



What models for income generation and service delivery

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What are the routes to income generation?



- Simple charging mechanisms
- Trading companies. Are they needed?
- Shell company models
- Coops, mutuals and spin outs: The legal issues
- Public procurement and Teckal
- The Hamburg exception and trading with Academy schools

Charging ahead



Charging powers



- Goods and Services Act 1970
- S 93 LGA 2003 - Broad powers to charge
- Localism Act – reaffirms charging powers and
- Section 45 Environmental Protection Act 1990 (commercial waste)
- Civic Restaurants Act 1947
- Section 32 Local Government (Miscellaneous Provisions) Act 1976

General power of competence?



- General Power of Competence
- Charging not for a commercial purpose
- Defined as ‘subject to a duty to secure that, taking one financial year with another, the income from charges (allowed) does not exceed the costs of provision’
- Simplistic but effective mechanism

Advantages v Disadvantages



- Simplistic
- No staff transfers
- No complex legal structure
- Will you get the cultural shift?
- Are your services 'match fit'?

What about a company model?





Establishing a company

- Many types of corporate entity
 - Limited Liability Partnerships
 - Community Interest Companies
 - Company limited by shares / guarantee
 - Industrial and Provident Societies
 - Charitable Trusts
 - S.95 company
 - Teckal Company

The most suitable vehicle depends on the specific needs of the authority!

Wholly owned company



- Most common
- Parent council as the shareholder
- Purpose and activities will determine if Teckal or not!
- Many powers to set them up for example S.95 powers and General Power of Competence

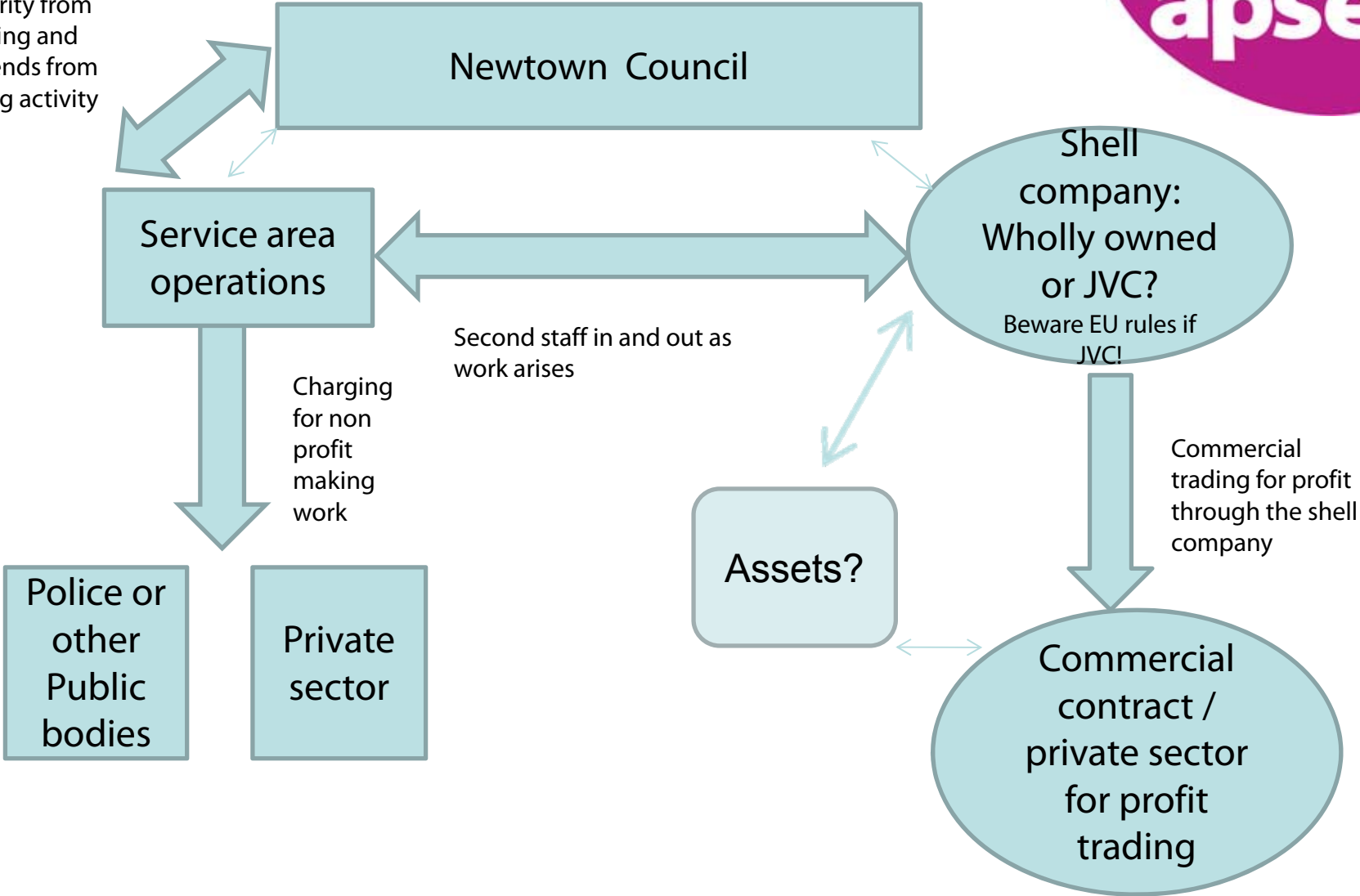
Hybrid or shell company model



- Charging route - no company needed
- 'shell company' – keep public to public – non commercial operations through simplistic charging route – limits liability
- Shell company to trade through if needed –
- HR – second staff in and out as required to do the traded work?



Efficiencies returned to the authority from charging and dividends from trading activity



Alternative models?



- Coops
- Mutuuls
- 'Spin Outs'
- Community Interest Companies
- Industrial and Provident Societies

What do we mean by a 'coop'



- Subjective rather than objective
- No 'one definition'
- Broad understanding of a range of definitions
- Retail or consumer coops, consumer-run businesses, worker coops, community coops....
- Employee ownership models or the 'Maude model'



What legal structure?

- No 'cooperative legal form'
- Unincorporated ?
- Incorporate to limit liability on its members
- Industrial and provident society
- Private company limited by guarantee / shares
- Community interest company
- But... it is NOT your company – you can't award contracts 'as of right'
- Invokes competition in most circumstances

Industrial and provident society



- An industrial and provident society is 'an organisation conducting an industry, business or trade, either as a co-operative or for the benefit of the community, and is registered under the Industrial and Provident Societies Act 1965'.
- Treated as a 'body corporate' - companies for tax purposes and
- Liable to Corporation Tax in respect of their profits
- Some rules on share dividends

IPS



- Industrial and provident society (IPS) is registered by the Financial Conduct Authority (FCA formally FSA)
- Safeguards one member one vote principle
- IPS can issue shares to the public (to raise its funds)
- Rules of the IPS must comply with FCA requirements – can refuse rule changes

Private company limited by guarantee / shares



- Limited company legal form – well known
- Doesn't protect any 'cooperative principles'
- Must be registered through companies house
- Articles of association and memorandum of association
- Shares and fund issues? Unable to offer shares to the public for fund raising.

Community interest company



- A community interest company (CIC)
- Organisations that want to conduct their business for community benefit
- 'asset lock' – assets cannot be distributed for private benefit – even when winding up a CIC the asset lock would prevent distribution of assets to members
- Public shares issues prohibited

Funding and future funding



- Dependant on form?
- Grants?
- Will services be divested or contracted?
- With reduced public funding what about future funding streams?
- State aid?
- Reliance on ongoing financial support?

Employment and pensions issues...?



- TUPE or not TUPE?
- 'Business entity'
- Affordability?
- Pension admission arrangements?
- Redundancy liabilities?
- Sustainability of the model or company
- Longevity of contracts awarded?

What you might think is happening....



The evidence



- Review of 1,600 national and international cases
- Lack of data about the benefits co-ops and mutuals to local service delivery
- Only 12 case studies where any impact evaluation had been carried out
- Some cases found staff had to reduce their own terms and conditions to survive
- Success factor ? On-going support from the public sector – a nurturing not contractual relationship



What do you want to achieve?



- Think about what you are trying to achieve?
- Can you apply 'principles' but not the structures?
- Are there alternative models of delivery more suitable for public services?
- Beware applying 'market' principles to public services on a blanket basis!
- What are the 'rightful' democratic constraints

Thank you



Any questions

LOCAL SERVICES

LOCAL SOLUTIONS



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