

CHESHIRE EAST COUNCIL CHESHIRE WEST & CHESTER COUNCIL

REPORT TO: SHARED SERVICES JOINT COMMITTEE

Date of Meeting:	12 March 2010
Report of:	Cheshire East – Borough Treasurer & Head Of Assets Cheshire West & Chester – Director of Resources
Subject/Title:	Partnerships/Commercial Arrangements and their relationship to Shared Services

1 Report Summary

- 1.1 This report provides details of a current opportunity to recover some costs of the ICT Shared Service through a commercial relationship with Warrington Borough Council. This will benefit both Cheshire East and Cheshire West & Chester by reducing the costs shared between the two authorities.
- 1.2 This report outlines how this opportunity relates to wider business development opportunities in the public and private sector and the requirement to explore the potential for future partnership and commercial arrangements. However, it also highlights some of the risks and implications of such arrangements which need to be addressed to ensure such opportunities can progress effectively.
- 1.3 This report clarifies the need to produce a framework detailing the different types of relationships with external parties (commercial opportunities, partnerships and joint ventures) and the rules that apply to each. This will supplement the existing legal agreements for shared services and provide a clear basis for developing relationships with external organisations.

2 Recommendations

- 2.1 That members confirm that the commercial opportunity with Warrington Borough Council be progressed in the short term, with appropriate contractual arrangements, to support the ongoing development of a long-term relationship with Warrington Council.
- 2.2 That members confirm that the opportunity with Warrington Borough Council will be progressed jointly by Cheshire East, Cheshire West & Chester and the ICT Shared Service, with Cheshire East taking the lead to coordinate activity across all parties as required.

- 2.3 That members approve the creation of a framework for developing ICT partnership and commercial opportunities, using the work with Warrington Borough Council as a test case on which to base the wider framework.
- 2.4 That members confirm that the work to create this framework will be done jointly by Cheshire East, Cheshire West & Chester and the ICT Shared Service, with Cheshire East taking the lead on this work.

3 Reasons for Recommendations

- 3.1 There are many areas of ICT where different public sector agencies procure and run the same thing. The financial pressures on the public sector mean that the time has gone when there is budget to support this duplication. Sharing ICT facilities and services will remove this duplication, thus reducing costs of procurement and service delivery to all involved.
- 3.2 The work with Warrington Borough Council (WBC) offers an opportunity to start such cost sharing through a commercial relationship. In the short term, this will be mutually beneficial to Warrington, Cheshire East and Cheshire West & Chester, potentially reducing the ongoing costs of running the Kelly House data centre.
- 3.3 Should a decision be made not to continue with the current opportunity with WBC, Warrington may develop relationships with other organisations so the future ability of Cheshire East and Cheshire West & Chester to enter into other commercial relationships with Warrington may be restricted.
- 3.4 The general Shared Service agreements and the current ICT Shared Service Business Plan makes no definitive recommendation or stipulation about how partnership initiatives or commercial opportunities should be taken forwards other than those in place between Cheshire East and Cheshire West & Chester. The absence of a partnership framework directly impacts the ability of both authorities to deliver ICT services through commercial relationships and partnerships to existing partners including schools and Health Services.
- 3.5 The development of this framework is a key pre-requisite to developing relationships with external organisations to ensure future opportunities are not missed.
- 3.6 It should also be noted that the issues raised in this paper relate to shared services other than ICT. The framework will provide a sound basis for these in developing relationships with external organisations.

4 Wards Affected

- 4.1 This report relates to shared services that operate across both Cheshire East and Cheshire West & Chester so all wards are affected in both Councils.

5 Local Ward Members

- 5.1 Not applicable.

6 Policy Implications including - Climate change - Health

- 6.1 Climate Change – a commercial arrangement with WBC is supportive of demand aggregation in a shared data centre resource able to maximise energy efficiencies and reducing the carbon footprint with the use of green technologies.
- 6.2 Health – defining a framework for commercial opportunities and partnerships is supportive of joint working initiatives with health bodies, such as the Primary Care Trusts in Cheshire and other related third party organisations, such as Age Concern.

7 Financial Implications for Transition Costs

- 7.1 The costs associated with the initial work to address the current opportunity with WBC may require additional resources in the short-term from the ICT Shared Service. These and all other costs will be subject to full cost recovery and, as such, no cost will be incurred by either Cheshire East or Cheshire West & Chester.
- 7.2 The work to develop a framework for engaging with external organisations will need to be progressed in parallel while realising the opportunity of the commercial arrangement with WBC.
- 7.3 The work to develop the wider framework may require additional resources from Cheshire East, Cheshire West & Chester and the ICT Shared Service. Cheshire East has offered to lead on this work. The costs associated with this additional resource have not yet been estimated.

8 Financial Implications 2009/10 and beyond

- 8.1 The typical cost to each Council of creating secondary data centre facilities is approximately £0.5m to £0.75m. By aggregating such demand into a 'shared resource' a public sector collective are able to

improve availability of services to the public, significantly drive out recurring spend and minimise ongoing revenue charges. The opportunity with WBC will start to develop such a collective and initially potentially reducing the ongoing costs of running the Kelly House data centre by between £15,000 and £28,000, depending on the volume of Warrington equipment to be installed.

- 8.2 Should the framework developed using the WBC opportunity as a test case prove successful, further partnership and commercial opportunities can be progressed, including, for example:
- Cheshire Fire & Rescue Services;
 - Cheshire Constabulary; and
 - Town and Parish Councils

9 Legal Implications

- 9.1 The legal authority for the Council entering into contractual agreements with both public and private bodies for the provision of services that generate income need to be determined in relation to each potential partnership opportunity.
- 9.2 Each opportunity must comply with European and domestic procurement law. This has lead time implications. A risk identified with the opportunity to provide services to Warrington Borough Council is that the timescales may not allow the requisite time to procure equipment.
- 9.3 The potential liability implications of delivering services to third parties need to be addressed. The potential loss that could be incurred in failing to provide a critical service must be considered and provision made for risk allocation and insurance on a case by case basis. Each opportunity will have specific legal implications for example does the lease on the Kelly House Data Centre contain any restrictions that would prevent the provision of services to Warrington Borough Council.
- 9.4 The financial implications of the collection and accounting for generated income need to be addressed.
- 9.5 The current Shared Service agreement for ICT makes no definitive reference to how partnership initiatives or commercial opportunities should be governed. If the Councils' decide that they will enter into contracts with third parties to deliver services through the shared service then guidelines are required. Issues to be determined include;
- Governance;
 - The identity of the contracting entity and lead authority
 - Content of contracts with third parties
 - Apportionment of profits
 - Allocation of risk
 - Treatment of intellectual property rights

- Cost of internal resource, and
- An exit strategy in the event that the ICT shared service is terminated.

10 Risk Management

10.1 There are a number of distinct risks associated with the immediate opportunity with WBC, including:

- Data Centre capacity – while it has been determined that there is 30% spare capacity in the data centre at present, it is not clear whether this is sufficient to support the proposed work planned by Cheshire East and Cheshire West & Chester and the equipment which Warrington wishes to install;
- Cost – linked to the issue with Data Centre capacity, there is a risk that both Councils may need to provide funding to further equip the data centre, i.e. fit out the second machine hall, should there be insufficient room. However, this work will, in all likelihood, be required at some point in the future to support Cheshire East and Cheshire West & Chester;
- Resource prioritisation – the workplan of the ICT Shared Service utilises existing permanent staff, leaving little capacity to undertake the additional work required to progress the Warrington opportunity unless external resources are appointed, potentially incurring additional cost. Alternatively, it is possible to defer some of the current workplan for Cheshire East and Cheshire West & Chester; and
- Timescales – Warrington wish to ensure that the equipment at the data centre is operational by April 2010. Work has yet to start so it is uncertain whether the network links and equipment can be installed in time.

10.2 More widely, there are risks associated with entering into commercial arrangements such as that with, including:

- Procurement – it is not clear whether European procurement rules will stop Warrington from progressing with this commercial arrangement so effort to progress this work may be in vain;
- Liability, indemnity and insurance – as previously stated, it is not clear which authority would hold legal liability for service delivery and how any risk associated with service delivery would be apportioned;
- Contract termination/grievance management – No exit strategy or policy to manage issues currently exists. This could impact both authorities liability and result in reputational damage;
- Revenue consequences – The ability to sustain ongoing costs should the arrangement be terminated needs to be determined; and
- Income sharing – it is unclear what income sharing arrangements will be required to ensure that Cheshire East and Cheshire West &

Chester receive a fair share of the income they each generate, minus full cost recovery.

- 10.3 The risks associated with the longer-term potential partnership and commercial arrangements will be identified as part of the work to develop an ICT partnership/commercial framework and mitigating actions identified. This will be presented to members for review and consideration in May. Examples include:
- Cost - a full cost analysis is required to understand the true cost of delivering ICT to Cheshire East and Cheshire West & Chester. Also, charging mechanisms to Cheshire East and Cheshire West & Chester are still being developed to ensure that existing clients are charged fairly. Until this is completed, there is a risk that the ICT Strategy teams in Cheshire East and Cheshire West & Chester cannot provide new external organisations with a clear schedule of charges for services to ensure that its costs are covered;
 - Performance – Although performance matrix have been agreed with the ICT Shared Service the mechanics for collecting performance data is not well defined, though basic collection measures are in place. Fit for purpose performance monitoring is required to enable Service Level Agreements to be developed and to support the committed service provision to Cheshire East, Cheshire West & Chester. Clearly, new clients will require similar levels of commitment; and
 - Business drivers and commitment – Cheshire East and Cheshire West & Chester have different business drivers and commitments. These could impact the ability to deliver a consistent service to partners and customers.

11 Background and Options

- 11.1 Legal arrangements, business plans and service delivery statements have been developed for all shared services and presented to the Joint Officer Board and the Joint Committee.
- 11.2 The Business Plan supplements the Service Agreement. It provides details of the Shared Service operation, plans and investment for the next three years. However, the requirements beyond the first year of operation are subject to change as each Council further develops their needs and objectives. As such, the Business Plan is subject to annual review and amendment as appropriate.
- 11.3 The Business Plan for the current year does not identify the opportunities to engage and deliver services to external organisations through partnerships or commercial relationships, other than those with which the shared service was already engaged. In this context, the mechanisms for engaging with external organisations are often defined as partnership working, but can be broken down into the following:

- “Partnerships” – There are many definitions of the term partnership and differences in the terminology recognised by public sector and from a legal prospective. However, for the purposes of this discussion, partnerships are engagements with other organisations in a shared manner, where the new organisation has a role to play in the overall governance of the service - the ICT Shared Service is an example a service focused Public/Public partnership. Other examples include:
 - Public/Private Partnerships (PPPs);
 - Local Strategic Partnerships (LSPs);
 - Public/Public Partnerships;
 - Private/Private Partnerships;
 - Joint Venture agreements (generic or contractual);
 - “Commercial arrangements”, where services and goods are provided to external organisations through a contract or service level agreement, but the external organisation does not sit on the governance body for the shared service; and
 - “Suppliers” - Arrangements where goods and services are acquired from an external supplier via a framework contract. The arrangement with A&O to provide desktops, laptops, blackberrys, etc. is an example of a supplier arrangement.
- 11.4 Full definitions and detail of these terms will be provided in the framework. It is anticipated that the framework will be presented to Joint Committee in May 2010 for review and will subsequently be incorporated into the business plan for the ICT shared Service for 2010/11
- 11.5 However, there are a number of opportunities for accelerating partnerships and commercial arrangements which warrant consideration now as they may not be present next year. A framework is needed to determine the most appropriate mechanism for progressing these opportunities.
- 11.6 The current Warrington opportunity is a commercial arrangement.

12 Warrington Opportunity

- 12.1 Kelly House, Chester is a purpose built (2009) local government data centre which supports the core ICT infrastructure of both Councils. The facility is leased by Cheshire East and Cheshire West & Chester and is managed by the ICT Shared Service.
- 12.2 Between them, Cheshire East and Cheshire West & Chester jointly occupy only one of the two data halls – the second data hall has not yet been setup to host further equipment. There is currently up to 30% capacity in the first data hall surplus to the requirements of both authorities which could be resold to generate income.

- 12.3 WBC is currently going through a large procurement exercise to replace core ICT Infrastructure. Part of their requirements is for secondary data centre capacity. To this end, Warrington Council is currently in constructive dialogue with Cheshire East Council and Cheshire West & Chester Council to use the Kelly House data centre facility for this purpose. Timeline requirements for operational implementation are circa April 2010.
- 12.4 The immediate opportunity is to provide WBC with capacity in the Kelly House data centre in which they will run and manage their ICT services in an active/active configuration with their primary data centre. Initial requirements would be for three racks in April 2010 with the potential to expand to five racks over time. It is anticipated that this will reduce the running the costs of the data centre by between £15,000 and £28,000 per year, depending on the volume of Warrington equipment to be installed
- 12.5 In the longer-term it is hoped that this will lead to wider collaboration, although the nature of this potential relationship has yet to be defined.

13 Partnership/Commercial Framework

- 13.1 Working in partnership is not a new concept and is a mechanism for delivering services local government has used for many years, effectively demonstrated by the shared service arrangements in Cheshire.
- 13.2 There are a number of partnerships and commercial arrangements already in place between Cheshire East, Cheshire West & Chester and external parties. Examples include the COSTAR ICT service provided to the Cheshire and Warrington Information Consortium (CWIC) and ICT services provided to Parish Councils and Age Concern.
- 13.3 There are a number of other opportunities currently being considered and taken forward in collaboration with Primary Care Trust (PCT), Cheshire Fire & Rescue, Cheshire Constabulary and a number of town/parish Councils. A specific example is the Common Access Framework (CAF) demonstrator which will be delivered in partnership between Cheshire East, the Central and Easter Primary Care Trust and other 3rd parties such as Age Concern.
- 13.4 The development of a robust, fit for purpose partnership framework which empowers both authorities to maximise their resources, skills, assets and knowledge while not impacting the delivery and quality of service delivered to both authorities will allow the opportunities to be pursued.

13.5 This framework will address:

- The scope of services to be shared, bought or sold with external organisations, the projected workplans and the associated impact on the resources of the shared service and each Council;
- The legal basis for sharing, clarifying the obligations of each partner in the current sharing arrangements and of the external organisation;
- The commercial model for the arrangement, including the cost sharing and the pricing basis for services;
- The performance levels to which the ICT Strategy teams, ICT Shared Service and the client organisations are willing to commit; and
- The governance framework for managing partnership arrangements including exit strategies and management.

13.6 To address all of these points, this work will entail extensive consultation with legal and other colleagues from Cheshire East and Cheshire West & Chester as well as the ICT Shared Service to ensure alignment between all parties with regards to the above.

14 Access to Information

The background papers relating to this report can be inspected by contacting the report writers:

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