



Embedding commercialisation to generate new income streams

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What does commercialisation mean?



- Commerce
 - Trading to generate a profit
 - Risk based competitive trading
- So its about becoming like the private sector?
 - But we're not private and not motivated by private gain
 - And what about the risk?



Why would we want to do it?

- To make best use of the public assets we control?
 - Business like approach
 - Affraying cost by utilising surplus capacity
 - Providing additional/enhanced services
- To generate alternative funding streams?
 - Making a clear profit
 - Building capacity with a specific trading intention
- Or just because it is necessary to survive?
 - Continue to provide essential public services

Making a case: a five case model



- Legal
 - Can we do it?
 - What are the legal consequences of doing it?
- Strategic
 - Is it consistent with the council's objectives?
 - Does it conflict with local economic interests?
- Commercial
 - Is there a market?
 - Is it a market we can operate in successfully
- Financial
 - Does it stack up financially?
 - When will we see a return?
- Operational
 - What resources will be needed?
 - Where will those resources come from?

Culture



Traditional public service

- Paternalistic
- Social policy driven
- Societal focus
- Top down
- Rules based
- Departmental
- Bureaucratic
- Cautious

Entrepreneurial organisation

- Self interested?
- Narrow objectives
- Customer focussed
- Facilitative
- Empowering
- Corporate
- Agile
- Risk management



A way forward: corporate

- Is there a clear vision?
- Remove barriers to commerciality
- Agility, flexibility and enablement
- Accountability and expectations
- Treatment of corporate costs



Doctrine of ultra vires

- Must have a power to provide
- Must have a power to charge for provision
- Types of power
 - Specific
 - Implied
 - Incidental
 - General



Examples of Powers to do

- Specific powers relating to environmental management
- Incidental powers to purchase RCVs
- Implied powers to look after them

Specific Powers to Charge



- Local Government and Planning (Scotland) Act 1982
 - Leisure, culture and social s16
 - Street cleansing s 25
 - Public conveniences s26
 - Provision of markets s27
 - Provision of clocks s28
- Environmental Protection Act 1990
 - Commercial waste s45

General power to advance well-being



- Local Government in Scotland Act 2003
- A local authority has the power to do anything which it considers is likely to promote or improve the well-being of
 - Its area and persons within that area
 - Either of those



A wide power

- For the benefit of the whole or part of the area or all or some of the persons within the area
- Power to do anything
 - In relation to or for the benefit of any persons or place outwith the area or:
 - Any such place
- Must have regard to guidance

So what does the guidance say?



- It is a power of first resort
- Enables local authorities to deliver services that fall within the responsibility of other service providers
- Where exercised outwith the area there should be consultation with the local authority and other bodies in the area where the activity is to take place



What else does it say

- The power to advance well-being does not enable a local authority to do anything which it is, by virtue of a limiting provision, unable to do
- The power does not enable a local authority to do anything which may be done under the Local Authorities (Goods and Services) Act 1970
- The power does not enable a local authority to raise money beyond imposing reasonable charges for the work undertaken
- It is the intention of Scottish Ministers that local authorities should be allowed the flexibility to recover costs from use of the power to advance well-being.

Is that a bit confusing?



‘This does not however prevent a local authority from setting and determining amounts of council tax or from imposing reasonable charges for services provided where the activity does not constitute a trading operation according to proper accounting practice. A trading operation is currently defined, under proper accounting practice, as an operation that meets the following criteria: the service is provided in a "competitive environment", that is the user has discretion to use alternative providers; and the service is provided on a basis other than straightforward recharge of costs, that is users take the service on the basis of quoted lump sums, fixed periodical charges or rates or a combination of these’

Link with Goods and Services Act



- The power under section 20 above does not enable the doing of anything which may be done under the Local Authorities (Goods and Services) Act 1970 (c. 39).

The Goods and Services Act 1970: Pre 2003



“...any public body...supply of goods or materials...provision...of any administrative, professional or technical service”

“use of vehicle, plant or apparatus” and appropriate staff

“works of maintenance” – not new build

- Not limited to “spare capacity” – YPO case
- Express charging power, but must be public body
- Can make a profit
- Separate account

Local Government in Scotland Act 2003



- Re-writes Goods and Services Act
- Applies to 'relevant trading operations'
- Extends application from other public bodies to any person
- Requirement to consider wellbeing
- Link with wellbeing power



Explanatory notes

- Local authority to local authority
 - Can build capacity – not in the Act
 - No limit on level of income – not consistent with the Act as no differentiation
- Local authority to other public bodies
 - Surplus capacity – not in the Act and now withdrawn
 - No limit on income – not consistent with the Act
- Local authority to private
 - Surplus capacity – not in the Act but??
Subject to limits set by ministers – not set so

What is a 'relevant trading operation'



a trading operation which is carried on for the purpose of enabling a local authority to raise money, by borrowing or otherwise

And what is a trading operation?

a trading operation for which, in accordance with proper accounting practices (within the meaning of section 12 of the Local Government in Scotland Act 2003 (asp 1)) the authority keep trading accounts.

So trading activity must be through a trading account



Trading through a company

- Certainly possible – wellbeing power
- Certainly not required
- Subject to same turnover restrictions as direct trading
- Tax issues
- Risk issues?

Public/Public Trading: What are our potential market advantages?



- Knowledge and experience of public contracting
 - Hassle free contracting?
- Links with other services
 - Optimise social value
- Possibility of concluding arrangements outside the procurement regime
 - Teckal
 - Hamburg

Exceptions to the Procurement Rules



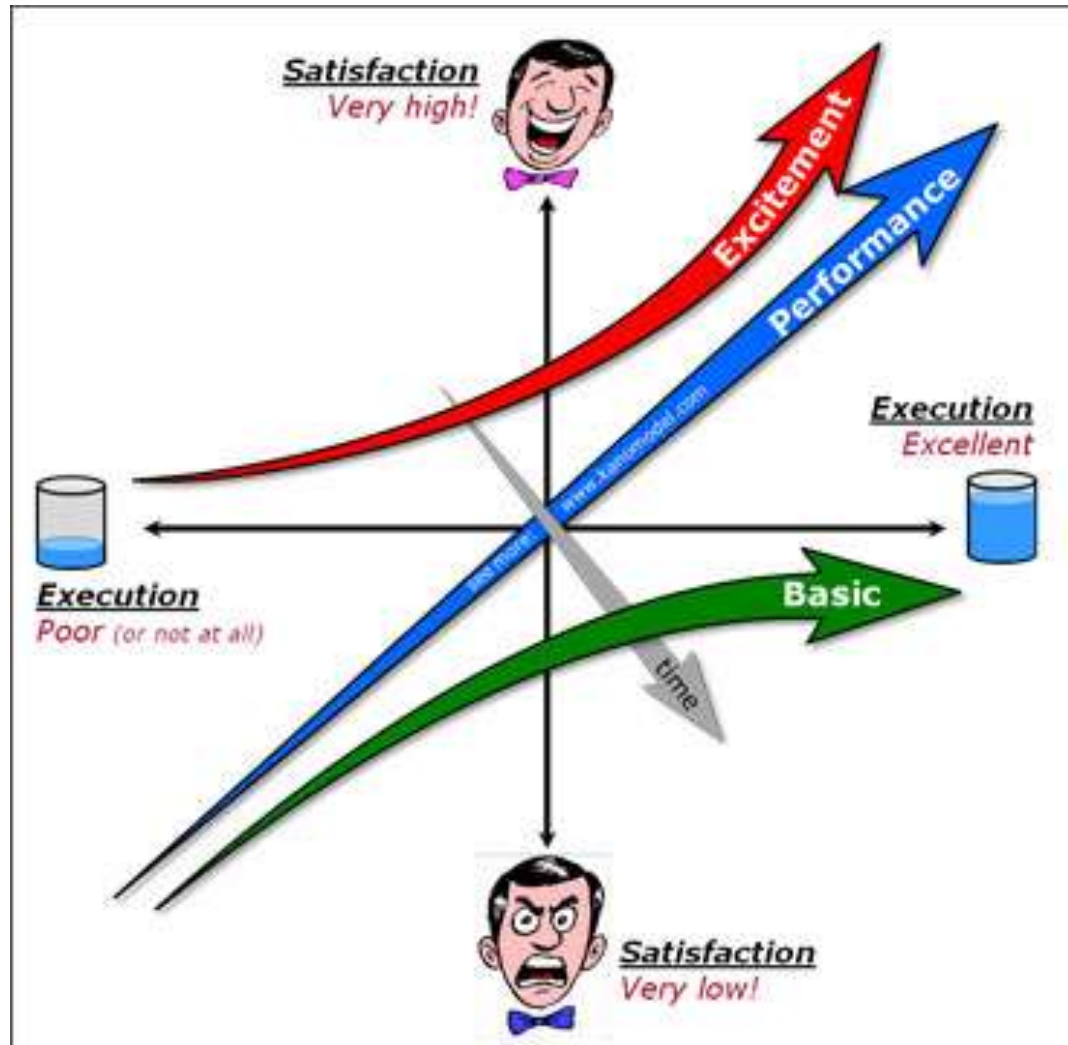
- Public to public exceptions
 - Collaboration i.e. the Teckal exemption
 - Cooperation i.e. Commission v Germany
- Now codified in Regulation 12 PCR 2015
- How useful are they for Academies and Local Authorities?

Do you have a compelling offer?



- Understanding what drives customer satisfaction?
 - Basic fulfilment
 - Would be better
 - Delighter
- Do your USPs hit the target?

Kano analysis and customer focus: aiming for compelling



So what do customers want/need?



Cost leadership only viable strategy

Basic

- Service meeting specifications
- Value for money
- Capital investment

Would be better

- National coverage
- Single contract for all services
- Savings on procurement costs and time

Delighter

- Hassle free
- Long term partnering approach
- Innovation feeding into wider objectives

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Differentiation increasingly important



What might the key USPs be?

- Access to capital finance
 - Prudential borrowing/reserves
 - Low interest rates
- Ability to offer multiple services in a single package
 - From HR to snow clearance we can do it all
- Potential for public/public cooperation
 - Hamburg/Teckal
- Links with wider social value factors
 - Wider public well-being issues
 - Local economic well-being

Resources and competitive advantage: Do you have a USP?



SUMMARY OF THE VRIO MODEL

IS IT VALUABLE?	IS IT RARE?	IS IT HARD TO IMITATE?	IS THE FIRM ORGANIZED AROUND IT?	WHAT IS THE RESULT?
NO				COMPETITIVE DISADVANTAGE
YES	NO			COMPETITIVE EQUALITY
YES	YES	NO		SHORT-TERM COMPETITIVE ADVANTAGE
YES	YES	YES	NO	UNUSED COMPETITIVE ADVANTAGE
YES	YES	YES	YES	LONG-TERM COMPETITIVE ADVANTAGE



Consultancy

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Interim management requirements

Roads & Highways, Building Maintenance, Bereavement Services, Environmental, Parks & Open Spaces, Waste, Facilities & Leisure etc.

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