



In-House Shared Services

This guidance explains a number of options available for local authorities to operate a shared service model. The options below explain how local authorities can use joint committees, delegation, and “staff lending” methods to keep services in-house.

Introduction

Local authorities have responded to reductions in central government funding in a number of ways, including looking at shared services. No change is without risk, especially at a time of cuts, but we have to make keeping services in-house and members directly employed a priority. It is fundamental to maintaining a strong union organisation and long-term defence of members’ terms and conditions.

This factsheet sets out some options for an in-house approach to shared services. This can be by collaboration between two or more councils without needing to privatise services, set up a company, or go through a procurement process. Instead local authority shared service arrangements can use existing powers for joint provision of services and the power to share staff.

Of course, you need to make the business case for the in-house option as well as knowing the details options, which this briefing sets out. Other guidance on the UNISON website sets this out.

Any major service change – including shared services – is also still likely to be accompanied by important negotiations to safeguard the jobs, terms and conditions of employees, and tackle relocation and other issues.

This guidance looks at:

- How councils can share a service, and then
- The options for the workforce.

Joint committees and delegation

Local authorities have powers to collaborate with each other in different ways. They can agree to:

- Delegate the responsibility for a service (and its budget) from one authority to another.
- Establish a “joint committee” to oversee the provision of a shared service.

The right to do this is set out by specific legislation both in England and Wales¹ and in Scotland² and backed up by local authorities’ power of wellbeing.³ This is likely to be reinforced by the “general power of competence” in the Localism Bill in England, likely to become law in late 2011.

Both joint committees and delegation are “administrative arrangements” which councils may enter into without advertising and tendering a contract under the European procurement rules.

Under delegation, one council simply takes over providing a service for another, and may have service levels set out for the service.

A joint committee is slightly more complicated; a council remains directly accountable for its own services. Two or more councils will decide to establish a “joint committee” to oversee a jointly run service. They set out the governance arrangements in an agreement, which will say how many members sit on the committee and how it operates.

The service will then be provided to the councils under a unified service delivery arm. This may be with one council leading on all services, or with different authorities leading on specific services.

Workforce implications

Irrespective of whether delegation or a joint committee approach is chosen, there are a number of possible implications for the workforce.

- Staff employed by one authority may be lent to another (or others) (“put at the disposal of another authority”) in a “section 113” or “section 65” arrangement (see below).
- Staff may be seconded from one authority using a variation to their contracts (see previous guidance documents on secondments).⁴

¹ Section 101 (5) of the Local Government Act 1972 (www.legislation.gov.uk/ukpga/1972/70/section/101) and (for councils with executive arrangements) Sections 19 and 20 of the Local Government Act 2000 (www.legislation.gov.uk/ukpga/2000/22/section/19).

² Section 56 of the Local Government (Scotland) Act 1973 (www.legislation.gov.uk/ukpga/1973/65/section/56).

³ Local Government Act 2000 and Local Government in Scotland Act 2003

⁴ www.unison.org.uk/acrobat/B5075.pdf and www.unison.org.uk/file/UNISON_LG_Secondments_advice_-_final.pdf

- The arrangements above mean that the employment position of most staff may not change, although a joint management team may be set up (possibly using section 113 or 65 arrangements). This is often the first step towards a shared workforce (see previous guidance on shared workforces).⁵
- Another option is for staff to transfer from one employer to another, and the TUPE regulations and the Pensions Direction 2007 should apply to them, protecting their terms and conditions at the time of transfer.⁶

Lending Staff

Section 113 of the Local Government Act 1972⁷ and section 65 of the Local Government (Scotland) Act 1973 empower a Local Authority to “enter into an agreement with another Local Authority for the placing at the disposal of the latter for the purposes of their functions... the services of officers employed by the former.” The “disposal” is effectively a secondment arrangement. The arrangement is subject to an obligation to consult the staff member involved.

This can be an effective way for one council can second staff to another. Used correctly, it will not involve TUPE, establishing a new company, or trigger any other legal issues regarding changes to staff terms and conditions.. Terms and conditions and pensions are unchanged, because the officer is still employed by the first council, but for other purposes (i.e. to perform a function to provide services) they act as an officer of the second council. There has to be a formal agreement (e.g. ideally writing) between the two authorities if a section 113 or 65 arrangement is used.

Section 113 or 65 arrangements have historically been used for seconding senior staff on a temporary basis, or for small groups of staff performing certain services (for example, trading standards). However they are now being considered in large-scale shared arrangements.

Key Bargaining Points

Make sure you keep in contact with leading politicians and senior officers, and read the cabinet agendas and minutes, to pick up any shared service proposals at the earliest stage.

Shared service proposals will involve more than one branch, so talk to the region and to other affected branches.

Staff have a legal right to be consulted about any section 113 or 65 proposal, and branches should expect to be consulted as well.

⁵ www.unison.org.uk/acrobat/B5011.pdf

⁶ There remain protections against a “two-tier workforce” in Scotland (Section 52) and Wales.

⁷ www.legislation.gov.uk/ukpga/1972/70/section/113, www.legislation.gov.uk/ukpga/1973/65/section/65

Key documents are the:

- Options appraisal
 - Look at the options appraisal to see what else has been considered, and why the council has chosen this option. It is positive if it proposes to keep services in-house (even if provided by another authority) and staff directly employed, but the options appraisal will let you understand the council's thinking better, and help to identify potential future threats.
- Initial and final business case
 - Examine the business case to fully understand what the proposals are and their full scope. This includes long-term plans for the service(s) and the implications for the workforce of relocation, equality and other issues.
- Equality impact assessment
 - The equality impact assessment should address any equal pay issues, and should look at the impact on both the workforce and service users across all equality strands.
- The agreement between authorities underpinning any decision to undertake a delegation, joint committee, or s113/s65 sharing of staff.
 - This will tell you about the governance arrangements, which can help in understanding how politicians can influence the management of the service, what each authority expects to get out of the arrangement, and how it may change over time.

Ask to be consulted on these before the final versions are agreed, so you can influence them.

Examples

There are many examples of delegation, particularly of county councils delegating highways responsibilities to district councils. But elsewhere there are a growing number of examples of joint committees and s113 arrangements:

- The "Tri-borough" project between Westminster, Hammersmith & Fulham, and Kensington & Chelsea councils is planning (as of July 2011) to use s113 as the basis of merging individual services. Different councils will lead on different services.
- In February 2011 Suffolk coastal and Waveney councils agreed a s113 arrangement for all of their services. This is the latest stage in an integration which saw a joint chief executive appointed in June 2008 and simultaneous cabinet meetings in September 2010. They are looking at in-house solutions only (for the moment, at least)
- South Oxfordshire and Vale of White Horse District Councils used section 113 to share chief executives in 2008, prior to later transferring and merging their whole workforces.

- The “Worcestershire Enhanced Two Tier” (WETT) programme saw 6 districts and the county council move to share services. A joint committee was established and a more flexible s113 agreement used to share management teams, prior to transferring staff to different councils under TUPE (according to which was leading on the particular service).
- Dartford council delegated its Revenues and Benefits Service to Sevenoaks Council in 2010, and put the affected staff “at the disposal” of Sevenoaks using a s113 agreement.
- In mid-June 2011 East Herts and Stevenage Councils voted to establish a single, shared Revenues and Benefits Service. They set up a Joint Revenues and Benefits Shared Service Committee, with three councillors from each council. Under this is a Joint Management Board. Their partnership agreement said they would split any set-up costs and share savings 50:50 for the first three years. The shared service is based in East Herts’ Hertford base with a major extension of homeworking and flexible working. The councils transferred staff from Stevenage to East Herts.