WARWICKSHIRE LOCAL AUTHORITIES

STRATEGY FOR SHARED SERVICES

Background to Shared Services

Shared provision of services is currently a major initiative in local government. In Warwickshire the sharing of services is seen as a method of providing greater efficiency, better value for money and improved services. While there are many factors that influence the successful implementation of shared services, these can be overcome.

Warwickshire Leaders and Chief Executives have been meeting for the past 18 months, and wish to put in place a strategy and prioritised action plan to take forward the provision of shared services in the County.

Defining Shared Services

In recent years the concept of 'shared services' has been subject to much discussion across the public sector. The need for clarity in defining what constitutes 'shared services', as opposed to other forms of collaborative working, is therefore key. In its widest sense, a shared services arrangement might be defined as one where two or more authorities work together to commission and/or deliver a service or function for the purposes of improving that service or function. This implies a very broad range of possible collaborative scenarios. At one end of the spectrum are strategic alliances between local authorities and NHS bodies to commission integrated health and social care, while alternatively there are aggregated delivery arrangements such as consortia arrangements for the delivery of support services, where staff from several authorities are transferred into a single organisational structure, with a single management team and a single budget, providing services to the participant authorities through a contractual or quasi-contractual arrangement.

There are also a number of other broad options in between these two extremes, which involve the pooling or sharing of expertise and resources between local authorities. The key structural differentiators of these arrangements will include:

- aggregation and/or integration of functions/outputs and outcomes;
- functional integration – either geographically or virtually;
- governance and accountability arrangements;
- organisational and management structure; and,
- pooling of staff and other resources.

There is some attraction to treating all of these forms of collaborative working as 'shared services' just because it is much simpler. The problem with such an all-encompassing definition is that it begs the question of what shared services are not, and makes it harder to focus on some of the specific challenges of making shared services– as opposed to other forms of collaborative working– work in practice, and how to overcome them.

For the purpose of this strategy the definition of shared services is a collaborative approach to service delivery in which a number of local authority functions or services are concentrated into a discrete, semiautonomous business, which has a management structure, staff and other resources designed to add value to the participating authorities and their stakeholders, be this in terms of cost reduction or efficiency gains, resilience and/or improved front line service delivery. It will also involve either geographic or virtual co-location, through maximising the use of ICT investment.

Such arrangements can involve the participation of a private sector partner or third sector, to provide capacity, infrastructure, delivery expertise or ultimately to run the shared service on an outsourcing basis.

In setting out this definition, this does not downplay the importance of other forms of collaborative working – individual authorities and groups of authorities will identify options for joint working to suit their circumstances and the challenges they face. Nonetheless, by setting out a definition of shared services the benefits, challenges and potential delivery models can be explored.

<u>The Benefits of Shared Services Delivery</u>

Apart from the more obvious benefits of shared services delivery in improved efficiencies through scale economies in delivery/commissioning of services, and the opportunity to integrate front and back office functions and transform local services in ways that make more sense to service users, the benefits in their widest sense include:-

Meeting the wider emerging policy agenda for local government will be an important by product of shared services. Secondly, considering many potential benefits makes it easier to apply shared services delivery models beyond the 'usual suspects' of corporate support services, revenues and benefits e.g. jointly commissioned health and social care arrangements, which require the engagement of a broad range of partners, for example from the third sector.

The most obvious potential benefits, include:

1. the potential for cost reduction and efficiency gains, flowing from reduced management overheads, commonly procured ICT and other support systems, standardised work processes, the avoidance of duplication of activities, and opportunities for estate/ accommodation rationalisation;
2. the potential for improved user-centric services, particularly in Warwickshire due to it being a two-tier area, to give participant authorities integrated corporate support services such as finance or HR, or 'end users' receiving front office services such as benefits provision and advice;
3. an improved capacity to make best use of scarce professional specialisms, for example in relation to some regulatory services (such as planning and building control), by providing them on a draw-down basis across a sub-county or county area; and
4. where shared services arrangements involve the commissioning of support from third parties in the private sector and elsewhere, for example in relation to major ICT systems, such arrangements can provide increased buyer power, lower costs and capacity to shape

patterns of supply and market development at a county and sub-county level.

There are also other potential benefits associated with the development of shared services solutions. Such shared services delivery models can provide a platform for the development of trading with other local authorities, because they provide a 'critical mass' of delivery capacity, often one of the barriers to authorities trading on their own.

Secondly, shared services delivery models provide a practical response to some of the wider shared priorities that will become increasingly important to Warwickshire local government in the future. Local Area Agreements (LAAs) provide greater flexibility in the use of funding streams being channelled into the County, and offer opportunities for local authorities and partners to think innovatively about reorganising the commissioning and delivery of services around the needs of their communities and service users, supporting achievement of priority outcomes e.g. services such as Children's Trusts and joint health and social care commissioning arrangements focused on user needs.

Private sector experience suggests that savings can come from a number of areas through a progressive approach to simplification, standardisation, and sharing including:

- reduction of management to staff ratios – which in the private sector has yielded savings on 'baseline costs' (i.e. pre-transformation) of between 20% and 30%;
- headcount reductions;
- process re-engineering and standardisation – which in the private sector has yielded savings on 'baseline costs' of between 10% and 25%;
- common ICT and shared platforms – which in the private sector has yielded savings on 'baseline costs' of up to 30% on software licensing alone;
- integrated procurement; and,
- accommodation rationalisation.

Considering the business case when applied to Warwickshire's public sector, the potential savings are equally significant.

Developing Models For Shared Services Delivery

One of the challenges identified at the roundtable meetings in relation to developing shared services delivery, is an absence of delivery models that provide a starting point for thinking about how shared service delivery can be organised, and the benefits and risks of different options. This is another area where 'top down' specification can only go so far, given the importance of locally-brokered aspirations for shared services arrangements between local authorities. Nonetheless, it may be helpful to set out in overview some 'templates' for types of shared services arrangements, alongside some indications of what these might look like for specific local government services.

Possible 'scenarios' are set out below.

a) Integration of functions within a single local authority

b) Integration of front or back office processes across local authorities
c) Integration of end-to-end delivery processes/functions across local authorities
d) Integration of end-to-end delivery processes and functions across local authorities into entirely discrete organisation

Competition & Market Issues

Despite the potential benefits of shared services in both service transformation and efficiency improvements, there are also some potential market risks that need consideration. These issues have been considered recently by both the Office of Government Commerce and the Office of Fair Trading.

The heart of the trade-off is that a substantial element of the efficiency benefits derived from shared services arrangements involving a substantial element of outsourcing to suppliers, often result from contractual aggregation, for example to secure economies of scale in both service delivery and in procurement/commissioning. In addition, 'bundling up' elements of large ICT-driven transformation programmes into single contracts, for example, can be an effective way of transferring the risks associated with such contracts away from commissioners and towards suppliers. However, there are competition and other market risks associated with this kind of aggregation, including:

a) 'locking out' competent suppliers for a number of years, and creating risks of reduced competition and monopoly situations;

b) difficulties for small and medium-sized (private or third sector) enterprises in competing effectively for larger contracts, with their associated bidding costs and delivery scale;

c) tying public sector commissioners into large contracts and the additional commercial risks associated with this.?

There are potential benefits to competition that can result from contract aggregation, in particular the reduced risks of collusion by suppliers given the reduced frequency of competitions for larger single contracts. Another potential benefit is that market entry barriers, such as the investment requirements by suppliers to develop new ICT/business transformation solutions may be lowered where an aggregated contract offers high and stable volumes of demand over time, and thus offsets such investment requirements.

Challenges and Opportunities in Expanding Shared Services Arrangements in Practice

Despite the compelling 'in principle' case for the expansion of shared services delivery models in local government, there are relatively few successful examples of such delivery models in practice. There are a number of reasons for this, some of which include:

- political and governance considerations;
- impact of job relocation on the local economy;
- significant set-up costs;
- perceived performance and reputational risks;

- organisational resistance to change;
- capacity issues such as ICT and accommodation;
- the maturity of the partnership; and,
- perceptions amongst commissioning local authorities that current private supply side capacity is not always geared up to deliver the kind of transformation that is required for the benefits of shared services to be realised.

The fundamentally political nature of local authorities can act as a barrier to the establishment of shared services arrangements. The key issues tend to be concerns about perceived loss of democratic control, for example over delivery standards in relation to customer service for which members feel locally accountable, or more general concerns over the 'local' identity of a service being eroded through provision of that service by an 'arms length' organisation.

High levels of trust, and careful implementation planning is required to ensure the benefits and risks of developing a shared service arrangement are shared between partners in a transparent way. In Warwickshire we have already started to address this issue of trust, but this will be further enhanced when a shared services centre is set up in one authority to service a number of authorities, and the benefits to the local economy enjoyed by the former as a result of the centre's physical location, are shared by all partners.

The governance arrangements associated with setting up a discrete shared services operation are complex, including the need to select an appropriate legal. In addition, the perceived distance between participant authorities and the shared services delivery operation puts effective performance management arrangements at a premium.

There are undoubtedly significant set-up costs in establishing shared services arrangements, even in relation to relatively straightforward back-office functions such as HR and finance. A PwC analysis undertaken in central government suggests that a pan-public sector, Invest to Save approach would be needed over a ten year period to recover transition/implementation costs and deliver sustainable savings in key support functions such as HR and Finance. This of course is far longer than the electoral cycle in local government and the current Spending Review periods.

In any change management scenario there are performance and reputation risks. This requires improved performance management arrangements during implementation of a shared service. The implementation of shared services arrangements involves significant organisational change, with a host of implications for the staff and delivery systems involved and consequent challenges for those responsible for implementation. These challenges include the re-engineering of relationships between front and back office services, the need to migrate and potentially formally transfer staff to the shared services entity, and other concerns such as the loss of 'local' jobs if posts are to be transferred outside the local authority area.

Closely related to these challenges are the practical issues associated with implementing shared services arrangements, in particular ICT and accommodation issues. One of the keys to shared services is integration, either physically, virtually or both. At a practical level, this is likely to require the integration of the many disparate and potentially incompatible ICT systems used by the participant authorities, as well as ensuring the effective integration of front and back office information exchange. Establishing clear and shared ICT standards across public sector partners will be a key in facilitating this. If physical co-location is to take place, this creates the additional challenge of identifying and agreeing an optimal location between partners, and managing the impact on employees and the local economy if large-scale relocation is to take place.

Experience to date shows that many failed shared services arrangements have suffered through different partners being at different stages on the road to accepting the need for change, as well as their ability and capacity to deliver change. Mutual support in Warwickshire will be necessary to overcome this.

While none of these challenges are insurmountable, in combination they represent a significant challenge to the further development of shared services delivery in Warwickshire.

Shared Services – Some Legal Implications

There are three legal structures that can be used to develop shared services, and each raises separate issues. For the purpose of this analysis the focus is upon shared services between councils rather than public/private sharing arrangements.

Contractual

Local authorities have a power to contract with other authorities for the purpose of the supply of goods or materials, the provision of administrative or technical services, the use of plant or the carrying out of works of maintenance. These powers exist by virtue of the Local Government Goods and Services Act 1970, and allow services to be provided for profit. However, any contract between two separate entities is subject to EC law either by virtue of the full procurement rules for Part A services, supplies or works that are above the financial threshold for the rules, or a partial application of the rules for part B services. In addition all contracts regardless of value are subject to general Treaty principles of transparency and equality of treatment. Even for contracts that fall outside of the full procurement rules, the ECJ have determined that it is necessary for "a degree of advertising sufficient to enable the services market to be opened up to competition." The extent of advertising must be proportionate to the value of the service/works supply.

It would now seem that contracts between local authorities are caught by the above restrictions as a consequence of a succession of ECJ judgements over the last two years. The effect of these judgements is that local authorities will only be exempted from the procurement rules when it is contracting with a party in what is effectively an "in house" transaction. To benefit from the exemption, the authority must have a degree of control of the other contracting party similar to that which it exercises over its own departments. This exception is applied strictly and would appear to rule out the possibility that local authority A can, to any significant extent, contract to provide services for local authority B unless it secures the contract through a competitive process.

The Council cannot delegate its statutory functions under a contractual arrangement, and therefore this model also assumes the retention of a client function. The exact shape of this would depend upon what is contracted out but it would include commissioning, performance management and the discharge (not the administration) of statutory functions.

Corporate

Local authorities have the power to establish a company under section 2 of the Local Government Act 2000. In a shared service arrangement the company could be wholly owned by a local authority or owned jointly by two or more authorities. A company is a separate legal entity and therefore an authority that wishes to transfer functions to such a company is likely to face the same restrictions around EC procurement and vires as exist in the contractual model. ECJ case law on "in house" transactions (see above) has focussed specifically on local authority companies. Those with any amount of private capital are deemed not to benefit from the in house exemption even if effective control of the company is exercised by the local authority. If the company is entirely owned by the local authority it will not benefit from the exemption if the board has significant powers to act independently of the shareholder(s) (i.e. the normal mode of operation of a company). There are a range of other factors which are deemed to be contra-indicators of effective control of the company by the authority and which would take it outside of the exemption. These include developing new areas of work, expanding the geographical reach of the company, and where the essential part of the activities of the company is not carried out with the authority.

Assuming that a company owned by two or more local authorities is structured to avoid falling foul of these contra-indicators it is a moot point whether each authority could be said to have a degree of control over it, comparable to its own departments. Collectively the authorities would, but individually they may not. There is no case law on the point as yet.

The corporate model also raises employment issues. Ordinarily, the staff would move to the company with the functions transferred, by virtue of the TUPE regulations. Where staff transfer from more than one authority there are likely to be employees in comparable positions with different terms and conditions. In that situation the presence of a single body with the power to determine pay and conditions (i.e. the company) will present the possibility of equal pay claims between those employees. Harmonisation of terms and conditions can only be lawfully implemented where there is an economic technical or organisational reason under the TUPE regulations, and such a reason requires that there is some change to the composition (e.g. fewer staff needed) or structure of the workforce (e.g. same number of staff but different balance of professional disciplines needed). Changes to terms and conditions without such reasons, as a consequence of the transfer, would be unlawful.

Employees can object to the transfer with the consequence that their employment is deemed to terminate. It is possible for employees to exercise the right to object and for the authority to re- employ immediately following termination. This would permit secondment of the employees to the company and since they would remain employed by the authority, employees of the company or the other authority could not use them as comparators for equal pay purposes. However, there may be problems for the employees in terms of continuity of service which would need further consideration. In addition, the arrangement would fail to deal with disparate terms and conditions in the provision of similar services.

Administrative

Joint administration of functions or delegation of functions from one authority to another is permitted by virtue of section 101 of the Local Government Act 1972, and in respect of executive functions by sections 19 and 20 of the Local Government Act 2000.

An authority may, subject to certain exceptions, discharge any of its functions by another authority (an agency agreement) but the statutory responsibility for the function remains with the authority to which it is allocated. The delegation of functions to another authority does not create a TUPE scenario but the Cabinet Office Statement on Workforce Matters requires that affected staff are treated in broadly the same way.

Two or more local authorities can also agree to establish a joint committee to discharge functions. The joint committee is not a separate legal entity and as a consequence it cannot hold property or employ staff. Property would need to be held by a lead or host authority in trust for the other authorities. Its constitution would need to be determined by agreement.

The creation of a joint committee does not engage TUPE. As the joint committee is not a legal entity there is no transfer and employees would need to be allocated to the functions delegated to the joint committee. As employees would remain employed by their respective authorities there would not be equal pay issues, but possible disparities between pay and conditions between employees doing work of a similar type would require consideration. Although a possible feature of all the models, a joint administrative arrangement is more likely to involve the co-location of workers with different employers. This would make the disparities between terms and conditions of more direct concern under this model. In addition, co-location may raise contractual issues where there is no express mobility clause in the employees' contracts.

Joint committees and inter- authority delegations have two particular advantages;

They are not in themselves contractual arrangements and therefore not subject to the procurement rules

They allow the delegation of functions and are not beset by the lack of vires in the corporate and contract models that would require some degree of client structure.

However, there are caveats to both of these points. Firstly, a joint committee arrangement can also be a contract, if there is an agreement that creates rights and obligations between two councils. Simply calling such an arrangement an administrative delegation would be a sham and would not change its legal status. An administrative arrangement between two or more councils will deal with the delegation of functions, budgets, and the machinery for decision making. If below that arrangement is an agreement as to how and to what standard services are delivered in return for the budgets deployed that is likely to amount to a contract.

Secondly, there are various functions that must be exercised by the authority granted the power. These include the power to issue or levy a precept for a rate, functions in setting amounts for council tax and issuing a precept, the duty to consider reports of statutory officers, and the determination of borrowing limits. In themselves, these are not impediments to shared working but they highlight the need for officers to potentially report through two council structures, at least in respect of certain issues.

Shared Services- Financial Implications

The development of shared services will require an initial investment in terms of resources to manage the development of the shared service. This could involve the sharing of finance and/ or secondment of staff to a central team. It is necessary as part of the implementation of a shared service to set up a project team to deliver the project. This can either be by secondment of existing resources to the project team or the buying in of external resources. Without the application of resources there is a high risk of the shared service venture being unsuccessful.

For each shared service project an outline business case must be prepared which identifies the resources required on a project team and the likely implementation costs. It is necessary to identify savings and other benefits both in the outline and final business case proposals. By doing this the pay back period and outcomes to be achieved are clearly identified and can be monitored.

Consideration will need to be given within the next 3 months as to the setting up of a resource to prepare outline business cases. Costs of this resource will need to be shared among the Warwickshire authorities.

PART B: STRATEGY FOR FUTURE PROVISION OF SHARED SERVICES IN WARWICKSHIRE

Vision

Warwickshire's Vision for shared service provision is "to provide better, more efficient and resilient, customer-focused services by collaborating with other public sector partners, thereby optimising value for money for the taxpayers of Warwickshire."

Aims

a) To develop bespoke shared services in Warwickshire providing improvements in:-

    service quality and performance,

    resilience, and,

    value for money.

b) To promote partnership working/ shared service delivery where there is a robust business case and demonstrable added value, including across the wider public sector.

c) To introduce shared services while minimising the impact on service performance.

d) To share learning from implementation of shared services, so as to minimise implementation time and risks associated with their introduction.

Actions

1) To set up an agreed programme of services on an annual basis.
2) To provide sufficient resource to implement the annual programme.
3) To provide agreed project plans for the implementing an agreed shared service.
4) To develop a method of assessing outline and final business cases for implementing specific shared services.
5) To hold a 'conference/seminar' for members and senior managers to explain the approach to shared services.
6) To promote learning and best practice in the implementation of shared services in Warwickshire.

Monitoring

Monitoring will be undertaken as follows:-

1) To provide quarterly monitoring reports on progress with implementation of individual service programmes including start up costs and savings and impact on service performance.

2) To provide annual reports on efficiency savings and performance improvements from shared service implementation.

Identifying Services For Inclusion in Shared Services Arrangements

Given the potential range of benefits set out above, there are few natural limits to the potential scope of services for inclusion in a shared services arrangement. Warwickshire Leaders and Chief Executives have identified a list of services to consider initially. These are set out below:-

Audit;	ICT;
Customer service;	Legal services;
Economic development;	Office space;
Grounds maintenance;	Procurement; and,
Highways and Street Services;	Revenues.
Human resources/ Payroll/ Learning & Development Consortium/Academy;	

In view of the available capacity for developing shared services, particularly within the Districts and Boroughs, it has been decided to select the following service areas to be the subject of closer scrutiny:-

1. Customer Service;
2. Human Resources and Payroll;
3. ICT; and,
4. Procurement.

This does not preclude other services being the subject of business cases, if opportunities arise. The services above are the initial ones to be examined for their potential for a county wide provision.

Principles Associated with Joint Working in Shared Services in Warwickshire

There are some accepted principles upon which this work is undertaken:-

Individual organisations may opt in or out of the proposal;

There is no 'one size fits all' solution for implementing shared services in Warwickshire. For each service considered a business case will be developed, which will identify the benefits and risks involved. A format for a simplified business case is set out at Annexe 1 to this report;

It is anticipated all councils will take the lead in one or more services (i.e. become a host or lead authority);

There may be interim steps needed to get to the ultimate shared service solution;

Communications Plans will be devised as part of individual proposals to share services;

Decision-making arrangements will be according to the particular proposal and partners involved (e.g. if only local authorities through a joint committee); and,

Opportunities will be sought to involve the wider public sector in appropriate cases.

Annexe 1

Governance Arrangements for Shared Services: Summary of 4Ps Collaboration Guidelines.

The guidance produced by 4P's covers the middle two steps of the four step approach they have identified for authorities considering sharing service delivery, which is:

Step one- Strategic development

1) Why consider joint service delivery?
2) Which services are to be included?
3) What outcomes are critical — efficiency savings; income generation; skills capability and capacity; higher standards of service delivery?

The guidance assumes a feasibility study has been done at this stage to determine there is business value from joint delivery i.e. (an outline business case).

Step Two- Collaboration options

Who will jointly deliver the services?

Selection of a collaboration option should be on the basis of:

- Opportunity - organisations that are also considering joint service delivery;
- Convergence - organisations with similar aspirations in terms of desired outcomes and priority services; common technologies and similar division of front and back office activities;
- Shared direction of travel — organisations with aligned thinking as to which collaboration options are acceptable to members or senior management and are possible within the democratic process ; and,
- Practicality — cost and other considerations may dictate that certain services have to be delivered by organisations in close geographical proximity.

Step Three- Service delivery models

What are the potential models?

The guidance suggests the following as the decision-making criteria to evaluate service delivery models and contains a series of questions against which to evaluate each factor:

- Structure - familiarity of structure; decision —making structures; scalability; ability to deliver delegated functions; identity at partnership and individual authority level ;
- Financial - ability to provide services on a commercial basis; requirement for charitable status; flexibility of profit distribution; risk transfer; transparency of accountability; shareholding structure;
- Employment — capacity to employ staff; and,
- Legal — ability to provide incidental services to the private sector; capacity to enter into contract; need to transfer assets; compliance with procurement legislation.

Step Four- Further evaluation

Further evaluation of the potential models leading to a final decision.