



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
7 November 2019
Agenda Item 8

Key Decision [~~Yes~~/No]

Ward(s) Affected: All

Storyteller: Communications for the 21st Century

Report by the Chief Executive

Executive Summary

1. Purpose

- 1.1. Adur & Worthing Councils (AWCs) are looking to further develop the commercialisation of services with the aim of generating income to ensure it continues to deliver a range of valued, high-quality services to residents and businesses.
- 1.2. One area successful in developing a commercial offer is Communications. As set out in Councils' corporate strategy *Platforms for our Places*, the team has been tasked with generating income to offset savings targets. For the past two years, these have been exceeded, generating a surplus.
- 1.3. To capitalise on this demand, offset future savings, and continue to generate income for AWCs, it is recognised - from a financial and governance perspective - a more formal arrangement needs to be established. This report explores options and makes recommendations to take this forward.

2. Recommendations

It is recommended that the Joint Strategic Committee:

- 2.1. Note the growing commercialisation of local government services across the UK against the backdrop of ongoing reductions in central government funding.
- 2.2. Note the success to date of the communications team in commercialising its services to third parties in recent years and recognise the desirability to scale this approach to the private sector.
- 2.3. Provide delegated authority to the Head of Communications, in consultation with financial and legal services, to establish a new council-owned trading company to offer a range of communications services to external organisations (subject to detailed business plans being approved by the Leaders of both Councils). This would be on an initial three year term, as set out in the body of the report. This delegation would also include the authority to negotiate the terms of (and enter into) a formal written agreement between the Council and the trading company for the company's use of Council staff and assets.
- 2.4. Agree to release up to £30,000 of unallocated funding from the current financial year to support legal, financial and other relevant start-up costs for the new company.

3. Context

3.1. The current communications service

- 3.1.1. Adur & Worthing Councils (AWCs) communications team provides a comprehensive service for the two separate authorities.
- 3.1.2. Under the direction of the current Head of Communications, there has been a transformation of the service since 2017, with the team adopting a fast-paced 'newsroom-style' operation which promotes the work of the Councils internally, within the community and at a regional, national and international level.

There has been a large growth in the number of stories appearing in a range of publications as well as engagement through social media and targeted campaigns during this time.

- 3.1.3. The current team consists of six FTE posts: Head of Communications, Deputy Head of Communications, three Communications Officers (1 x 1.0 FTE, 1 x 0.6, 1 x 0.4), a Website lead and a Digital Content Officer (formerly apprentice - focusing on visual content).
- 3.1.4. According to the Local Government Association (LGA), the average size of a communications team at UK councils is seven (excluding web/digital, marketing or design teams). A similar survey of NHS providers said the figure at its organisations was also seven.
- 3.1.5. The core focus of work, is providing a wide range of communications functions across all available channels, creating a strong narrative of our places internally and externally. Day-to-day tasks include media handling, crisis comms, strategic support, social media management, internal communications with staff and members, design and website management.
- 3.1.6. The team, as set out within the Councils' corporate strategy Platforms for our Places, has been tasked with developing an effective communications agency model *"providing a sustainable and high quality strategic communication service to internal and external clients"*. This was initially carried out alongside core duties to achieve savings targets. But the success of the offer has seen an income has been generated for the Councils in consecutive years, in addition to avoiding staff reductions and providing an enhanced communications service.
- 3.1.7. The approach is already delivering financial benefits to the Councils. In 2018/19, a surplus of £30,000 was recorded. Forecasts for 2019/20 indicate a projected surplus of £56,000.
- 3.1.8. Moving forward, as part of reductions across all Councils services, initial forecasts indicate the core communications funding will reduce by 15% over three years (2017-2020). This means the team must continue to retain and win new contracts

moving forward in order to retain staff and maintain the level of service across the Councils.

- 3.1.9. So far, the winning of contracts with third party customers has been beyond the core communications service and has been done on an informal basis under the banner of Adur & Worthing Councils. However, to capitalise on the demand for the services offered by the in-house team, it is recognised that the Councils governance arrangements require a more formal footing to enable further trading with the private sector as well as other public bodies.

3.2. Commercialisation in the public sector

- 3.2.1. With funding for public services being reduced year-on-year, there has been a drive for UK authorities to move towards self-funding models in part through the commercialisation of services. The 2011 Localism Act supports this, making it easier for public bodies to set up local trading companies.
- 3.2.2. Adur & Worthing Councils' have embraced the commercialisation agenda, most notably through household and commercial waste services and property investment programme. It has so far not yet set up any local trading companies.
- 3.2.3. Of 380 local authorities in England, Scotland and Wales, 59.2% have at least one trading company. The most prevalent type of trading company is property and investment (23.5%) with waste (8.5%) and social care (6.2%) also popular [Grant Thornton, 2018].
- 3.2.4. Within the communications sector there is one notable example, Westco Communications which was established by Westminster City Council (WCC) in 2007 as a limited company selling services to external clients (local and central government, third sector) as a commercial venture while generating a financial contribution to WCC via an annual payment at the end of every financial year. In 2018/19 it registered a £4 million turnover, generating £200,000 surplus which was paid back to WCC.

3.3. Developing a “communications agency-style” model

- 3.3.1. As tasked within Platforms for our Places, the Councils communications team have informally developed a commercial offering for clients beyond its core service (see 3.1.6). It has already established agreements with third party organisations, providing services which range from one-off projects to whole service provision. Client retention rate is extremely high with income contributing a surplus for the Councils.
- 3.3.2. If this “communications agency-style” model is formalised, emphasis will be on approaching organisations to offer additional communications and engagement support under the banner of a new brand called *Storyteller*. The key initial USP of this new brand will be a public sector (Adur and Worthing) owned company which delivers communications services with a public / third sector ethos.
- 3.3.3. A detailed market evaluation carried out in-house highlighted that the most captive market for communications services will be fellow public sector organisations - especially those with direct links to AWCs, supporting the wider circular economy.
- 3.3.4. The ambition within a business analysis is for the communications team to move towards a model of two-thirds internal income and one-third external within three years; whilst ensuring the continued high quality service is provided to the Councils.

4. Issues for consideration

4.1. Operating models

- 4.1.1. A variety of potential operating models are available to establish a potential agency model. The main options, included within appendix one, are summarised below:
 - 4.1.1.1. **Do nothing** - given ongoing reductions to public spending nationally and within AWCs, a failure to develop the commercialisation of communications will lead to a reduction in the service.

- 4.1.1.2. **Teckal exemption** - a three year agreement between parent council and service, which allows for 20% of turnover to be generated outside of the organisation. AWCs remain in total control of operations which means the agreement could be done quickly and allow the communications team to continue to provide services to external organisations. However, the 20% cap on external work is a clear and prohibitive cap on growth. Given a key business aim is to move to 33% external income within three years, it would only act as a short-term measure.
- 4.1.1.3. **Stand alone trading company / public mutual** - there are a number of advantages to these models, mainly that it creates a clear distinction between the agency and parent council while putting it on an immediate commercial footing. However, the complex nature of establishing this body would require time and investment of resources, as well as experience and a stronger customer base. Both models also require open procurement of the communications service.
- 4.1.1.4. **A wholly council owned Local Authority Trading Company (*preferred option*)** - this combines the benefits of the models in 4.1.1.3, enabling the council to trade with third parties in the private sector without the trading constraints of a teckal company. It would be quick and easy to create with no need for a full procurement of the whole communications service while allowing for a new separate brand to be established to bid for external work. This would act as a starting point, allowing for the service to be fully developed and potentially allowing for a full transfer to an arms length model at a future date if the venture proves a success. An agreement between the Council and its company to make the necessary arrangements for use of Council staff and assets will be required. For the avoidance of doubt this company will be 100% owned by Adur & Worthing Councils.

4.2. Other considerations

- 4.2.1. If established, day-to-day operation of the company will be overseen by the Head of Communications. The agreement referred to at 4.1.1.4 above will maintain accountability and ensure no diminution in service to the Councils' own services. This will continue to be regularly reviewed by the Chief Executive, Council directors and directors of the company.
- 4.2.2. To ensure sound governance, the trading company will be required to have a board of directors, with access to expert legal and financial advice. This board will meet quarterly to review ongoing operations, approve the overall direction of the company and support company development. It is proposed this board is made up of unpaid directors from the local authority and third party industry experts, with the Councils having majority representation.
- 4.2.3. The establishment of a council-owned trading company will require some modest start up costs to cover finance, legal and administrative arrangements, which will be found from within existing budgets. Separate tax and accountancy arrangements will also need to be established through the finance team.
- 4.2.4. To allow the proposed company time to establish itself within the sector and further develop its customer base, it is recommended an initial three year term is agreed. To provide stability and a platform to grow, it is proposed that the annual communications budget is ring-fenced for this period.
- 4.2.5. In the short term, surplus generated by the new trading company will be limited due to the additional related costs of setting up a company. There will also be ongoing additional tax and VAT considerations. Any surplus generated will be ring-fenced for reinvestment into the Councils-owned trading company, allowing it to grow and expand.
- 4.2.6. Longer term, if the wholly owned company is a success, there is an opportunity for an annual sum to be paid to the local authority which could be reinvested back into Councils services or the wider community (see 3.2.4). This arrangement will be decided

by the Storyteller board, which will have majority Council representation.

- 4.2.7. In addition to delivering financial benefits to the Councils, the company has the potential to maintain and enhance the current level of communications service to the Councils; improve engagement with key partners, residents, businesses and other stakeholders; and provide employment to local people through apprenticeships.
- 4.2.8. The working arrangements of the company should be reviewed every year by the board to ensure it remains the most appropriate and effective way of running a commercial communications service. Depending on the success of the council-owned trading company there is potential for it to close; continue operating as it is; or for the Councils communications service to move entirely into the new arms-length body.

5. Engagement and Communication

- 5.1. The proposal to create a wholly owned Council trading company has been made after consultation with, and full support of, current members of the communications team.
- 5.2. The Chief Executive, Directors and Heads of Legal and Finance have helped shape the proposals in the report.
- 5.3. Informal discussions have also taken place with other local authorities and private businesses around commercialisation.

6. Financial Implications

- 6.1. The current net budget of the communications service for the current financial year (2019/20) is £245,610, which includes an income target of £44,290. The level of income generated by the service has increased over the last three years, with income forecast of £92,425.
- 6.2. The establishment of a wholly owned Local Authority trading company would provide the opportunity to operate within the commercial environment and generate further income from external sources without the 20% limitation that exists under the current operating conditions. This could facilitate trading on behalf of a number of

services. It will require some administrative set up; registration with Companies House, opening a company bank account and registration with HM Revenues and Customs for both corporation tax and VAT.

- 6.3. The trading company would include all costs and income associated with third party external customers, including overheads and support costs.
- 6.4. The company would be wholly owned by Adur & Worthing Councils and the annual surplus or deficit would need to be consolidated into their respective published accounts on an agreed shared basis. The company's accounting conventions and policies would need to be aligned with the Councils to facilitate this.
- 6.5. Initially, it is more cost effective for the Councils to budget and account for all internal services provided by the communications department. It ensures full benefit is received for the total cost of the work and prevents additional costs being incurred, as corporation tax would be payable on any surplus if accounted for by the trading company. The related income recharged to the service, that might previously have been spent on external suppliers, could support a case to increase resource for this purpose. However, there is an argument that by including some services for Councils that are outside the core communications work (eg Opening Doors, BuildingAW) within the LATC's budget from the establishment would broaden the skills base, building synergies between external and Councils work beyond the core, supporting growth, leading to an increased dividend to the Councils within time.

Other considerations

- 6.6. As a trading account the company would be liable for corporation tax on its taxable profits at the prevailing rate, currently 19%.
- 6.7. Employment tax rules mean that any payments that are made to individuals directly and wholly attributable to the company, other than the reimbursement of expenses, are paid by the company with a separate pay reference. Such payments are recognised by tax law as remuneration from the company and are therefore separate from the Council. The company can buy officer services from the Council where the officer(s) time is shared and pay is not directly related to the company, such as performance related incentives.

- 6.8. Corporation tax rules require that staff and services charged to a trading company are done at a market rate. Small and medium sized companies are exempt from this, however if the Council were to increase the use of any company or company group and extend to other services this could be something that would be mandatory.
- 6.9. There would be additional administrative work as a result of the trading company being established including tax returns, company accounts and bank reconciliations.

7. Legal Implications

- 7.1. The Local Authorities (Goods and Services) Act 1970 permits authorities to “trade” with other public bodies for the provision of goods and services.
- 7.2. S93 Local Government Act 2003 allows a local authority to provide a function, not limited to other public bodies, and to charge for that function on a cost recovery basis only. It is accepted that the authority may make a surplus of up to 20% of its overall budget providing the surplus is reinvested into the service. Beyond this surplus the authority would need to consider different types of trading vehicles.
- 7.3. S95 of the Local Government Act 2003 enables the council to set up a trading company, so it can do for a commercial purpose anything which they are authorised to do for the purposes of carrying on any of their functions.
- 7.4. S1 Local Government (Contracts) Act 1997 confers power on the local authority to enter into a contract for the provision of making available assets or services for the purposes of, or in connection with, the discharge of the function by the local authority.
- 7.5. S1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation, and would provide the power to the Councils to establish a trading company for non-function trading.
- 7.6. There will be no requirement to comply with TUPE provisions for the benefit of setting up a council owned trading company as it is not proposed that the staff will TUPE to the company, but shall through the

proposed formal written agreement charge for the company for officer time spent on company business as well as for the use of the assets.

- 7.7. The financial arrangements between the Councils and the trading company are to be compliant with the regulations for state aid.

Background Papers

- Platforms for our Places

<https://www.adur-worthing.gov.uk/media/media.151817.en.pdf>

Officer Contact Details:-

Mike Gilson

Head of Communications

Mike.Gilson@adur-worthing.gov.uk

Sustainability & Risk Assessment

1. Economic

- An effective communications agency model could not only provide a surplus to the Councils but could also offer high-quality services at affordable rates to local public and third sector organisations, supporting the overall vitality of our communities.

2. Social

2.1 Social Value

- Offering services to third sector groups could raise awareness of the aims and support provided by organisations which could support the wider vitality of our communities.

2.2 Equality Issues

- Matter considered and no issues identified

2.3 Community Safety Issues (Section 17)

- Matter considered and no issues identified

2.4 Human Rights Issues

- Matter considered and no issues identified

3. Environmental

- Matter considered and no issues identified

4. Governance

- Further and regular advice from the Council's monitoring officer during the process of setting up a trading company will be required to comply with the governance issues arising from the proposals in this report.