

North Tyneside Council

Report to Cabinet

Date: 11th June 2012

ITEM 7(e)

Title: North Tyneside Council's proposed trading activity

Portfolio(s): Finance and Resources

Cabinet Member(s): Cllr Judith Wallace

Report from Directorate: Community Services

Report Author: Paul Hanson

(Tel: (0191) 643 7000)

Wards affected: All

PART 1

1.1 Purpose:

The purpose of the report is to seek Cabinet's approval of a draft set of commercial and procurement principles, note the conclusions of a review of fees and charges and approve the next steps toward developing the Council's trading activity. It brings together connected work streams that have been part of the Commercial and Procurement Capability and Capacity Project of the Change Efficiency and Improvement Programme.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) Agree a draft set of commercial and procurement principles for consultation and the associated next steps on the Council's procurement work;
- (2) Note the conclusions of a review of fees and charges and the proposals to improve how that information is made available to the public;
- (3) Agree the next steps in developing the Council's trading activity;
- (4) Agree a period of consultation with Members, staff and trades unions, Partners and the business community; and
- (5) Receive further reports on the results of that work as appropriate.

1.3 Forward Plan:

This report does not appear on the current Forward Plan. However, it is required to be considered at this Cabinet meeting in line with the request from Cabinet at its meeting on 16th April 2012 for this report to be prepared and was signalled in the agreed Cabinet Implementation Plan for the Council Strategic Plan and Budget 2012/13: Item 23 "Opportunities to expand our service delivery into the public and private sector"

1.4 Council Plan and Policy Framework

This report provides the information on Trading requested by Cabinet at its meeting on 16th April 2012. It also refers to item 23 in the Cabinet Implementation Plan for the Council's Strategic Plan and Budget 2012/13 "Opportunities to expand our service delivery into the public and private sector."

1.5 Information:

1.5.1 Background

1.5.2 As part of Theme B of the Change, Efficiency and Improvement Programme Officers have been developing a project to increase the Council's Commercial and Procurement capability and capacity. That project has led to the development of a set of principles to underpin the Council's commercial activity and inform its procurement work. In this context references to commercial activity in this report particularly refer to all those services which the Council provides directly or indirectly to the public on a discretionary basis and for which it charges.

1.5.3 Officers have also reviewed the Council's portfolio of services for which a charge is made. The overall policy position suggested by that review was included in the Cabinet's Proposals for the Council's Strategic Plan and Budget for 2012/13 and was agreed by Council on 1st March 2012.

1.5.4 Finally, following Cabinet's conclusion that the creation of a Community Based Trust would not deliver sufficient financial benefit, Officers were asked to consider trading opportunities as an alternative.

1.5.5 The rest of this report provides Cabinet with information on each of those issues.

1.5.6 Commercial Principles

1.5.7 Like all top-tier local authorities North Tyneside Council is a large organisation with significant commercial interests. For example, each year, around £150m of the Council's General Fund is spent on securing services through another provider. In addition, the Council charges for discretionary services, manages a commercial property portfolio and makes significant capital investment on behalf of the tax payer. It is therefore important, that the Council's commercial activity has some underpinning principles: Principles that are intended to help consistency of approach and align all the Council's commercial activity towards its strategic objectives on behalf of North Tyneside.

1.5.8 The draft commercial principles are in four parts

Strong commissioning: We will know the needs we meet and will be able to articulate the outcomes we seek. That will reconcile to the data, customer feedback and the policy context both national and local.

Our commercial values: Reflect the wider values of the organisation but demonstrate the way we will do business.

Our commercial objectives: Reflect what we are trying to achieve in our commercial activity.

Our commercial intelligence: Reflect what insight we need.

- 1.5.9 **Strong commissioning:** good business does not happen without spotting an opportunity and a good understanding of the need in the market that can be met. Good public service does not happen without understanding the need it meets. Strong commissioning is critical to the success of the organisation.

Understanding what needs the Council is meeting is essential in each part of the business, it is critical to understanding what the Council will do, as well as that which it should not. Setting clear priorities based on strong evidence is fundamental.

In adopting this principle the Council will aim to know the needs it is meeting in its commercial activity. There will be strong supporting evidence, customer feedback and a clear decision in the policy framework.

The intention would be to ensure Members can see the connection. Officers would be able to demonstrate the evidence base and partners, business and our competitors would be able to plainly see what it is we aim to achieve.

- 1.5.10 **Our commercial values;** would be some straightforward values that the Council would demonstrate in its commercial behaviour. The suggested values are as follows

We will foster good relationships with transparency and integrity.

We will consider the ethical issues implicit in our commercial activity; in particular valuing sustainability and solutions that nurture natural resources.

We will support the economy of North Tyneside, creating a strong framework to support all businesses and enterprise in North Tyneside to flourish and to improve economic opportunities. That will apply to our own operations - rather than cut a service we will try to grow a business. However, we will aim to position that work sensitively being clear that the Council's commercial activity can have a direct impact on existing businesses and business start-up.

We will focus on outcomes and making sure the service meets the commission.

We will start from a position that prefers collaboration.

We will think about the whole supply chain.

We will understand risk.

The intention is to ensure Members will be able to see the consistency. Officers will know what is expected of the team and partners; business and our competitors will benefit from the Council's approach.

- 1.5.11 **Our commercial objectives;** would be some equally straightforward statements that would help the Council judge success in its commercial and procurement activity

We will help partners, business and competitors understand our business.

We will know we have secured best price and quality.

We will pay by results.

We will drive costs out and down.

We will spread the risk of supply with an appropriate diversity of suppliers.

Where we need one, we will help make the market.

We will increase the capacity of the community and voluntary sector to deliver services.

The intention is to ensure Members will be able to consistently judge the success of the service across a range of divergent activity. Officers will have a framework in which to set evaluation, payment mechanisms and performance management. Partners, business and our competitors will be able to see how the Council is doing.

1.5.12 **Our commercial intelligence;** strong commissioning, values and objectives need collective commercial intelligence. This would mean

The Council understands the markets it works in.

The Council understand the opportunities to collaborate.

The Council will invest in understanding emerging opportunities and markets.

The intention is that Members will be confident in their commercial advice. Officers will know what is expected of the team and partners, business and our competitors will benefit from this approach.

1.5.13 Procurement Principles

1.5.14 The draft procurement principles are in two sections. The first is intended to spell out how procurement will fit with commissioning decisions. The second is intended to look at the key audiences who have an interest in the Council's procurement activity and suggests what is important to each audience.

1.5.15 **Fit with commissioning;** the Council's business relies on effective commissioning. Across the business and service planning process each year the Council assesses the needs it aims to meet. That involves looking at past performance, future trends and the range of relevant data.

In doing that planning the Council considers what outcomes are required and what service might secure those outcomes. The Council then considers where best that service might be sourced.

Government policy in this area has a clear hierarchy

- Is this something an individual should and can do themselves?
- Is this something the community and voluntary sector can do?
- Is this something that can be provided through the market?
- Is this something that should be delivered through local government?

- Is this something only central government can do?

These questions are also those asked within the Council as part of its service planning. The remaining principles are aimed to make sure any procurement activity considers what is important to five key audiences.

1.5.16 **Five audiences;** in carrying out procurement work the intention is that each procurement considers the following audiences

Our customers: Both as people who use Council services and as tax payers who deserve transparent value for money.

Our Members: Both to assure themselves that the Council is operating effectively and appropriately and by making the connection between policy and procurement.

Our businesses: Both to see the opportunities that flow from understanding the Council's business and the strategic aim of the Council to support the local economy.

Our partners: Both in working alongside the Council to commission and deliver services and as collaborators in procurement activity.

Our officer team: Both as users of the system and demonstrating the difference services make to meet the original assessment of need.

1.5.17 Work with all five audiences has suggested the following is important to them

Our customers

Listening to the Council's customers we know they want the following from our procurement approach

- Good quality and right first time
- Value for money
- Trust in the service
- Transparency of accountability
- An easy way to put things right should they go wrong
- Sustainability and protecting natural resources.

Our Members

Listening to Elected Members we know they want the following from the Council's procurement approach

- Transparency of what is being procured and why
- Clear governance and accountability
- Trust that the right controls and behaviours are in place
- Engagement in the process

- Value for money for the council and the tax payer
- Support to the local economy
- Clear, strong, contract management
- Responsive service management
- To understand the impact on the officer team (TUPE transfers for example.)

Our businesses

Listening to North Tyneside businesses we know they want the following from the Council's procurement approach

- That North Tyneside Council is open for business
- That they have the chance to understand the Council's business
- Accessible people, processes and opportunities
- Helpful use of technology
- Use of a common language
- That they can tell us once (lodging a Health and Safety policy only once for example)
- Enduring relationships.

Our partners

Listening to partners we know they want the following from the Council's procurement approach

- The opportunity to collaborate
- Transparency
- Sharing innovation
- Sharing benefits
- Information to help their commissioning and planning work.

Our officer team

Listening to the officer team we know they want the following from the Council's procurement approach

- A plug and play system that is intuitive, safe and easy to use
- Straight-through processing with a single end to end system
- The right kit, tested by the users

- An approach that helps deliver value for money and clear results
- Routine benchmarking and comparisons
- Clear roles and relationships
- Understood skills sets and behaviours
- A shared community of practice to manage knowledge and share experience
- For those in the scope of the procurement, fair and transparent communication.

1.5.18 Cabinet are asked to agree the draft set of commercial and procurement principles for consultation and the associated next steps on the Council's procurement work; Following that consultation and working with the successful bidder for the Business Package, these steps are

- Develop a new Procurement Strategy for the Council
- Implement best practice in line with the procurement service objectives for the Business Package
- Plan the next stage of procurement activity for 2013/14 and 2014/15 with associated savings targets.

1.5.19 The Council's portfolio of commercial services; Review of fees and charges

1.5.20 The Council delivers a portfolio of services for which it charges. The Council's Financial Regulations on charging policies say each Chief Officer should establish a charging policy for the supply of goods and services; review that annually and report any changes, as appropriate, to Members. That activity is generally managed via the annual preparation of the Council's Budget.

1.5.21 In 2011/12 that work was supplemented with some wider thinking about the context in which charges are set. The Council Strategic Plan and Budget for 2012/13 therefore contained some guiding principles that have shaped the approach to the level of charge and how any increases or decreases are managed.

1.5.22 For the purposes of this report the scope of fees and charges has been drawn around those services for which the Council raises a charge for discretionary services sought by individuals or organisations. It excludes activity associated with regeneration and development where professional services costs are recovered relevant to particular projects. It also excludes personal social services where costs are recovered via statutory agreement with the NHS.

1.5.23 The Budget Proposals agreed by Council identified six different aspects to the Council's overall approach to fees and charges

- **Fee set by statute;** a range of services provided by the Council are statutory functions and fees and charges are set by Government or within Government guidelines, for example Planning Applications
- **Universal services are paid for universally – differentiated services are paid for by the user;** in line with the increasing personalisation of public services it makes

sense that the universal services the Council offer will be paid from the money the Council has as a consequence of general and local taxation. Where the service is differentiated and chosen by the consumer, then the services the Council offers will be paid for by the user

- **Matching the market;** where the Council operates in a market fees and charges will match that market and the quality of the product, for example, in commercial waste the Council's price point will reflect those of the other operators in the Borough. In sport and leisure, where the offer is among the best in the country, then prices will reflect that
- **Staying in line with our neighbours;** where the Council operates a service that is statutory in nature or normal business for a local authority, North Tyneside will stay in line with its neighbours. This will avoid cross-border issues for individuals and communities and should prevent a localised market where that might be unhelpful. It should also help residents in tough financial times, for example in terms of Contributions for Adult Social Care services, school meals prices and burial charges North Tyneside is towards the cheapest in comparison to our neighbours. Usually, the Council will aim to be around the mid-point for Tyne and Wear and Northumberland – where it is not, we will know why and be able to explain it to Members and customers
- **Considering ability to pay;** given the gap between the standard of living between the richest and poorest in the Borough and the Council's stated aim to raise aspirations and widen horizons the Council will consider and assess an individual's ability to pay for a service where that makes sense, for example, the national benefit rules and the Housing Benefit system when thinking about rent, or the Financial Assessment rules and Contributions Policy when thinking about Adult Social Care contributions
- **Differentiated pricing;** in addition to an individual's ability to pay the Council will consider the personal circumstances and differentiate some services to reflect the fact that residents already pay tax in the Borough and that some activities are good for the health and wellbeing of the people of North Tyneside and therefore we might wish to incentivise some types of residents to participate by paying less, for example, the suite of Ease Cards.

1.5.24 The Annex to this report contains the main areas of service where the Council charges. It also provides an outline of the nature of the service, the basis on which the fee is set, offers some comparisons for Tyne and Wear where relevant, and identifies the Head of Service with responsibility for that service area. The intention is to ensure there is a consistent, public set of data related to North Tyneside Council's fees and charges. This will be linked up with changes to the Council's website.

1.5.25 At this stage it is clear that many authorities choose to produce a list of their fees and charges. Some provide a policy context to that. The proposed approach is to combine a useful list with the policy context.

1.5.26 Cabinet are asked to note the conclusions of the review of fees and charges and the proposals to improve how that information is made available to the public.

1.5.27 Trading structures and opportunities

1.5.28 At its meeting on 16th April 2012, Cabinet asked Officers to further examine trading alternatives and bring a further report. Cabinet will remember the report in April explained the basis on which Local Authorities can trade. This section of the report seeks permission from Cabinet to take the next steps.

1.5.29 As described in the report to Cabinet on 16th April 2012, Local Authorities have had power to trade for some time. Since its creation in 1974 North Tyneside Council has delivered services for which people and organisations have paid. In a changing climate for public services it is important to ensure the Council has a clear view on how it manages that activity most effectively.

1.5.30 **What happens elsewhere;** existing trading powers have seen a range of examples emerge over time. The following are simply examples of how some local authorities have used those powers

- **NPS Property Consultants;** established in 1992, becoming a limited company in 2002, NPS Consultants are the property services, planning, architecture and surveying functions of Norfolk County Council. They now work across a much greater footprint and range of both public and private clients
- **Solutions SK;** established in 2006, Solutions SK are the former direct labour organisation of Stockport Borough Council delivering a range of services for the Council
- **Kent Commercial Services;** which is a trading business unit within Kent County Council trading a range of services to the Council, Schools and other public bodies in the County
- **Essex Cares;** established in 2009, Essex Cares provides direct social care services on behalf of Essex County Council including its aids and adaptations service, hospital discharge and reablement as well as services to support vulnerable adults into employment.

1.5.31 **What are other councils considering?** As Cabinet would expect councils across the country are considering trading options. They include options to deliver direct social care services, for example in Croydon and Wakefield, as well as moves to create a trading structure in more general terms with a view to using that structure to bid for work in new markets, for example in Gateshead and York.

1.5.32 **What options are therefore appropriate to North Tyneside Council?** The Council already has a range of commercial activity and contracts; ranging from charging for particular services through to major contracts for services and the Joint Venture with Kier. Later this year the letting of the Technical and Business Packages will see the Council enter into commercial arrangements for a broad range of services.

1.5.33 In terms of any additional commercial activity or “opportunities to expand our service delivery into the public and private sector” as described in the Council Plan there are three further options available to the Council.

- **One-off provision of services;** here the Council's existing powers, capability and capacity will allow it to secure paid work to deliver an event or a service protected by appropriate Service Level Agreements or equivalent
- **Consultancy advice;** here the Council's existing powers, capability and capacity will allow it to provide paid advice. Again protected by an appropriate Service Level Agreement or equivalent, this approach may become increasingly important in the context of the sector-led improvement approach being developed for local government
- **Creating a trading structure;** here the Council can choose to establish a company structure in order to allow the organisation to seek work in new markets or places other than North Tyneside. Such a structure would limit the liability of such a venture and therefore manage the risk that a particular contract might damage the Council financially.

1.5.34 The Council currently has the ability to carry out the first two approaches to expand commercial activity. This report seeks Cabinet's approval to create a trading structure; this would also enable the Council to provide appropriate services described above to the private sector in addition to the public sector.

1.5.35 The intention is to develop the following

- **A trading company;** this would own no assets nor employ any staff. It would act as a vehicle to bid for, and deliver, additional work in new markets or new places
- **A business appraisal/gateway process;** this would ensure that any trading proposal had been properly assessed before entering the trading process and would be linked to Cabinet and Council in the same way current procurement and trading work is handled
- **Subsidiaries of the trading company;** which would be created as required to reflect the particular opportunities approved through the business appraisal/gateway process and to limit liability as appropriate.

1.5.36 A further report will be presented to Cabinet in October, in order that Cabinet might agree the appropriate purpose, structure and governance for the Trading Company as well as the process for appraising trading opportunities.

1.5.37 Cabinet are asked to agree these next steps in considering trading activity.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet can accept all of the recommendations in paragraph 1.2

Option 2

Cabinet can accept part of the recommendations in paragraph 1.2

Option 3

Cabinet can reject all of the recommendations in paragraph 1.2

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- It is important the Council has a tested and sensible set of principles that underpin all of its commercial and procurement work
- It is important the Council has consistency and transparency in its approach to fees and charges
- Cabinet requested further work was done to consider where the Council might develop its trading activity and what structures it might develop.

1.8 Appendices:

Annex: Portfolio of commercial services; fees and charges

1.9 Contact officers:

Paul Hanson, Strategic Director of Community Services, tel. (0191) 643 7000
Ken Wilson, Head of Regeneration, Development and Regulatory Service,
tel. (0191) 643 6091

Jon Ritchie, Head of Finance, tel. (0191) 643 5800

Mark Longstaff, Head of Resources, tel. (0191) 643 8089

Paul Gowans, Head of Cultural and Customer Services, tel. (0191) 643 7401

Viv Geary, Head of Legal, Governance and Commercial Services, tel. (0191) 643 5339

Sarah Heslop, Manager, Legal Services Property, tel. (0191) 643 5456

Phil Scott, Head of Environmental Services, tel. (0191) 643 7295

Allison Mitchell, Senior Manager, Audit Risk and Procurement Services,
tel. (0191) 643 5720

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

Commercial and Procurement Principles

- (1) Community Sub-committee of Overview and Scrutiny – 2006/07 study into the Council's Waste Disposal Contract
- (2) Essex County Council Procurement Strategy 2007 amended 2011
- (3) Essex County Council Supplier Charter, 02.02.11
- (4) Government Construction Strategy, May 2011
- (5) Selling to Hertfordshire County Council
- (6) North Tyneside Procurement Strategy 2008-2012
- (7) North Tyneside Strategic Procurement Delivery Plan 2008-2012
- (8) Office of Government Commerce; Commercial Strategy Template April 2012
- (9) South Derbyshire Procurement Strategy 2009-2012
- (10) Department for Transport Commercial Strategy
- (11) Department for Transport Procurement Strategy
- (12) Secretary of State for Communities and Local Government, Local Government Procurement, June 2010

- (13) Overview and Scrutiny Joint Task Group 2011/12 study of the Joint Venture with Kier Ltd

Fees and Charges

- (14) Council Strategic Plan and Budget 2012-2013 1st March 2012
(15) Eden District Council Fees and Charges 2011-2012
(16) Exeter Fees and Charges
(17) Hounslow Fees and Charges Policy 2011
(18) Oxford Fees and Charges 2011/12
(19) Pendle Fees and Charges Policy 2007

Trading

- (20) Trading for Local Authorities – LGA Guidance
(21) Case Study; Solutions SK, Stockport
(22) Case Study; NPS Property Consultants Norfolk
(23) Case Study; Kent Commercial Services
(24) Case Study, Essex Cares

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

At this stage the recommendations contained in the report have no financial implications. The financial implications of the individual projects, services and procurements will be considered at the decision taking stage. The consequences of the fees and charges policy decisions are contained in the Council Strategic Plan and Budget 2012-13 and consequent Cabinet Report dated 16th April 2012. No costs are to be incurred for the next steps in trading structures.

2.2 Legal

The key principles associated with local authorities' powers to trade were set out in the Cabinet report dated 16th April 2012. There are no legal implications directly arising from this report.

Legal advice will be sought when appraising options and the legal implications identified. Any legal implications arising from the options appraisal will be included in subsequent reports to Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

At this stage the work referred to in this report has been carried out as part of the Change, Efficiency and Improvement Programme. Relevant senior officers as described in paragraph 1.9 have been leading the work in discussion with the appropriate Cabinet Members and the Elected Mayor.

This report seeks Cabinet's agreement to consult a wider staff team, Members and Trades Unions.

2.3.2 External Consultation/Engagement

The work carried out on fees and charges was subject to external consultation and engagement as part of agreeing the Council Strategic Plan and Budget 2012/13 agreed by Council on 1st March 2012. Additional information on specific consultation was contained in the report on Cultural and Customer Service Fees and Charges agreed by Cabinet on 12th April 2012.

This report seeks Cabinet's agreement to consult customers and the business community of North Tyneside.

2.4 Human rights

There are no human rights implications from this report.

2.5 Equalities and diversity

There are no equalities and diversity implications from this report.

2.6 Risk management

There are no risk management implications from this report.

2.7 Crime and disorder

There are no crime and disorder implications from this report.

2.8 Environment and sustainability

While there are no immediate environment and sustainability implications from this report the draft commercial value statements and procurement principles seek to further embed the protection of the environment and sustainability in the Council's commercial activity.

PART 3 - SIGN OFF

- Strategic Director(s)
- Chief Executive
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Strategic Manager, Policy & Partnerships