

HUNTINGDONSHIRE DISTRICT COUNCIL

Title: Commercialisation
Meeting/Date: Cabinet 17th November 2016
Executive Portfolio: Strategic Partnerships and Shared Services
Report by: Corporate Director Services
Ward(s) affected: All

Executive Summary:

The Council's Corporate Plan and 4 year Efficiencies Plan includes the creation of new commercial lines of income to support the Council in its strategy to be financially self-sufficient by 2020 allowing it to continue to deliver efficient customer centric services.

A number of specific opportunities currently exist for the Council to provide services to third parties through its own trading company and/or in partnership with the private sector. To ensure the Council is in a position to fully benefit from these opportunities it needs to exercise its existing powers granted under s95 the Local Government Act 2003 (and brought into effect by the Local Government (Best Value Authorities) (Power To Trade) (England) Order 2009) to trade for commercial purposes and/or sections 1 and 4 of the Localism Act 2011 to exercise the power of general competence for a commercial purpose.

The Council already participates in various activities of a quasi commercial nature, many of which started as some form of sharing arrangements with other bodies mostly, but not exclusively, other local authorities.

Due to the nature of these semi-formal arrangements, and to meet future obligations and ensure the Council is fully protected, there is a need to introduce more formal arrangements and therefore it is recommended that all commercial activities be formalised through the adoption of a comprehensive commercial model to ensure that any activities of this nature do not expose the Council to any unnecessary risk and are to the ultimate benefit of the residents.

Furthermore, there is a need to brand the Council's commercial activities in order to establish a market presence.

This proposal also recommends the Council consider the setting up of a commercial business development team as part of its transformation

programme to ensure any commercial activities are accessed, planned and managed properly.

RECOMMENDED

1. The Corporate Director (Services) in consultation with the Portfolio Holder for Strategic Partnerships and Shared Services be delegated authorisation to exercise the Council's powers granted under s.95 of the Local Government Act 2003 (LGA 2003) and/or sections 1 and 4 of the Localism Act 2011 to trade on commercial terms with other parties including Public, Private and third sector organisations through the establishment of a Local Authority Trading Hold Company (LATC) together with associated or subsidiary companies where appropriate and prudent.
2. That the Cabinet delegate the conclusion of the Articles of Association and Shareholders/members Agreement(s) to the Corporate Director (Services) in consultation with the Portfolio Holder for Strategic Partnerships and Shared Services, for final approval by the Company's Board of Directors.
3. That the Cabinet nominate the Portfolio Holder for Strategic Partnerships and Shared Services, to be a Non-Executive Director and the Chairman of the company and nominate another member to be on the board as Non-Executive Director.
4. That the Cabinet on behalf of Huntingdonshire District Council agree to purchase one ordinary share for the sum of £100K in the new general trading company.
5. The approval of a pan Council commercial operating policy (The Commercial Model) and a commercial business development team to be used as the sole methodology for evaluating all commercial activity, new propositions and trading with external organisations.
6. That the Cabinet delegate to the Corporate Director (Delivery), in consultation with the Portfolio Holder for Strategic Partnerships and Shared Services, the procurement of a partner to provide CCTV technology and maintenance services through a call-off framework.
7. That the Cabinet delegate to the Corporate Director (Delivery), in consultation with the Portfolio Holder for Strategic Partnerships and Shared Services, the sourcing of a partner to jointly deliver CCTV as a commercial joint venture company (CCTVCo) to other organisations outside any existing shared services arrangements the Council may have.
8. That the Cabinet authorise the granting of indemnities against the potential personal liability for non-fraudulent acts or omissions undertaken in the course of their duties for such elected members of officers as were appointed by the Council to serve as Directors of the LATC or CCTV pursuant to and in accordance with the terms of s265

of the Public Health Act 1875 and the Local Authorities (Indemnities for Members and Officers) Order 2004.

2. INTRODUCTION

The Corporate Plan and efficiencies statement outlines the need to consider more and new commercial initiatives to ensure the Council achieves its commitment to self-funding, and that it continues to deliver efficient customer centric services to residents.

Due to the economic constraints of the public sector in general, and local authorities in particular, an opportunity to provide services to other bodies has emerged. Numerous authorities have recognised this opportunity and the race to build a commercial proposition is gathering pace rapidly. This is a narrow window and the Council therefore needs to seize the opportunity in order to develop the Council's commercial credibility, long-term referenceability and ensure the Council is at the forefront of this trend.

A number of specific opportunities currently exist for the Council to provide services to third parties through its own trading company and/or in partnership with the private sector. To ensure the Council is in a position to fully benefit from these opportunities it needs to exercise its existing powers granted under the Local Government Act 2003 (and brought into effect by the Local Government (Best Value Authorities) (Power To Trade) (England) Order 2009) to trade for commercial purposes and/or its power of general competence for a commercial purpose under sections 1 and 4 of the Localism Act 2011.

The Council already participates in various activities of a quasi commercial nature, many of which started as some form of sharing arrangements with other bodies, mostly, but not exclusively, other local authorities for example under s1 of the Local Authorities (Goods and Services) Act 1970 Section 1(1). However, due to the nature of these semi-formal arrangements and to meet future obligations and ensure Council is fully protected, there is a need to introduce more formal arrangements and therefore it is recommended that all commercial activities be formalised through the adoption of a comprehensive commercial model to ensure that any activities of this nature do not expose the Council to any unnecessary risk and are to the ultimate benefit of the residents.

The proposal is for the Council to set up a "head" or holding company which will also allow the Council flexibility in the future to explore other commercial delivery vehicles as associated or subsidiary companies.

The outline business case attached in Appendix 2, in support of the exercising of the section 95 powers as required by Local Government Act 2003, outlines the benefits and obligations that are requisite if the Council is to participate and benefit from these proposals.

The Council is in a unique position to benefit from various commercial opportunities that will generate income to support core activities and/or profits that will feed back to Council. Furthermore, adoption of and adherence to a standardised Commercial Model will de-risk the Council and ensure money is not wasted on remedying problems or

compensatory activities caused by income generating activities and pricing not been fully evaluated and tested, against for example state aid.

3. BACKGROUND

Budget pressures are becoming acute and were compounded by the outcome from the Comprehensive Spending Review that only served to inflate the problem of cutting costs whilst protecting and delivering services.

The 2016/18 Corporate Plan sets out a clear intention to become more efficient in the way we deliver services:-

- Investigating and implementing a programme of Shared Services;
- Ensuring our Medium Term Financial Strategy is focused on strategic priorities;
- Maximising income opportunities;
- Increasing the use of Information Technology to maximise efficiencies; and where possible, migrating customers to the lowest cost access channel;
- Having a more engaged workforce;
- Maximise to reshape the way the Council works to realise our savings target and improve performance wherever possible;
- Maximise Council income through effective asset management and collection activities;
- Maximise to improve the efficiency of the Council's customer access channel; and
- Maximise work with partners through shared services.

If the Council is to achieve these priorities within our current financial constraints it will need to develop a more innovative and ambitious approach. Commercialising in-house businesses into Local Authority Trading Company (LATC's) or other commercial vehicles allows the Council to generate income on non-statutory services through profits, fees and dividends subject to tax, whilst limiting the Authority's liabilities as a shareholder in a limited company whilst testing their commercial potential in a benign manner, the benefits of which will be directly felt by residents.

This beneficial effect for residents will be appreciated over future years through progressive income generation which could be significant as the activities become more established and the proposition is legitimised within the new social and economic landscape. Developing commercial activities that introduce sustainable revenue streams and contribute positively to the Council's finances will support the effort to maintain services whilst minimising any increased burdens from Council tax.

This will introduce a robust commercial model whereby the Company will first assess any commercial ideas and opportunities the Council might wish to take advantage of. If it cannot be demonstrated to the Management Board that these opportunities are viable, the business case for the specific opportunity will be passed back to the Council with

the business analysis for the Council to consider if it wishes to pursue the opportunity through other means such as “charging”.

This will establish a good structure for future activities and de-risk the Council. Local authority companies are subject to a number of propriety controls and wholly owned local authority companies are subject to the Freedom of Information Act 2000. This helps to ensure transparency. There will also need to be appropriate contractual arrangements and compliance with the Council's fiduciary duty to demonstrate value for money. This is particularly crucial where the Council is required to demonstrate that activities are not cross-subsidised and ensure that the Council does not contravene Article 107(1) of the Treaty on the Functioning of the European Union (State Aid) which prohibits "any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods [...], insofar as it affects trade between Member States". The LATC and CCTV JVCo will be "undertaking" for the purposes of the State Aid rules because they will be entities engaged in economic activities.

4. RISKS

There is a high risk that not participating in these commercial activities will reduce the ability to contribute to savings targets, putting further pressure on budgets and threatening the delivery of vital Council services.

The establishment of these commercial activities within an incorporated company, and therefore at arm's length to the Council, will ensure any financial risk to Council is mitigated should any of these enterprises fail or not perform as anticipated because the Council's liability will be limited to the amount it subscribes for shares in the company (on the assumption that the Council will not be guaranteeing any liabilities of the companies).

There is a high risk of legal challenge, financial penalty and/or reputational damage if a systematic governance structure is not adopted.

5. LEGAL IMPLICATIONS

Trowers & Hamlins LLP (external solicitors) have reviewed this report and their comments have been incorporated within it. They have also provided the following to explain the legal structure of the proposal, confirmation of the legal powers on which the Council can rely to authorise the proposed decisions and other relevant legal issues.

The Local Authority Trading Company (LATC) can be established as any form of company. However, a company limited by shares is generally the most suitable company to facilitate trading at a profit. It is currently proposed that this company would be wholly owned and controlled by the Council as a shareholder and run by a management board of directors appointed by the Council. Limited companies have the advantage of

limiting the shareholders' liability to the amount of their subscription for shares (in this case, £100,000 is proposed) and are separate legal entities which can enter into contracts and loans and employ staff on their own account.

The Council has clear powers under Section 95 of the Local Government Act 2003 and/or Sections 1 and 4 of the Localism Act 2011 to establish and/or participate in companies.

Although generally contracts for goods, works or services above defined contract threshold levels have to be advertised in the Official Journal of the European Union and competitively tendered to comply with public procurement law, the Council could award contracts directly to the LATC without tendering by virtue of a specific public procurement exemption known as the "Teckal Exemption" under Regulation 12 of the Public Contracts Regulations 2015. The Teckal Exemption can be used if the LATC continues to meet certain "control" and "activity" tests.

The "control test" requires the LATC to be entirely owned and controlled by its shareholding authority, the Council must exercise over the LATC a control which is similar to that which the Council exercises over the Council's own departments and there is no private shareholding in the LATC (e.g. contractors or employees).

The "activity test" means that **more** than 80% of the LATC's average total turnover must be derived from work it does for the Council (i.e. if the LATC does more than 19.9% of its work for other customers then the LATC could no longer benefit from the Teckal exemption which allows it to be directly awarded contracts by the Council). It is therefore a good idea to monitor the LATC's ongoing compliance with the Teckal Exemption to prevent vulnerability to potential procurement law challenges. It is also possible to establish a group corporate structure to maximise the benefit of the Teckal Exemption where a significant amount of external trade is envisaged.

The LATC will be a "body governed by public law" which means the LATC would have to follow public procurement rules when it makes purchases.

The impact of the public procurement rules on the proposed CCTV joint venture is different because it potentially involves a private sector partner. The use of the CCTV assets that earn revenue from third parties is now classifiable as a "services concession contract" under the Concession Contracts Regulations 2016 (the Concession Regs) because the joint venture company would be taking the risk in exploiting the CCTV assets, including the potential risk of demand/lack of demand by other customers. In the event that the value of the CCTV JVCo Service Concession exceeds the current threshold level of £4,104,394, then the Council would need to advertise the opportunity and procure under the Concession Regs. The Concession Regs do allow a reasonable degree of flexibility as to how a procurement is run but limit the overall period of the concession to five years unless a longer period is justifiable on the

basis of the time that would be needed for the JVCo to recoup its investments and get a return on capital, both initially and during the life of the JV. We have therefore suggested that the Council take market soundings as to what a reasonable period would be to allow the JV partner to recoup any investment.

The JVCo may be a "body governed by public law" so may not have to comply with public procurement rules when making purchases. This will depend on its constitution and will need to be reviewed at an appropriate point.

The Council should also be aware that any directors appointed will have a personal and primary duty to act in the best interests of the company (whether that is the LATC or JVCo) and therefore if either officers or elected members are to be appointed as directors, they should be fully briefed and work within clearly defined mandates in order to prevent potential conflicts of interest arising. (For example, there would be a conflict of interest if an individual who was a company director was also involved in making Council decisions to award contracts to the LATC or to scrutinise the LATC's performance.)

Local Authority companies are required to comply with a number of propriety controls under the Local Government and Housing Act 1989, Part V and the Local Authorities (Companies) Order 1995 (as amended) which places certain controls on the company's documents, auditors, levels of remuneration, information provision and prohibit political publicity. These will need to be incorporated within the constitutions of the companies and the Council's Standing Orders may require adjustment in order to cater for elected members asking questions about the company.

If the LATC is wholly owned by the Council then it will be subject to the disclosure requirements of the Freedom of Information Act 2000, but these would not automatically apply to a joint venture company unless incorporated within contractual provisions.

If the Council is proposing to provide services to residents through the LATC or joint venture company, then it will need to consider its duty to consult under Section 3 of the Local Government Act 1999 (Best Value) and its Public Sector Equality Duty under Section 149 of the Equality Act 2010 before transferring the services to that company.

It is noted that the Council is currently proposing to invest £100,000 in the proposals. This is below the de minimis limit for State Aid, but it should be borne in mind that any further Council benefits be provided to either company whether in the form of investments, loans, accommodation, guarantees or the supply of staff time or services may need to be assessed to ensure that they do not contravene State Aid Rules and/or appropriate State Aid exemptions can be used. Some State Aid exemptions can only be used if notified prior to the investment so we would recommend that advice is sought in advance and for example, the Council obtains independent confirmation that the terms of

any proposed loan are commercial or any disposal of an interest in land or assets to either of the companies is at market value.

When exercising any power, the Council must act for a proper purpose and have regard to the usual "Wednesbury" reasonable principles, its fiduciary duty to obtain value for money, its own procedures and whether the proposal is proportionate and properly balanced against the anticipated benefit as well as the wider interests of the Council's local Business Rate and Council Tax payers. There is nothing in this report which currently indicates any cause for concern with regard to any of these matters.

In progressing these proposals, the Council should ensure that there is an appropriate protection from liabilities and transfer of risks in the constitutional and contractual documentation which is likely for each company to comprise:

- a) Articles of Association;
- b) Shareholders/Members Agreement;
- c) a Services Contract;
- d) a Lease/Licence for Occupation of Premises;
- e) and possibly, a Business Transfer Agreement.

These documents will need to address the dividend distribution policy, required service levels, contractual remedies, staffing arrangements (whether TUPE or secondment), intellectual property rights, clear trigger points for exit/transfer and in the case of the joint venture company, matters which are to be subject to unanimous shareholder consent and procedures in the event of a deadlock or dispute.

6. OTHER IMPLICATIONS

FINANCIALS

It is proposed that that the Council initially sets the Company up with one share and that it purchase this share for the sum of £100K. This money will be used to set the company up and to cover any external advice as required on branding, insurance, legal and financial matters of taxation. In addition it will be used to evaluate the viability of proposals for a new Commercial CCTV (JV).

INITIAL TRADING OPPORTUNITY CCTV

The Council has already identified a growth and income forming Joint Venture (JV) with a private sector provider of CCTV and monitoring services as a commercial opportunity to deliver new business and offset the costs of the existing core authority service.

The aim being: -

1. To generate income from the sale of CCTV and associated monitoring services from the Huntingdonshire CCTV Control Room,

2. To reduce the revenue costs of the service by hitting the high costs items especially data transmission through upgrade to wireless transmission,
3. To use a private partner to improve procurement rates through a long term framework agreement.

On-going discussions and modelling has provided sufficient evidence to demonstrate that a partner arrangement within CCTV could significantly reduce the costs to Huntingdonshire District Council. These initial discussions now need to be formally tested by inviting a competitive dialogue to find a suitable for a private partner.

Proposed Timetable

November 2016 - Cabinet approval to proceed, publish advertisement in OJEU etc.

December 2016 - Initial screening of expressions of interest.

January 2017 to March 2017 - Review of tenders through competitive dialogue involving the evaluation of the financial proposals to be supported by an accredited independent third party. Evaluation of the proposed JV models to be supported by an accredited third party.

Critical Success Factors:

- The partner demonstrates that they can generate sufficient income, and revenue savings within the business case model to reach a position of 'cost neutrality' for the CCTV service by March 2021
- The partner engages in a framework 'call off' contract for the supply of CCTV and monitoring technology
- The partner engages in a framework 'call off' contract for the supply of CCTV and monitoring consumables
- The partner can demonstrate existing activities within the public sector CCTV monitoring arena, or a similar and directly relevant CCTV monitoring activity

7. LIST OF APPENDICES INCLUDED

Appendix 1 - Additional information

Appendix 2 – Business case supporting statements

Appendix 1

Whilst the Council currently enjoys discretionary income from various sources, such as leisure, and car parking generally it has executed these through its charging powers. Although charging powers allow income to be generated, they differ from trading powers insofar as they specifically prohibit the making of profits from any such activities. If the Council as part of its customer services policy and income strategy chooses to offer tiered service levels and pricing over and above its statutory obligations in order to give customers more choice these additional services would need to be provided through a trading company, as would any profit generating activity.

Section 95 (4) of the LGA 2003 mandates that trading must be carried out through a company (a separate legal entity from the Council) and therefore to benefit from any future commercial activity and fully meet our obligations, the Council will need to create a (LATC).

It is therefore proposed that a Local Authority Trading Company (LATC) be formed to trade various services, the share capital of which will be owned 100% by the Council.

As is common practice in many medium and large sized commercial enterprises, it is proposed that a two stage governance structure be adopted with the introduction of two boards, an Board of Directors featuring executive and non-executive members, and a Management Board led by the company Managing Director who will be an Executive Director of the Board.

The Board of Directors' responsibilities will follow the IOD (Institute of Directors) best practice guidance and will include the approval of the Company's strategy and any future commercial activities and in addition will perform various corporate duties including the appointment of the Managing Director. It is proposed that the Portfolio Holder for Strategic Partnerships and Shared Services of the Council be appointed as Chairman of the Board to ensure that Council, as the shareholder in the Company is fully represented and can exercise appropriate control on behalf of the Council.

The Management board will be accountable and responsible for the development of the strategic plans for the company, considering all potential

LOCAL GOVERNMENT ACT 2003

The 2003 Act allows Local Authorities to establish commercial arms as separate Companies under the Companies Act. Where applicable, staff will TUPE to the new company and all the standard conventions and arrangements associated with this are upheld. Councils have to produce a business case in support of the proposition that demonstrates the future viability of the enterprise. The company is authorised to trade in anything that it is authorised to do under its ordinary functions. Authorities must recover the costs of any goods or services supplied and comply with State Aid rules.

COMPANY INCORPORATION

Companies must be incorporated and registered with Companies House. There are a number of different types of company that can be incorporated; the type proposed refers to a "Private Company Limited By Shares".

At the time of incorporation, this type of company needs to register The Articles of Association

The Articles of Association contain details of running the company, internal management affairs and liability – this can be broadly compared to the Council's Constitution.

A shareholder agreement will also be produced this will set out the delegated powers of the directors and the retained shareholder powers.

trading activities, operating the company, and managing the growth of the company through the development of existing and new commercial opportunities.

The LATC as a fully incorporated company will need to meet their legal obligations under the Companies Act 2006 in full. This will entail registering with Companies House, appointing Directors and meeting all legal and statutory obligations including relevant filing and reporting. It is proposed that initially the company will be formed with the Companies House model articles of association for private companies limited by shares, with appropriate minor amendments where appropriate or required to comply with local government legislation and authorised by the Board of Directors.

The Board of Directors will comprise of the Chairman (Portfolio Holder for Strategic Partnerships and Shared Services) The Company Managing Director, The Commercial Director and an elected member.

The Management Board will be composed of Managing Director of the Company who will Chair the Management Board and the Commercial Director who will also act as Company Secretary. This board is created intentionally lean to reduce any unnecessary costs in the Company's formative period however; as the Company grows the intention will be to appoint additional Exec and non-Exec directors as required.

Within this context, Council will exercise its control as the shareholder through the appointment of Exec and non-Exec directors to the Board of Directors and defining and agreeing the Articles of Association. It should be noted that as shareholder, the Council, through its representation on the Executive Board, can at any time, propose a special resolution for the board to consider.

Moving forward, arrangements need to be formalised and the Council need to be able to demonstrate a clear and transparent approach that will stand up to full audit and external scrutiny. To ensure robust commercial rigour in respect of proper, unambiguous contractual arrangements and that Council is fully protected in respect of appropriate indemnities, warranties and insurances etc., it is intended that this be the Council's exclusive route to the trading of services with external bodies and for the consideration of any income generating activity.

Because Commercial activity will only occur in the new company, the Council is sheltered from any financial risk due to the arm's length nature of the trading company and the governance focus therefore is centred around the Company's own arrangements.

Major governance issues such as Directors' powers and responsibilities, appointment of Directors etc., are addressed in the Articles of Association and shareholders agreement. All other governance is exercised through the Board of Directors. The representation of The Portfolio Holder on the Board of Directors will ensure all commercial

activities and the benefits accruing from these activities are for the ultimate advantage of the Council and its residents.

The Management Board of the company will consider all potential trading activities that are supported by business plans. On careful review of the proposal this Board will decide whether there is potential to develop the opportunity as a commercial activity which, if in the Board's opinion there is, it will be integrated into the Company's operations and developed.

If, in the opinion of the Management Board there is little or no commercial potential, it will refer the proposal back to the Council's service teams with a recommendation as to whether the activity could be developed as a charged service (as opposed to a traded service) and advise on the best way to achieve this. The company will not participate in any charged services; it will only trade as defined by Section 95 of the LGA 2003.

The Council will also increase its protection of both itself and residents against any financial exposure due to inadequate arrangements being put in place. This approach also separates the Council's budgets from risk and offers a degree of clarity and transparency not enjoyed to date.

This approach ensures that there is no financial risk to the Council from any of these activities as all LATC's will be limited companies and that the only risk will be reputational, a risk that is present irrespective of corporate arrangements.

The creation of this model will identify the Council as a market shaper and leader, innovating and forging ahead with change and as such will meet one of our Corporate Objectives.

There are currently a number of commercial opportunities available to the Council that are under consideration. Whilst all of these opportunities would represent some form of revenue stream, many can deliver benefits far beyond their income potential as they will position the Council as a forward thinking, dynamic organisation, capable of developing and capitalising on commercial opportunities.

Moreover, this has the ability to present public sector organisations in a more positive vein and put clear daylight between those authorities who are prepared to innovate and seek new ways of reducing the council tax burden and those who are content to maintain a more traditional approach.

APPENDIX 2 - Business case statement¹

Strategic Context

The Council has established and agreed a 4-year efficiencies plan (Efficiencies Plan) as part of its strategy to become financially sustainable by 2020. As part of this strategy it has already established where it is investing in commercial real estate in order to generate returns from the effective use of its reserves. The ROI on such investments is set at around 7%, this gives the Council a substantial increase in returns compared to investing the funds with high street banks.

The Council has looked at and soft market tested the appetite of potential private sector partners to commercialise existing services through joint venture arrangements. Through this soft market testing, the Council has identified a line of income from other commercial activities.

The Council is aware that homelessness is rising and of the number of residents faced with living in temporary accommodation, due to the lack of social and affordable rented accommodation from the public and private sector. The Council will look at using its commercial income to explore opportunities through the Company to build partnerships with the private sector to create affordable rented accommodation.

The Opportunities

The Council has already identified opportunities to generate income from selling advertising space on its fixed and mobile assets and to create a CCTV and associated services partnership with the private sector.

The Council has also identified a number of services that it believes can offer enhancements to its core offering at an additional cost to its residents.

The Council will look at opportunities to provide residents with enhanced levels and more flexible levels of service, which fit better around their lifestyles compared to the Council's current standard service offering.

Outline Business Case

The Council proposes to establish a trading company (the Company) in order to take advantage of the opportunity the Council has identified to facilitate joint venture arrangements with potential private sector partners to commercialise existing services.

This Outline Business Case sets out the following details in relation to the business of the Company:

¹ The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009

- the objectives of the business,
- the investment and other resources required to achieve those objectives,
- any risks the business might face and how significant these risks are, and
- the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.

A Detailed Business Case will follow for the Cabinet to approve before it makes a firm commitment to pursue the identified opportunities to generate income from selling advertising space on its fixed and mobile assets and to create a CCTV and associated services partnership with the private sector.

The objectives of the business of the Company

Short Term objectives

In the immediate and short term, the Company will initially have no direct trading activity but in the short term the objective of the Company is to give the Council speed and agility in the market.

Medium and longer terms objectives

Over time the Company will form the umbrella vehicle for trading and commercial partnerships or activities.

The objectives of these arrangements are:

- to leverage the Council's existing assets and capacity into new markets through the partners' investment and business development expertise;
- to spread its operating costs over a large portfolio of customers;
- to reduce the cost apportionment allocated to the Council directly provided services;
- to develop the offering with the partners into new markets; and
- to share in the profits from such business development.

The investment and other resources required to achieve the objectives

Cash Investment

The initial cash investment in the company will be £100k this will be raised by share capital as the Council buys its 100% shareholding in the Company.

This initial investment will be used to secure professional advisers in the field of Legal and finance to ensure the company is setup correctly within the terms of

the powers to trade as defined in the Local Government Act 2003 and covers areas of risk, governance, cost apportionments and taxation.

The initial investment will also be used to register the company, provide directors indemnity insurance where applicable, secure its trading name and any associated web presence and branding. Finally the fund will be used to support the development of detailed business cases for the first set of opportunities as they arise in the form a services concessions agreement as defined in the Concessions contract regulation 2016.

As this investment will be used to set up the Company and to explore business opportunities it will be treated as sunk costs. As such the Council is unlikely to make a return on this within the first full year of trading.

Resources

In addition to the share capital investment the Council will use its existing, resources and assets to set up and manage the Company. The Council has recently developed a total cost apportionment model for its shared services with Cambridge City Council and South Cambridgeshire District Council. This total cost apportionment model will be used to allocate costs from the Council to the company for areas such as accommodation, ICT, the use of staff time etc. as and when they are required, by using this apportionment model the Council will ensure that there is no state aid been provide to its commercial activities and that they operate fairly under competition law.

The Board structure of the Company will initially, as set out in the main body of the report, have four company directors, two from elected Members and two from Council officers. The elected Members and council officers between them will have experience of working in numerous commercial organisations and as such will bring all the necessary experience and knowledge required to operate the Company in a safe and effective manner. The Company will follow the guidelines as set out by the IOD (Institute of Directors) regarding Exec and Non-Exec roles and responsibilities. The details of the governance, delegated powers of the directors and retained shareholder powers will be articulated in the shareholder agreement.

In terms of ROI (return on investment) the Company will be initially set the same levels of minimum return the Council currently receives from its other investments, this being an average of 6% EBITA.

Risks the business might face and how significant they are

As with any start-up company there are risks, the level of risk to the Council at this stage is deemed to be acceptable and is fiscally limited to the initial share capital. This will be funded from Council in-year surpluses, which are currently running at over £1.5m as a result of efficiencies and income from other investment activities. This surplus is over and above what is required in-year to fund the Council's MTFS and that, which is, needed to maintain the Council's reserves.

The table below sets out a risk appraisal in relation to the risks the Council has identified, and the steps the Council can take in mitigation of those risks.

Risk Appraisal

Risk	Magnitude	Mitigation
Financial	100k initial start-up	Agreed as sunk costs and funds which the Council can afford
Reputational	Low	The Council has the skills and experiences to develop a successful company, where it does not it will secure professional support.
Lack of opportunities	Moderate	Market testing has already indicated the appetite from partners
Lack of ROI	Moderate	Each business opportunity will undergo a full evaluation and qualification of its potential and business case before it is presented for approval
State Aid	Negligible	The Council has a robust total costing model to ensure no cross subsidy takes place
Directors liabilities	Negligible	The Company will insure the Directors, and will train them in accordance with IOD best practice
Poor Governance	Negligible	External support will be secured in setting up the Company, shareholders agreement governance and financial model
Conflict of interest for directors	Negligible	Registers of interest will be held, directors will be trained, Cabinet will scrutinise.
Director responsibilities	Negligible	Directors will be issued with a Directors

		engagement contract setting out responsibilities, terms and conditions
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The expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.

Financial Results

The Council Efficiencies Plan and MTFS set out the Council expectation to generate income of £50K from commercial activities.

The Company will enter into public concessions arrangements with private sector partners that will contribute to the core running cost of the Council allowing it to amortise its investment and resources over a broader market.

Other relevant outcomes

Whilst, as stated earlier, the Council is at an early stage of developing the detailed plans for the Company and these will be concluded on a case-by-case approach as new opportunities arise.

The Council will look at opportunities to provide residents with enhanced levels and more flexible levels of service, which fit better around their lifestyles compared to the current standard service offering.

For this there is likely to be a new tiered pricing structure for such enhanced services, which would be delivered through the Company with the Company purchasing the service at a fully cost rate from the Council. This in turn will boost the Council's reputation as a provider of choice and one that truly reflects the needs of its community and residents.