovative councils have invested in initiatives. A way to avoid this problem is for councils with similar interests to develop innovations together from the start. Forums and consortia such as APSE Energy, a collaboration between over 40 local authorities to leverage and maximise the opportunities afforded to local authorities by working together on a national scale in the green energy agenda, are especially useful in this regard.⁵⁰

4. Benefits and limits to business partnerships

Partnerships with business can be extremely helpful. Notably these can lever in investment for preventative measures. In Liverpool partnership with the fake tan brand St Moriz provided funding for their campaign to counter sunbed usage; in Peterborough risk-reward partnerships with energy efficiency companies brought up-front funding to combat fuel poverty and climate change; and in Birmingham their business charter is built on the premise that responsible businesses can, should and do contribute to an area's social goals and that their doing so is good for both businesses and the area. Additionally an open and positive approach to supporting local economic growth and contracting-out can mean that councils are more willing to challenge businesses who are not being socially responsible to do so without fear of being denounced as 'anti-business'.

But councils should also consider the limits to partnership with business. Many councils favour the voluntary, 'soft' approach of partnership with business rather than more prescriptive practices or regulation. Yet there can be limits to persuasion and good will. The costs of unchecked economic growth may outweigh the benefits and some business partnerships may inadvertently promote less beneficial products to communities. For instance, recent studies have shown that television advertising of 'healthy options' from otherwise 'fast food' companies to children in fact strengthens children's disposition towards the brand and for fast food in general and does not lead them to make healthier food choices.⁵¹ Councils should be mindful of similar effects on different platforms.

5. Adopting an advocacy role

Councils must do what they can to influence markets at a local, regional and national level. Some problems need national solutions which will apply equally across the country. As one interviewee

⁵⁰ See <http://www.apse.org.uk/apse/index.cfm/local-authority-energy-collaboration/>

⁵¹ Boyland, EJ and Halford, JCG, (2013), 'Television Advertising And Branding: Effects On Eating Behaviour And Food Preferences In Children', *Appetite* Vol 6, pp 236-241; <http://www.theguardian.com/society/2014/may/31/mcdonalds-happy-meal-adverts-dont-help-children-choose-healthy-food>

commented:

“Councils need to understand what they could do and test locally. But some things need a bigger footprint, or to lobby national government to do it...what you don't want is to go overboard so companies go elsewhere and that impacts on the local economy and jobs, which of course is also another factor impacting on healthy consumption habits” (Director of Public Health)

Accordingly part of councils' market shaping role is to advocate central government to introduce stronger national market shaping activities. Councils are doing this, but some partners suggested this should be stepped up. Councils should individually and collectively consider lobbying more on market shaping issues such as: greater policy certainty about renewable energy and measures for smaller companies to enter the energy market; ensuring that the government is more strident in its work to budge businesses to release personal usage data to consumers as part of their MiData project so customers can more easily compare and switch providers⁵²; and stronger national approaches to combat the advertising and sale strategies of foods high in sugar, fat and salt.

Councils should also seek more local powers to market shape, where this would be a beneficial addition to, or a more desirable option than, national activity. Liverpool's campaign for greater licensing powers for sunbed outlets is a perfect example of where the localised nature of some problems requires a local rather than national response. Key to successful lobbying is to directly influence individual politicians whilst launching wider coalitions of support and national media campaigns individually or as a group through the LGA, with APSE, or with Local Works using the 2007 Sustainable Communities Act. For example with the support of Local Works, Hackney council and 63 other councils were successful in calling for a change in planning law to restrict betting shops⁵³; and the LGA have been working with councils to call for a public health licensing duty.⁵⁴

Even if they are not directed at local government, campaigns run by third sector organisations were a considerable enabler of council market shaping activities in all our case study areas since they brought a consensus and evidence base around issues. In Peterborough consensus about the failures of energy markets helped give a basis for council entrance to the market; in Birmingham their work on social value in procurement was heavily influenced by the Living Wage campaign; and in Liverpool Cancer Research UK's research and work on skin cancer brought the issue to their attention and provided direction and credibility. Councils can contribute to and benefit from campaigns such as these by providing on-the-ground insight about challenges, and by shifting or illuminating public opinion on issues where the market is failing.

To advocate successfully it is crucial that councils listen to communities about what bothers them, and activate concerns to bring about change. In this spirit the Birmingham Business Charter for Social Responsibility involves a 'Community Challenge' function which the council are keen to develop. One council chief executive commented that “at the moment we have disengagement and disempowerment”, and sometimes citizens do feel councils are out of touch: for those that don't regularly engage with core services, council activity can be largely invisible. But acting on residents' concerns and showing that councils care about citizens as consumers as well as service users can help to change this and go towards winning back trust, understanding and respect for local government as an institution.

6. Strong councillor leadership

Local political backing and leadership was a fundamental enabling factor in all of our innovation case studies, and was frequently flagged up in our research roundtables. In Peterborough and Liverpool, councillors with a personal interest and concern about particular problems or markets and

⁵² See <https://www.gov.uk/government/policies/providing-better-information-and-protection-for-consumers/supporting-pages/personal-data>

⁵³ See <http://localworks.org/pages/betting-shops-campaign>

⁵⁴ See http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/6228381/NEWS

a commitment to addressing these was crucial to raising the issue as a priority and making sure that a wide range of levers from across the council were deployed to deal with them. In Birmingham the inclusion of this market shaping activity within the new majority party's manifesto and a strategic commitment to use it as part of their wider agenda to address inequality was also helpful as it meant that it could not fall by the wayside.

In these examples, political championship drove market shaping activity and made sure that more creative approaches and less well-trodden paths were considered by officers. Creation of particular 'leads' within the council is also helpful. For example in Liverpool a councillor was made 'Cancer Lead' within the council, and in Birmingham the creation of a Cabinet Member for Commissioning, Contracting and Improvement meant that this lead councillor was able to drive implementation of their Business Charter for Social Responsibility. Having strong councillor leadership meant that officers were comfortable making more 'risky' decisions.

"Sometimes in tenders providers do go too low, and from their tender responses we can tell that will affect outcomes and the quality. We didn't go for the cheapest tender recently as there was no way they could deliver, and there was a legal challenge, but it was the right decision. However it does need strong leadership and councillors who are up for thinking more boldly" (Roundtable respondent)

Working to address market failures need not be party political. Committed councillors from all parties are an asset to the sector and it is therefore vital that their ideas are supported by officers, and councillors are given headroom to lead on this agenda.

5. Conclusion and recommendations

We cannot emphasise enough that this report does not make a generalized case for heavier local regulation of business. Many companies behave well and generate a wide range of benefits for local people. A new generation of rules and tick-boxes is likely to diminish the ability of the private sector to create jobs and contribute to the costs of vital local services. In doing so, it would prove counterproductive.

This report takes aim specifically at the organisations whose products and business models contribute to social ills and impose needless costs on the public sector. It represents a call to arms for all local authorities to rethink their current approaches to influencing these businesses, and to lobby central government to both re-examine national approaches and devolve greater market shaping tools to local government so that, where appropriate, local places are better able to tackle local problems.

Whilst councils have a long history of using tools such as planning and education to encourage better businesses, our research has highlighted some of the councils that are leading the way in re-imagining their approach. This report has showcased good practice from some of these councils, and outlined how they are using new tools, and revisiting old ones, in order to influence businesses for better public value.

Indeed, places like Peterborough and Islington are remembering the municipal entrepreneurialism of the past and establishing and funding socially beneficial entrants to the market where existing providers are not delivering and consumers have currently only limited choices. Other areas such as Birmingham and Blackpool are re-considering how terms on capital and revenue contracts, and the use of council assets such as advertising space, can respectively be tightened to deliver better value for local places.

These initiatives are welcome, and important. Without rethinking current approaches and making market shaping a core part of their role it is unlikely that councils will be able to successfully prevent the costly problems such as obesity and fuel poverty which are threatening our futures and putting important services under threat. Furthermore some approaches to shaping markets, such as the investment in council or privately owned socially beneficial enterprises, or directly providing services to consumers, offer councils the opportunity to not just benefit consumers but gain income which can be used to protect frontline services.

The next step is for local government to make these sort of initiatives an integral part of their activity across the board. To do this councils must be astute in assessing the impact of private markets on communities and be bold whilst pragmatic when deciding how to influence them. They must work together, with central government, and with local residents to make sure that problematic practices are identified and are addressed at the most appropriate level. As well as bringing economic rewards, addressing these issues presents wider benefits to councils. By showing that councils care about citizens as consumers as well as service users, councils have the opportunity to accentuate local government's relevance to people's daily lives and increase trust, understanding and respect for the sector. To this end we encourage councils to consider the six market shaping enablers outlined in the previous chapter, and for those just starting to think more about their market shaping role we present three recommendations:

1. Use local insight and wider evidence to understand local market problems

- Policy and public health staff to use Joint Strategic Needs Assessments to highlight negative outcomes in the area, and liaise with frontline staff, councillors and consumer organisations such as CAB and Which? to highlight how private markets and business practices are contributing to these.
- Use existing channels or establish new points of contact such as 'Community Business Challenge' events to allow local residents to directly raise issue with business practices which are leading to problems for them.
- Policy staff should review secondary research, including a review of insights on behavioural economics, to understand the drivers of these market problems on both the supply and demand side. Commission local research to understand local drivers to behaviour where necessary.

2. Review current and potential market shaping activities from across the council to address market problems

- Policy and public health staff to bring together other staff from across the council to review current cross-council activity and interaction in relation to businesses within the markets which have been identified as problematic. This should include review of initiatives such as existing information provided to consumers in relation to these businesses, voluntary schemes or 'kite marks' for business, council contracts, and existing taxes, incentives and other regulatory activity.
- Bring together council staff from departments ranging from licensing to procurement to rapidly identify further tools which might be used to address market failures identified, or how existing tools might be made more effective. Staff should be gathered either virtually or in-person for short focused sessions. Responsibility for this should be led by the Public Health Team where relevant or lead councillors or policy officers, and use the Market Shaping Intervention Typology and Choice Framework within this report as well as examples of innovation from other councils as impetus. In particular, attention should be paid to the way in which the council might use its buying power, contract terms and assets to influence businesses; or support new socially beneficial entrants to the market.

3. Assess the impacts of potential market shaping tools on local consumers, the council and the local economy

- Working in partnership with businesses and the academic community, lead officers must pragmatically consider the impacts of potential market shaping tools on local consumers. This should involve using local or national data and cost/benefit analyses, but most importantly should involve an open yet challenging conversation with businesses to gauge the impact of different approaches, as well as discussion with councils already pioneering in their usage of certain tools, and rapid experimentation and piloting.

Making decisions about how best to influence businesses is not easy. By outlining a range of tools open to councils and by presenting a Choice Framework and recommendations to drive forward change, this report hopes to make this process easier.

As ever, bold leadership from officers but most importantly from councillors, is key. Thankfully there is a wealth of this in local government, and we urge leaders from across the political spectrum to embrace the findings of this report and make market shaping, in its wider conception, a key part of their role.



Appendix one: innovation case studies

Peterborough City Council: Energy

Entering the market | Empowering consumers | Establishing private sector investment

Key Points

- Peterborough's assessment of the energy market identified problems relating to fuel poverty and environmental damage which the council sought to rectify through their involvement in the market. However it also highlighted opportunities, and their desire to enter the market to fund a socially beneficial alternative was firmly based on the entrepreneurial desire to generate income for the council as much as it was to bring about wider environmental and social benefit.
- The case study demonstrates the importance of political leadership and a 'bold' approach, and of gaining expert knowledge from outside of the council to understand technical markets and how best to influence these.
- It also emphasises the difficulties of entering the market in the face of frequently shifting central government policy, and the importance of public opinion, especially where planning is likely to be an issue.

Assessing the market

Since 2010 Peterborough City Council have taken numerous steps to shape their local energy market. Intervening in the market was raised as a priority by the leader of the council. He highlighted the way in which a lack of competition, influenced by unclear consumer information and reliance on 'the Big Six' energy providers, and a lack of engagement in energy efficiency amongst consumers, was leading to high prices for consumers and contributing to fuel poverty. Other problems such as a heavy reliance on overseas and non-renewable energy concerned the council as these were predicted to lead to dramatic price rises in the future which could threaten Peterborough's current rapid economic growth, and lead to longer term problems such as climate change.

As well as seeing problems within the market, the council's assessment also highlighted opportunities. Notably the council saw that entering the energy market and investing in energy generation could gain income, lead to cuts in energy costs and cap exposure to the energy market for the council. These benefits could be passed on to consumers or used to support other areas of council frontline activity at a time when they were having to make significant budget cuts.

On the basis of this knowledge, the council established an advisory partnerships with experts who assessed the options for the council in more depth. This outlined how the council could:

- Enter the market by using land and building assets as sites for energy generation.
- Gain income through their ability to borrow at very competitive rates to go into partnership with private renewable energy generation developers, whereby in return for investment the council would gain competitive energy contracts and returns from the development.
- Partner with private providers to invest in energy efficiency in the council and the community in order to generate savings and reduce carbon emissions.

Market shaping activities

As a result of this research, in the summer of 2011 the council established a council owned Energy Services Company (ESCo), 'Blue Sky Peterborough' to generate solar energy on its assets, and those of local schools and businesses, with a view to making them more energy efficient and potentially selling surplus energy back to the grid. Through the ESCo the council aims to generate a substantial

amount of renewable energy, and thus income, by developing energy farms on council owned land and buildings. In this instance the ESCo plans to generate the energy and is exploring a joint venture with an existing private provider to supply the energy to homes and businesses and avoid additional regulation rather than establishing itself as a full blown utility. Whilst this has met with challenges, the ESCo will soon be generating energy from waste, and is now considering council-backed energy generation either individually, or in partnership with other local authorities as part of APSE Energy.

Beyond generation, the council has pioneered domestic collective switching schemes to empower consumers to negotiate better deals by aggregating their buying power, and enable them to more easily compare and change providers. They are also attempting to do the same for local businesses. The council are also attempting to change behaviour and lower demand for energy through their community engagement work. This involves substantial education work with local schools and communities, promoting energy efficiency and renewables.

The council have established other partnerships to increase the demand for energy efficiency measures and thus reduce demand for energy. From September 2014 they will be using the Green Deal Community Fund to provide free external wall insulation and other energy efficiency measures to private landlords in order to benefit vulnerable tenants. In 2013 they partnered with British Gas so that consumers who move to their local tariff would receive cash incentives and free energy efficiency technologies to reduce their usage. The council has also established an Energy Performance Contract (EPC) with Honeywell. This involves the installation of energy efficiency technologies in non-domestic properties at no upfront cost to the council, with guaranteed energy savings.

All the council's partnerships are set up to enable them to trade their expertise and contracts with other councils, avoiding the need for procurement, in order to share the benefits of their pioneering work in this area. They also all involve risk-reward models where up front risks are largely held by the private companies rather than the council.

Impacts

Energy generation: Schools and the council have benefited from the generation of energy from solar PV, gaining cheaper bills and security from future price rises. So far consumers have not gained a subsidy in energy prices since the council is yet to generate enough energy to exceed council usage and thus trade through the ESCo. However the 7.2MW of energy soon to be generated from the Energy from Waste plant will contribute to supplying the council's energy needs, and further generation will thus lead to a surplus which the council plans to trade.

Increasing competition and market awareness: The collective switching 'Ready to Switch' scheme run in partnership with other 15 councils has run for 6 rounds and is estimated to have led to total savings of £501,000 to all citizens that participated. To date there have been around 5,108 switches in total, 426 of which have been in Peterborough, which have led to average household savings of £98 per annum, ranging between £86-163.

Reductions in demand: From reductions in demand as a result of their EPC with Honeywell, the council is expected to benefit from net savings of £2.1m, and by doing so will have reduced Co2 by 1,423 tonnes annually and been able to reduce carbon tax to the authority. So far 130 households have signed up to make savings by moving to the Peterborough British Gas energy package, with typical first year savings of around £366-377. In addition, British Gas have made a commitment to roll out smart meters across the city and offer Green Deal Assessments free of charge.

Enablers

Peterborough's pioneering intervention in the energy market was enabled by a range of factors:

Political backing and leadership

- The council's work in this area was furthered due to the prior knowledge and interests of the council leader, whose own commercial background gave him awareness of the renewable energy market and its failures/opportunities.
- The establishment of the ESCo and close relationship between the council and head of the ESCo enabled movement on this issue. The Managing Director of the ESCo is also the Executive Director, Resources within the council, which means that he has to hand 'all the levers' necessary to drive this agenda.
- The leader's commitment to embrace entrepreneurialism across the council, and 'see an opportunity and run with it' in a new area was also crucial. The council's willingness to embark on new endeavours and 'do things differently' had become part of the council's reputation and strategy through previous work. This perception helped their pioneering approach gain traction internally and be viewed with pride rather than fear.

Long term strategic commitments

- This was coupled with an existing long term **strategic commitment to environmental issues** dating back to the 1990s and the council's aim to become the UK's 'Environmental Capital', alongside a **commitment to entrepreneurialism and demand management** in order to deal with budget cuts. This helped overcome the difficulties of making a costed business case for the 'softer' education based side of market intervention. As the Environment Strategy Lead commented, *"it's difficult to quantify the impacts of behaviour change community work – whereas there is a black and white business case for investment in solar panels. Also one organisation may make investment but another will benefit ... This does present a challenge but the council are able to see the need for balance and know that having citizens engaged is crucial to sustainability in the broadest sense."*

Consensus around energy market failures and council pro-business approach

- The widely held **consensus about the failures of the energy market**, as outlined in many government documents, made the council's strategic decision to intervene in the energy market in some way relatively uncontroversial. Similarly their **generally pro-business approach** meant that there was little fear of being viewed as 'statist' or 'anti-business'.

Partnership working and utilising outside expertise and market insight

- Partnership working enabled the council to **draw on expertise from outside of the council** to make sound judgements of **potential costs/benefits of any council involvement** in the market. The council invested in a strategic partnership with Deloitte, EC Harris and Pinsent Masons to provide financial, technical and legal expertise in relation to the market. Their work with Deloitte for example led to the development of a forecasting tool which allows the council to model and evaluate the respective cost/benefits of various potential energy generation projects; their partnership with Pinsent Masons enabled them to navigate the legal complexities of council trading in energy and take advantage of new permissions granted by central government. Thus whilst skills were initially a barrier, partnerships helped the council to become an expert in this area: *"We weren't any different to any other council until we decided to find out about it, and when we did decide, we did our homework properly"* (Council Leader).
- Taking a 'market making' approach to lever upfront funding for projects in from private sector partners, and work with third sector and community organisations such as the Plymouth Community Energy Trust to develop the community behaviour change work, also helped gain funding and led to an effective **multi-pronged approach** to the market.

Resources and risk-reward models

- The council's work in this area has benefited from their ability, aided by outside expertise, to make **a clear business case for investing in energy generation** and energy efficiency. Their easy **ability to utilise their assets and access capital** at competitive rates was also crucial, and their structuring of contracts to **minimise risks and upfront costs to the council** was also important to gaining approval for spend.

Challenges

Peterborough has faced challenges in a number of areas:

Long term uncertainty on central government policy

- The **'constantly changing central government landscape on renewables'** has been a problem for the council. The change of policy on Feed-In-Tariffs and tightened planning restrictions for ground mounted solar panels on grade I and II agricultural land mean that long term business cases are difficult to establish, and that, due to the relatively slow nature of local government decision making processes, councils find it hard to make the most of policies before they change. As the Council Leader remarked, *"we do take account of risks – but some variables we are not in control of. The biggest variable is the government – they say they support the agenda ... but then they change the goalposts ... So projects that looked extremely viable 12 months ago are not now offering high returns or any returns at all... It doesn't matter what business (or party) we're talking about – there is a need to for stability."*

Public opinion and permissions

- Public opinion was another challenge for Peterborough. Whilst the Conservative party held a majority prior to 2014 and the council was behind plans for solar and wind energy farms, this local political accountability was not sufficient to complete plans. Councillors for wards near the development sites for energy farms and the MP were influenced by vocal **critical public opinion** from residents near these sites, and **planning permission** was not granted by the planning authority. Whilst most council members see the benefits of the schemes to the council and community, some interviewees felt that **communication about benefits to the community** could have been improved: *"The main challenge was convincing residents of the city that it is a good thing and of the wider benefit to the community"* (Programme and Project Manager).

Skills and knowledge in the sector

- A lack of knowledge and skills about the market was initially a barrier for the council. However they were able to draw on external advice, and to upskill their staff, so this is no longer a problem. Yet due to the **current lack of expertise on this issue across local government as a whole** this does mean that the council are vulnerable to losing key individuals. It also presents a barrier for other councils engaging with this issue, if they do not choose to learn from councils who are already working on this agenda.

Gaining interest from other councils

- Despite some successes, and pioneering work in other areas such as Bristol and Northamptonshire, Peterborough have experienced **some unwillingness from other councils to benefit from their learning in this area**. Whilst some councils do not engage with the issue of energy, the council felt that a sense of distrust prevents others who do from benefiting from Peterborough's substantial investment in developing expertise in this area, as they instead 'go it alone' and duplicate efforts.

Engaging consumers

- The council have found it hard to engage consumers to change behaviours and tariffs. **Collective switching amongst SMEs** in particular has not been a success, with take up for the scheme low. Additionally the councils did find it a **struggle to engage vulnerable residents to take up ECO funding for energy efficiency measures** as part of their initial Heataborough scheme – which they are seeking to redress through their new partnership package with British Gas.

Liverpool City Council: Sunbed industry

Informing consumers | Regulating sale environment

Key points

- Liverpool City Council identified the tanning market as a cause of problems for local residents. The council commissioned research to understand the issue. Following this they launched an approach focussing on the provision of information to consumers about the risks of tanning to reduce demand for sunbeds, alongside a call for greater local licensing powers to require sunbed outlets to provide information and introduce new safety measures to protect consumers.
- This case study demonstrates how problems in markets are often local, and that in some instances local discretionary regulation is most appropriate to tackle them. It also demonstrates how local councils can lead in bringing about changes to national legislation.
- Liverpool's work was enabled by effective use of insight and evidence; strong political leadership; partnership working; and a 'can do' approach to affecting legislative change.

Assessing the market

Liverpool City Council has undertaken innovative work influencing the market for sunbeds within the city. Research by Cancer Research UK (CRUK) in 2010 identified that compared to the rest of the country the city had an especially high rate of increase in the usage of sunbeds, particularly amongst young women. The council predicted this would lead to high rates of malignant melanomas in the future which would incur a significant cost to local people, the local economy and the NHS. As a result the issue was raised as a priority by the Health and Wellbeing Board and then the council itself.⁵⁵

The Public Health team commissioned qualitative research to understand why young women were visiting sunbed outlets so regularly and for long periods of time, and worked with other council partners to analyse the problem. This revealed that the social benefits of adhering to the bronzed 'Liverpool look' were thought by teenage girls and their mothers to outweigh any risks, which were also little understood; that fake tan was considered costly and difficult to apply; that the prominence of sunbed outlets in the retail environment influenced tanning decisions; and that current legislation was having little impact on safe and legal sunbed usage within the city.

Market shaping activities

Based on this research the council took a multi-pronged strategy to tackle the issue. A three month initial online and offline campaign and a range of partnerships were developed to change individual perceptions and social norms relating to the risks and acceptability of sunbed usage and to promote fake tan as a healthier alternative. This involved social and news media features with local celebrities highlighting their personal skin stories, as well as 'roadshows' in the city centre featuring interactive quizzes, fake tan advice consultations and free samples of the affordable fake tan brand St Moriz, as well as behaviour change literature and 'skin check' pop-in consultations provided by NHS clinicians.

⁵⁵ Liverpool City Council estimated that the cost of primary care diagnosis, outpatient procedure and day case biopsies for skin cancer cost the NHS in Liverpool £2,860,096 in 2012 alone. The wider social and economic cost, due for example to absence from work for appointments, would be far higher than this. Source: Liverpool City Council 'The Estimated Cost of Skin Cancer to the NHS Liverpool'

An interactive educational unit on sunbed usage is also now included within an existing wellbeing package for schools delivered by Brooke; and the curriculum for the Beauty course delivered at the city's further educational college now includes a unit on the issue.

Yet the council also sought to change the immediate choice environment for users through regulation. They increased enforcement of current legislation prohibiting usage of sunbeds by under 18 year olds through 'mystery shopper' testing, and also launched a high profile national campaign to gain local powers to license sunbed outlets. Where there is a local need, this would require sunbed outlets to provide greater risk information to customers at the point of sale and ensure certain new standards (such as the usage of protective eyewear) are adhered to, and would enable better enforcement of legislative and license requirements by providing the council with an accurate map of sunbeds in the city and a revenue stream to finance enforcement. Local licensing is preferable to generic regulation because it would be faster to enact, and allows requirements to be more flexible and evolve over time.

Impacts

Current enforcement: The council have increased their enforcement of current legislation, and are planning on introducing a voluntary code of practice for sunbed outlets in the absence of mandatory licensing powers.

Behaviour change campaign: The behaviour change campaign reached thousands of teenage girls, young women and mothers across Liverpool. The successful use of consumer insight has led the campaign to gain two prestigious marketing awards: The Drum 2014 'Cause Related Marketing Strategy' Award and Marketing Week 2014 'Research and Insight Strategy' Award.⁵⁶ Effects will be long term, but initial metrics suggest the campaign is effective, with a larger evaluation due out in later 2014. The education work in schools and colleges continues.

Campaign for increased local government licensing powers: As a result of Liverpool's local work on this, the issue of sunbed licensing and regulation has successfully been brought to the national agenda. The campaign for local authority sunbed licensing powers has gained extensive local and national coverage in the media, including airtime on BBC1 Breakfast, This Morning and ITV News, Sky News, and many regional news and radio stations, and most national newspapers. Liverpool presented their work at the All Party Parliamentary Group on Skin Cancer in 2014, where their resolution was accepted and is being taken forward. A letter has also been sent to Jeremy Hunt the Secretary of State for Health, and in partnership with CRUK and the British Dermatologist Association, Liverpool are continuing to push for local licensing powers.

Enablers

Use of market and consumer insights:

- The council benefited from the expertise of a **7 member Insight and Social Marketing team** within the Public Health department who were maintained by the council following transfer from the PCT. The team are recruited from the private as well as public sector, and are experts in approaches to behavioural change and marketing. This team commissioned qualitative insight research with the target audience to understand the local drivers for sunbed usage, and this insight was reflected in the nature of the campaign strategy developed.
- The team also benefited from the expertise of **external creative, social media and PR agencies** who were commissioned to develop the campaigns. CRUK staff felt that Liverpool were unusual in that they "*understood the evidence and issue, and [working to tackle the sunbed market] was an easy sell for us*".

⁵⁶ See <http://www.marketingweek.co.uk/events/research-and-insight/4010747.article>

Partnership working

- The council's market shaping work benefited from a **strong and wide coalition of partners and experts** within and outside of the council. Within the council, Public Health led on the issue, but benefited from support from Environmental Health and Education colleagues and from Cancer Research UK, the NHS and local CCG, a local radio station Juice FM, and the fake tan brand St Moriz.
- The **NHS and CCG** lent their support to the campaigns, speaking in support of it on TV and radio, and by providing clinicians to check for moles at the campaign city roadshows. **Cancer Research UK** provided robust evidence and a credibility which was particularly important when the council's campaign materials faced challenges from the Sunbed Association.
- The campaigns cost in the region of £100,000, but also benefited from **in-kind support from commercial partners** St Moriz, who paid for the website, Youtube presence, and other materials such as the pop up stands for the city centre events.

Political backing and leadership

- This work was championed by a **committed councillor** who, after being made Cancer Lead for the council in 2012 when Public Health was due to transfer to local government, went about championing this issue. All partners felt this councillor's role was vital, since he understood the issue and the need for prevention, as well as the range of tools – from regulation to information provision – which could be used to tackle it, and was able to drive this within the council and engage partners. He gained support from the mayor and cabinet, who had a political majority – and this was important in passing resolutions to support the campaign.
- Whilst the current **political majority** of the cabinet was helpful, in 2012 the cabinet was more mixed yet all parties supported the resolution to work on this issue on the basis of the evidence presented.
- Indeed, backing for the campaign was rooted in a **commonly held view** that businesses do sometimes need regulation and that council activity is necessary to act against a minority of businesses who may cut corners, prioritise profits and cause harm to consumers. However that this instance of regulation was not part of a 'nanny state' and that the main aim of the new powers would be to require businesses to inform customers of risks, and have legally safe equipment, was an enabling factor: *"the aim was to make the choices that people make better informed, not to take away their choices"*. A ban was never considered on principled as well as pragmatic grounds.

Can do attitude

- The political leadership encompassed a 'can do' attitude to **being able to effect national legislative change** which drove progress. One partner mentioned that the councillor *"engaged with what was going on politically, and recognised the potential of a petition and lobbying local MPs to talk about it"*. This engaged other national organisations working on the issue: *"[The councillor] being so proactive almost forced our hand and got us to do things faster than we might otherwise have done. We were working with MPs but hadn't considered the APPG as an option. He had a desire to try every avenue" (CRUK)*. Whereas CRUK had previously not given great attention to the local case for change, their strategy then built a 'local to central' approach to lobbying: *"we always saw work on sunbeds as a national issue and didn't understand the local environment so well; we didn't expect a local authority to take the leap and lead on this"*.
- Partners felt that this was enabled by the council's history of **past success in taking the lead on issues**. The councillor leading on this issue commented on Liverpool's history of leading change for local people – for example through the figurehead of Dr Duncan the First Medical Officer who pioneered a municipal approach to public health in the 1840s. And more recently

the city's experience with the SmokeFree Liverpool campaign (where Liverpool City Council's Private Members Bill for local smoke free legislation brought about the national ban) was mentioned by a number of interviewees because it meant that those in the council knew they could influence national government, and were aware of the tools to do so.⁵⁷

Media interest

- The council had not expected strong media interest in the issue, but the approach they took was very media friendly, and partners were all prepared and asked to speak about it in the media. That the campaign 'grabbed people's imagination' spurred on activity within the council.

Challenges

Resources for implementation and enforcement

- **Enforcing existing health and safety legislation** by spot checking sunbed outlets to test if their sunbeds are within the legal UV ranges, and that they are not serving persons under 18, is a resource pressure on councils. Their overall environmental health team has shrunk from 223 to 58 officers following cuts, and at present two officers work on sunbeds for only a proportion of their time. Enforcing a voluntary code would be a burden for councils. However income from licensing schemes is ring-fenced and it is hoped that if given local licensing powers, the cost of implementation would then not be a cost deterrent.

Measuring future impact

- The council are evaluating the impact of their campaign, which has considered people's awareness and intentions about sunbed usage before and after the campaign. However there is a recognition that intentions do not always translate into action, and as a result the council are keeping an eye on both statistics regarding local sunbed usage and hospital admissions relating to skin cancer. Nevertheless impacts on skin cancer rates will be long term and will be hard to directly relate to the campaign itself, and data on usage is not regularly gathered, so it is **difficult to model the impact into the future with a high degree of accuracy**.

Silos and long term effects

- The **silos nature of government** does present a challenge for councils engaging in this sort of preventative work, especially where many of the positive impacts and financial rewards will be a long way in the future and will primarily be recouped by the NHS. In this instance the council and councillors' sense of duty and commitment to demand management overcome this issue. However it was noted by a partner that a large preventative drive like this was a *"noble thing for a politician to do, since the benefit may be long term"*.

Birmingham City Council:

Labour market and public sector contractors

Budgeting with buying power | Persuading businesses

Key points

- Birmingham City Council (BCC) is motivating local businesses and its contractors to take actions to improve the social, economic and environmental well-being of the area. To this end it has developed the Birmingham Business Charter for Social Responsibility (BBCSR), which includes commitments to employ locally and pay the Living Wage. Since September 2013 newly contracted BCC suppliers are required to sign up to the Charter, and the wider business community can commit to it on a voluntary basis. The council also now judges contract bids on the basis of social value as well as quality and price.

⁵⁷ See http://www.who.int/kobe_centre/interventions/smoke_free/liverpool/en/

- This case study demonstrates the way that councils are combining voluntary persuasion of business with mandatory requirements for those with whom they contract.
- New legal allowances and a growing consensus about problems in the labour market enabled this initiative to take place, but local political vision and leadership were the key drivers of this approach.
- Whilst measuring and weighing up social wellbeing impacts present a challenge for the council, and taking account of these requires them to increase some upfront costs, their pragmatic and 'can do' approach is leading to various positive benefits for the area.

Assessing the market

Since 2012 Birmingham City Council (BCC) has been developing a high profile initiative to motivate local businesses to take actions to contribute to the social value of the area. To this end they have developed the Birmingham Business Charter for Social Responsibility (BBCSR) which BCC contracted suppliers have since September 2013 been required to sign up to, and which the wider business community can commit to on a voluntary basis.

The initiative came about in 2012 from the manifesto of the Labour Group which had newly taken control of the council, and who saw an opportunity to tackle local problems of inequality and entrenched deprivation in the city through procurement. In particular they sought to encourage contracted providers to employ locally and pay employees the Living Wage in order to tackle in-work poverty. This was a culmination of discussions that had been in place about how the council could utilise their £1bn annual spending power for better usage, and occurred in parallel with the passage of the 2012 Public Services (Social Value) Act which allowed public services to judge bids on the basis of social value as well as quality and efficiency. The work was informed by research into the labour market which suggested that numerous initiatives, such as employing locally and paying the Living Wage, would bring long term economic benefit to local places: *"We knew that every extra pound earned by people in Birmingham [by gaining the Living Wage rather than the Minimum Wage] would be spent on industry/commerce within Birmingham - creating a virtuous circle to try and solve chronic unemployment and low wages associated with large parts of Birmingham"* (Cabinet member).

Market shaping activities

The Birmingham Business Charter for Social Responsibility has numerous actions sitting under 6 core principles: Local employment; Buy Birmingham First; Partners in Communities; Good Employer; Green and Sustainable; and Ethical Procurement.⁵⁸ Adhering to all the principles and elements of the Charter is mandatory for organisations with individual contracts or grants over £200,000 per annum and for those that have aggregate annual contracts or grants above £500,000. Contracts and grants below these thresholds have aspects of the Charter that are mandatory and aspects that are voluntary. Paying the Living Wage to staff is one of the actions which is mandatory for all Charter signatories.

All new contracted providers have since September 2013 been required to be signatories to the Charter, with sign up being voluntary for all existing contractors and for businesses not contracted by the council. In order to receive the Charter "kite mark", businesses must complete an action plan, which is then approved by the BCC project team. Action plans are encouraged to be specific, measurable, relevant and proportionate, and guidance is given where plans are not of sufficient quality.

In addition, new tender bids are scored based on the quality of their Charter action plans and the benefits that their actions will bring to the area in addition to price and quality. Social Value usually makes up 10% of the overall tender score card, but in some instances it may be as much as 20%. If a contract is approved the BBCSR Action Plan deliverables become contractual terms.

⁵⁸ See http://www.finditbirmingham.com/Upload/Charter/BCSR_Charter_Principles.pdf

Whereas the previous administration had brought in specific contract terms, such as employing local apprentices, for some individual contracts for capital spend, Birmingham's new initiative applies to a wider range of contracts and encourages a more holistic remit.

Birmingham City Council is also in discussions with the Chamber of Commerce about developing Birmingham into "Birmingham - The CSR City". This would enable greater coordination of existing Corporate Social Responsibility (CSR) activities in the city, to prevent duplication and make sure activities engaged in are those that will yield the largest return for the area. It is hoped it would widen the BBCSR initiative to get many more non-contracted companies in Birmingham to sign and commit to the charter.

Impacts

Since its launch in 2013, 80 companies including Amey and Barclays have signed up to the BBCSR, while 100 more are on a clear timeline to full signatory status. The BBCSR team expect to reach their target of having 30% of Birmingham's £1bn annual spend with Charter signatory companies by March 2015, and to have 250 accredited organisations by this date.

Actions specified by the charter signatories will have a wide impact on the locality, and activities vary from providing educational literature about recycling to local schools, to providing support activities to community organisations and setting targets for local recruitment and reductions in CO2 emissions. The council discourages tokenistic actions and has attempted to encourage targeting of actions to areas of most need – for example certain wards in the city. They have sought to align social value actions with prevention, and sometimes businesses have changed the nature of their products or services as a result of discussions with the council. For example a waste collection contractor changed their fleet of trucks from those with diesel lift functions to electric models in order to reduce their carbon emissions.

The Charter also has a 'Challenge' function where citizens can raise challenges if they think principles of the Charter are being neglected by signatories. This has happened on some occasions, and has led to a financial services provider removing advertising for a product which related to tax avoidance from their company's website.

Whilst the council monitors Charter action plans, it is working with academics from UK universities to develop a framework to measure the social value related to specific actions to a much greater extent.

Enablers

Political vision

- Council staff noted that the impetus for this initiative was "*very much because of the priorities of politicians*" (Project Manager). Whilst ideas about CSR and procurement had been "knocking around the council before", the Labour Group's high **prioritisation of social inclusion** and time in opposition enabled them to think about this strategically and develop coherent policies relating to the Living Wage and social value in procurement to include in their manifesto: "*Previous parties had considered issues, but it was a higher political priority for Labour than for the other groups*" (Assistant Director of Procurement). Elected with a large majority," the Labour Group had a high degree of 'political capital' which they were able to 'ride and use'.
- Having a **Cabinet Member for Commissioning, Contracting and Improvement** under whose remit this action came was also a huge enabler in ensuring implementation of the policy and Charter. Birmingham's capable, knowledgeable and committed cabinet member was able to drive the initiative, and officers are confident that they can refer difficult policy dilemmas to politicians who will make strategic decisions.
- Whilst this initiative was clearly party political in Birmingham, it was also something that the Conservative-Liberal Democrat coalition councillors had laid the ground for earlier. The

Public Services (Social Value) Act began as a private members' bill put forward in 2010 by the Conservative MP Chris White, and was then backed by the Coalition government – suggesting that this is an area which is **open to all political parties to engage with**.

Growing consensus around responsible business

- The impetus and implementation of the BBCSR was aided by the **growing consensus and media coverage about the necessity of responsible business**, and the Living Wage, within political parties and in the business community. The **campaign for the Living Wage and its support from national politicians and organisations paved the way for the wider BBCSR initiative**. 'The language of the Living Wage Campaign' and Birmingham's extension of the Living Wage to all BCC employees "got an understanding of the issue of the Living Wage and that it was possible for the council to bring in even in these restricted times. It opened up the issue of social value more generally" (Cabinet Member).
- Amongst businesses themselves, it is felt that there is a growing consensus on the **desirability of greater social responsibility from a moral and societal but also a business standpoint**. Birmingham City Council found that service industries in particular are seeking to grow their CSR credentials in order to attract and retain high quality employees – to whom social responsibility is increasingly important. BCC was keen to help companies benefit from the reputational benefits of the BBCSR through their marketing activities and communicated these to potential signatories.

Pro-business approach

- Whilst the council comes from a standpoint where there is an expectation and acceptance that businesses can and should swallow some profits for the area's wellbeing, their generally **pro-business approach to public service delivery** and strong relationships with businesses meant that the business community trusted the council and contractors accepted the mandatory nature of the BBCSR to be in their interests: "In Birmingham we have a reputation of taking a pro-business approach. It helped having a strong relationship with businesses ... the business community accepted it and trusted us; they might have thought we were mad, but not bad!" (Cabinet Member)

Consultation, partnership and pragmatism

- The council also gained trust and compliance from the business community by carrying out a **long consultation process with businesses and third sector organisations**. This meant they 'got right' first time and that business concerns were mediated and minimised. For example purely goods based services are exempt from having to undertake full wage restructuring as this would make them uncompetitive outside of Birmingham where the Living Wage isn't required. Similarly the Living Wage requirement is being phased in slowly, and does not yet cover Childcare and Adult Social Care. This follows an open book exercise which revealed that these sectors had little profit margin, and paying the Living Wage without increasing contract values would not be viable for these businesses and would threaten rather than aid the local economy. From October 2014 the BBCSR will apply to Adult Social Care contracts which are up for renewal, but the council is making some budgetary allowances in order to increase contract values to cover the wage increases needed since the council "may pay more in the contract, but contribute to society more" (Assistant Director of Procurement).
- Pragmatism is needed by the council to make these decisions. Whilst they couldn't measure the total expected benefit to wellbeing as a result of paying the Living Wage or implementing the Charter – and cannot increase the administration spend in order to do this – they still went ahead with the initiative on the logic that it will make a positive difference. As the Cabinet Member stated, "there was no formal cost modelling, because it just wasn't doable" – but discussions with business gave them a feel for what was and was not possible and right in the long term.

'Can do' attitude

- The **'can do' attitude** of the council helped get the BBCSR off the ground: *"In other councils it is off their radar – it's beyond their concept of what is doable – whereas we've just got on and done it"* (Cabinet member). Councillors felt this was aided by the council's particular history of municipal leadership, for example around public health, but that having seen Birmingham's successes other councils will follow.

Legal enablers

- **The Public Services (Social Value) Act 2012** meant that plans the council had to include social value in procurement decisions were made possible.

Challenges

The council has faced various challenges, especially in relation to the implementation of this initiative:

Deciding on important detail

- Because the council is sailing on uncharted waters, it has had to work out important details about how the Charter and the assessment of **social value in procurement will work in practice**. For example it has had to decide how much weight to give social value in procurement decisions, how to measure social value, what sort of activities should be prioritised and weighted more highly because they offer greater social value, and which businesses to apply certain standards to. For example the council is trying to balance the level of expectation placed on contractors not just with the size of the contract they have with the council but the size of the organisation.
- **Measuring social value** has been a particular challenge for the council. Whilst it is taking a pragmatic approach and does not wish to "create a whole industry in the council out of measuring the impact" they are working with academics to try and measure impacts to a greater extent.

Ensuring prevention rather than offsetting prevails

- As mentioned, the council tries to align Charter social value actions with prevention. However the council has had to make some difficult decisions in relation to **balancing the benefits offered by some large companies who are keen to sign up to the charter with the problems associated with the individual markets these companies operate in**. For example a large food brand may be keen to sign up and contribute substantial sums to active lifestyle initiatives in the city, and it is difficult for the council to weigh up these benefits against negative effects that awarding the "kite mark" to the business may have in terms of enhancing the company's PR position and thus helping them to sell their more unhealthy food products to children and contributing to obesity.

Embedding social value in the council

- It has been a challenge to **embed this initiative across the council**, so that all those who manage contractors as a small part of their daily job attempt to influence contractors to secure social value for the local area. This requires a culture change, moving people away from viewing their job as a series of tasks to thinking of the overall outcomes they are working towards. This may have been especially difficult in a council of Birmingham's large size and complex structure.

Communicating to businesses

- The council has had to learn to be clear about **communicating to businesses that this is not just a 'tick box' exercise of tokenistic corporate social responsibility** but a requirement to change organisational outlook and behaviour in commercial organisations. However once spoken to in depth by the project officer who 'speaks both the languages' of business and

local government, and by providing guidance and examples, most businesses then favour and understand the scheme.

Resources for implementation

- In the face of massive budget cuts in Birmingham (£822m over 8 years) the set-up and administration of the BBCSR has had to be done on a 'shoestring budget'. Existing contract managers monitor action plans, and a small team administers the Charter. However **capacity will be stretched as the demand for BBCSR assessment and accreditation grows**. Additionally, when the Living Wage requirement is rolled out to social care providers, this will put a pressure on the council to raise their contract values. Whilst something the council is putting a budget towards, this will be a significant challenge. The council is considering other ways of financing their investment in this initiative, including trading aspects of the Charter with other councils.

Impracticalities of local rather than national requirements

- The Living Wage issue highlights one of the difficulties of **setting local requirements for national businesses** where national approaches are needed to tackle much larger problems with markets. Alone the council can make some demands, but it can be difficult to ask businesses which operate nationally in environments where they are not expected to pay the Living Wage to change their whole pay structure as a result of the BBCSR. Similarly the issue of raising pay in childcare and social care clearly requires **national central government intervention** in order to reach a viable solution.

Silo nature of government

- One of the barriers to prioritising prevention, for example by raising contracts to pay the Living Wage, is that **benefits will be reaped outside of the council**. As one interviewee commented *"the siloed nature of spending means that we're driven away from this kind of activity, and are encouraged to think of our own spend"*.

Appendix two: methodology

This report was based on original research conducted by NLGN. It involved a three stage methodology incorporating the following elements:

- **Ongoing literature and practice scan** - We conducted a thorough literature and practice review to provide context and background knowledge for the report.
- **Roundtable dialogue sessions** - We held two roundtable dialogue sessions. Each involved around 20 local government participants with a balance of local authority chief executives, councillors and officers/managers and stakeholders from private firms working with local authorities.
- **Case study interviews** - We undertook 18 in-depth telephone and face-to-face interviews with stakeholders in three case study areas. Interviewees included a mix of councillors, operational officers, senior managers and partners from outside of local government. Case study areas were chosen to reflect a range of different market-shaping activities being used by councils to tackle problems in relation to three different sorts of market.

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