

South Thames Gateway Building Control Partnership Joint Committee	Agenda Item:
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Meeting Date	21 March 2012
Report Title	South Thames Gateway Building Control Partnership – Possible Options for Future Service Delivery
Portfolio Holder	Cllr G Lewin – portfolio Holder for Planning
SMT Lead	Pete Raine
Head of Service	James Freeman
Lead Officer	James Freeman
Key Decision	No
Classification	Open
Forward Plan	Reference number:

Recommendations	It is Recommended that the Partnership Authorities agree to include within the Draft Business and Delivery Plan an action to keep under review other potential forms of service delivery and best practice and report annually or as required to the Joint Committee.
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Purpose of Report and Executive Summary

- 1.1 This report sets out the various potential options available to the partnership in delivering the building control service, the issues involved and reviewing the way forward.

2 Background

- 2.1 Following Swale Borough Council's agreement to a second term of the South Thames Gateway Partnership, it was agreed by the partner authorities to consider a report from Swale Borough Council to review other potential forms of service delivery and that this is reported on an annual basis to the partnership authorities.
- 2.2 This is the first report and as such provides a background and information regarding potential other forms of service delivery. Whilst there are numerous examples of a shared building control service across two or more council's, there are no specific building control service examples which have looked at an alternative form of delivery apart from where it has been outsourced as part of a wider outsourcing of front line services e.g. Salford City Council.

3. Proposal

At this stage, given the relative stability and good performance of the shared service in a particularly difficult time for the construction industry, it is not considered appropriate to move away from the current shared service arrangements.

It is noted that the Draft Building Control Partnership Business and Delivery Plan 2012-17 includes actions to:

- Approach adjacent authorities with a view to joining the partnership (Action 2.4 of the Delivery plan)
- Examine the case for STGBCP becoming a local authority company, particularly in relation to setting up a consultancy (Para 6.3 of the Business Plan)

However, it is considered that the option surrounding staff mutual or outsourcing should also be kept under review. Following the preliminary review, there is no reason why a staff mutual or outsourcing should not necessarily be able to deliver efficiencies and a more resilient service, particularly where this could accompany any potential for establishing a separate Consultancy business. Any review would need to look in more detail on the service implications for the partner authorities and the legal and financial implications involved. It should also be stressed that there is no reason why a staff mutual cannot be set up to provide a service across more than one local authority. However, any move towards setting up a staff mutual would need the cooperation of the staff involved.

It is therefore suggested that the Committee requests that the Officer Steering Group, with support from the respective Authorities, keep under review the options for other forms of service delivery, particularly options relating to establishing staff mutual or outsourcing.

4 Alternative Options

4.1 Appendix I sets out the various delivery options including:

- Expansion of the partnership to other local authorities
- Setting up of a Local Authority Company
- Market outsourcing
- Staff Mutual
- Returning to an in-house service
- No Change

4.2 Appendix II provides a further explanation of the staff mutual concept.

5 Consultation Undertaken or Proposed

- 5.1 There has been no consultation to date. Any future consultation would be undertaken with the agreement of the Joint Committee.

6 Implications

Issue	Implications
Corporate Plan	The report has been drafted with a view to improving the performance and 'value for money' of service provision
Financial, Resource and Property	No significant implications beyond existing council budgets and service plans
Legal and Statutory	The purpose of this report is to obtain South Thames Gateway Building Control Joint Committee approval to the recommendation that potential service delivery option be kept under review; therefore at this stage there are no significant legal implications; however should the recommendation be agreed there will be a need to fully explore the legal implications of moving to an alternative form of service delivery such as a staff mutual as part of the investigation process; such implications would need to be detailed in any further report.
Crime and Disorder	<i>none identified at this stage</i>
Risk Management and Health and Safety	<i>none identified at this stage</i>
Equality and Diversity	<i>none identified at this stage</i>
Sustainability	<i>none identified at this stage</i>

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report
- Appendix I: South Thames Gateway Building Control partnership – Possible Options for Future Service Delivery;
 - Appendix II: Mutuals

8 Background Papers

- 8.1 Draft South Thames Gateway Building Control Partnership Business Plan and Delivery Plan 2012-17.

APPENDIX I

South Thames Gateway Building Control Partnership – possible options for the future

Subject	Pros	Cons	Commentary
Expanding the partnership to other local authorities	<ul style="list-style-type: none"> • Greater economies of scale; • Greater resilience in service delivery; 	<ul style="list-style-type: none"> • No other local authorities in Kent have come forward to join the partnership; 	Whether any additional authorities join the partnership is probably largely driven by other partnership arrangements – eg. MKIP and East Kent.
Local authority company	<ul style="list-style-type: none"> • Companies can increase economic activity in the local area and lever in private sector funding and expertise; 	<ul style="list-style-type: none"> • Unfavourable/changeable market conditions; 	<p>The vast majority of local authority companies have been promotional and commercial ventures rather service delivery organisations. Examples include development associations, tourism bureaux and infrastructure companies such as sports stadia, airports and transport companies.</p> <p>The new General Power of Competence in the Localism Act is often viewed as an express provision enabling councils to trade.</p>
Market outsourcing	<ul style="list-style-type: none"> • No ongoing liabilities for running the service; • Potential cost savings; 	<ul style="list-style-type: none"> • Only one example of Building Control function being outsourced, and that was eventually brought back in house as a result of unitary council being created; • Arrangements needed to procure a service – uncertain market; 	The consultancy arm of the Partnership’s operation may be more suited to this option than its statutory role.
Staff mutual	<ul style="list-style-type: none"> • More flexible commissioning arrangements for the council; • Motivated staff – autonomy over future direction; • Potential to 	<ul style="list-style-type: none"> • No examples of Building Control function transferring to a mutual; • Mutuals generally run on a not-for-profit basis – what’s in it for staff? 	<p>Government is actively promoting the development of staff mutuals across the public sector: http://mutuals.cabinetoffice.gov.uk/</p> <p>The majority of successful case studies are in the health and social care sector.</p>

Subject	Pros	Cons	Commentary
	<ul style="list-style-type: none"> • develop alternative income streams not open to local authorities; 		
Returning to an in-house service	<ul style="list-style-type: none"> • Council(s) can decide how the service is to be run/resource d; 	<ul style="list-style-type: none"> • Need to consider staff TUPE issues; • IT, accommodation and other overheads would need to be provided; 	Current philosophy is for services to move out of local authority control rather than back in.
No change	<ul style="list-style-type: none"> • Established, efficient and effective team; • Cross-boundary working; • Resilience; • Potential to develop alternative income streams; 	<ul style="list-style-type: none"> • 	Swale BC decided in February 2012 to continue to participate in the South Thames Gateway Building Control Partnership until October 2017 with a one year break clause.

Mutuals

1 Introduction

1.1 A public service mutual is an organisation which has left the public sector (also known as 'spinning out') but continues to deliver public services. Mutuals are organisations in which employee control plays a significant role in their operation.

1.2 There are many forms of mutual. Perhaps the best known are major employee-owned businesses like John Lewis or building societies such as Nationwide which are fully or majority owned by their members. But mutuals can also be co-operatives or social enterprises.

1.3 The term 'social enterprise' is often used interchangeably with 'mutual'. Social enterprise is an overall term to describe a venture rather than a delivery vehicle in and of itself. The Government's definition of a social enterprise is:

"a business or service with primary social objectives whose surpluses are principally reinvested for that purpose in the community, rather than being driven by the need to maximise profit for shareholders and owners."

1.4 The key characteristics of a social enterprise are:

- they trade, ie. sell, goods and /or services and any profit or 'surplus' made as a result of their trading activities is either ploughed back into the business or distributed to the community they serve;
- they have a clear social purpose. This may include job creation, or the provision of local facilities eg. a nursery, community shop, or social care for the elderly; and
- they are owned and managed by their employees.

1.5 A social enterprise can be a Community Interest Company, a Company Limited by Guarantee, a Company Limited by shares, or an Industrial or Provident Society. Many also take charitable status, such as Housing Associations.

1.6 The vast majority of mutuals in the public sector are in health and social care as can be seen from a tracking document published by the Cabinet Office on established and developing mutual arrangements in the public sector:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Pipeline-of-Public-Service-Mutuals.pdf> .

1.7 It is worth noting that many mutuals which have 'spun out' from the public sector can and do deliver statutory services that public sector bodies have a duty to provide. In the same way that SBC has contracted out part of its food safety inspection work to a private contractor, it is only the delivery of the service that has been commissioned and not the responsibility for the function itself.

1.8 The following describes some of the key terms used in relation to mutuals.

2 Community Interest Companies (CICs)

2.1 CICs are companies limited by shares or guarantee which have applied for registration and have satisfied the Regulator of Community Interest Companies (CREG) that they are in the public or community interest. CICs are those formed under the Companies Act 1985 and are bound to use their assets, income and profits for the benefit of the community they are formed to serve.

2.2 Forming a CIC is essentially the same as the formation of any standard company, but it must prepare a Community Interest Statement and pass a 'Community Interest Test' both at formation and throughout the life of the company. CIC's are also required to have an 'asset lock'. This is a general term used to ensure that the assets of a CIC are retained for the benefit of the community.

Example: Bristol Together - <http://www.bristoltogether.co.uk/>

3 Companies limited by guarantee

3.1 Companies limited by guarantee have corporate status and are private limited companies where the liability of the members is limited. They provide a satisfactory basis for most non-profit making activities and are often registered as charities.

3.2 A guarantee company does not have a share capital, but has members who are guarantors instead of shareholders.

Example: Network Rail - <http://www.networkrail.co.uk/>

4 Industrial and Provident Societies

4.1 An Industrial and Provident Society (IPS) is an organisation set up to carry out a trade or business for community benefit. It is incorporated, which means that it has gone through the registration process that converts a new or existing business into a corporate body, making it a legal entity in its own right. IPS's are regulated by the Financial Services Authority.

4.2 IPS's fall into two categories. They qualify for registration if:

- they are a society carrying on any industry, business or trade; and it is either:
- a bona fide cooperative; trading for the mutual benefit of their members; or
- if its business will be run for the benefit of the community and there are special reasons why it should be registered as an industrial and provident society rather than under the Companies Act.

Example: FC United of Manchester - <http://www.fc-utd.co.uk/home.php>

5 Workers' cooperatives

5.1 A workers' cooperative exists for the mutual benefit of its members and has its own registered objects, which state permitted activities and rules. They are organised on a one member, one vote basis. Members are equal and elect management committees to run the business in accordance with members' instructions. No member can hold a majority shareholding.

Examples: Suma Wholefoods - <http://www.suma.coop/about/cooperation/>

Brixton Cycles - http://www.brixtoncycles.co.uk/about_us.html

6 Charitable status

6.1 A charitable body must be established for public benefit and all of its purposes must be exclusively charitable. This means that its funds and assets have to be used for charitable purposes which severely restricts the payment of salaries or dividends or the award of business contracts to its trustees.

6.2 Charitable bodies are exempt from income and corporation taxes on all their income provided these are used for charitable purposes, but not VAT. If the charitable body has revenue-producing activities it can still preserve its charitable status by hiving off these activities to wholly-owned (non-charitable) subsidiary companies.

Example: GLL (Greenwich Leisure) - <http://www.gll.org/b2b/pages/1>

Further resources

Local Government Association guide on mutual which was a source for much of this note: http://www.local.gov.uk/c/document_library/get_file?uuid=30f2f1b2-6664-454b-b4d3-d8c57f47f0b9&groupId=10171

Cabinet Office Minister, Francis Maude's letter to local authority Leaders and Chief Executives on opportunities presented by mutuals:
<http://mutuals.cabinetoffice.gov.uk/sites/default/files/documents/Minister%20for%20Cabinet%20Office%20letter%20to%20LA%20Chief%20Executives%20and%20Leaders%20of%20Councils.pdf>

Cabinet Office mutuals website: <http://mutuals.cabinetoffice.gov.uk/>

Employee Ownership Association: <http://www.employeeownership.co.uk/>

Cooperative Group: <http://www.co-operative.coop/corporate/>