Detailed Assessment

Option E – Company Limited by Shares or Guarantee

Description and Overview The two Councils enter into a formal arrangement to establish a company limited by shares or guarantee. The company would be wholly owned by the two Councils, with a board of directors responsible for strategic decision making and policy setting. Operational decisions would be taken by the company's management. The company would be able to own assets, enter into contracts and employ staff in its own right. Staff from both Councils would be subject to a TUPE transfer to the company. The two Councils, as shareholders would be able to receive any surplus profits in the form of dividends. The company could obtain support services (HR, legal, finance and IT) from one or other Council.
Financial Implications <u>Set up costs</u> There will be legal costs arising from the need to obtain advice on the transfer of staff to the company. There will also be legal costs associated with the company formation. It is expected that some of this work would be undertaken in-house. The cost of external legal fees is estimated to be £10k. All staff in the company would use the existing IT application hosted by CYC (Galileo.net). The initial set up and configuration costs of £10.4k are covered by a grant provided by the Regional Centre of Excellence. <u>Ongoing costs</u> The company would be responsible for the payment of all salaries, and for goods and services. The company would also be responsible for accounting for VAT and other payroll related taxes. In addition, the company would be subject to corporation tax. The company is likely to be granted admitted body status to the North Yorkshire Pension Fund . It is also considered unlikely to require a bond. The employer pension contribution rate payable by the company would be determined by an actuarial assessment, which would produce a single rate for all staff. This rate would represent the future service costs of the staff transferred from the two Councils. The deficit element of the existing contribution rates for these staff would continue to be paid by the two Councils. The total cost of employer's pension contributions is therefore unlikely to be significantly different as a result of the TUPE transfer. The company would need to recharge the two Councils for audit and fraud services provided. The charging mechanism would be set up in accordance with the financial principles set out in Annex 4. The overall cost of the service provided would however be cost neutral to the two Councils.

The additional cost of IT access charges and licence fees would be mostly offset by savings achieved through NYCC ceasing to use its own IT application. The estimated net increase in IT related costs of £1.3k pa would be met from existing budgets.

To enable it to deliver its services, the company would be provided with serviced accommodation by each Council. The company would be able to receive support services from one or other Council. However, the company would need to arrange its own insurance cover. The cost of this would be partially offset by the savings each Council would make on their own policies. The net increase in insurance premiums would be met from existing budgets.

The company would be a separate legal entity and would therefore need to prepare its own accounts. As the company is likely to be classed as a 'small company' then it would only need to prepare abbreviated accounts. Similarly, the company could claim exemption from the requirement for an audit. However, it is recognised that both Councils would probably wish to elect for an audit to be undertaken. The company would appoint its own auditors. Additional audit and accountancy fees of approximately £5k pa would be incurred as a result.

There may also be some additional costs for company administration. These costs are estimated to be approximately £1k pa.

Staffing Implications

Staff would be employed by the company. The staff in both Councils would be transferred to the company under TUPE, and would remain on their current terms and conditions. The company would be responsible for all disciplinary matters, training and staff development. Trainees could be seconded to the company from either Council. Any such secondment would require the agreement of the member of staff concerned.

Staff would remain members of the NY Pension Scheme. New staff employed by the company would also be offered membership of the North Yorkshire Pension Scheme.

Legal Implications

Both Councils have the necessary powers under the Local Government Act to enter into a partnership agreement to share services. The company would be set up in accordance with the Companies Act and would need to comply with the Local Government and Housing Act 1989. The company would be wholly owned by the two Councils, with each owning an equal share.

The company would be a legal entity in its own right. It would need to appoint directors and to file annual returns with Companies House.

The service would be provided to both Councils in accordance with a contract. The contract would be prepared in accordance with the principles set out in

The company could be wound up in the event that one or other Council wished to leave the partnership. Other public sector partners could in the future take a share in the company.

Governance Arrangements

Strategic and policy decisions would be taken by a board of directors, which would probably meet at least quarterly. The formation and operation of the board would be undertaken in accordance with the Companies Act. The directors would be appointed by the shareholders (ie the two Councils).

Service and Capacity Improvement

This option would provide both Councils with an audit and fraud service which benefited from greater resilience and capacity. The shared service could also deliver the expected efficiencies and economies of scale, achieved through sharing best practice, improved resource allocation and the integration of systems and processes.

Innovation and Service Transformation

This option can be extended in the future to include other local authorities, and other public sector bodies such as the NHS and housing associations. This option also provides increased flexibility and freedom, which would encourage innovation.

Financial and Business Opportunities

The company offers an appropriate model to provide services to other public sector bodies and third sector organisations.

Organisational Impact

This would be perceived as an equal partnership since both Councils would own the company and be able to exercise the same degree of control and influence. The company would also be able to develop its own identity and image. Customers and staff would clearly associate the company with the service.

Resilience and Sustainability

This option would offer sufficient long-term resilience.

Key Advantages	**Key Disadvantages**
A company would be quick and easy to set-up.	Is not acceptable to Unison. May be less acceptable to staff than

Set up costs relatively low. There would be no significant change in ongoing operational costs, for either Council. Relatively straightforward to operate. Other local authorities and public sector bodies could join in the future. Will achieve the expected efficiencies and economies of scale. Offers long-term resilience. Profits can be retained and reinvested in the service. The service will be perceived as an equal partnership between the two Councils. Both Councils will be able to exercise control and influence over future direction of the service. The risks and rewards associated with the partnership would be shared equally between the two Councils. The service will be able to develop its own identity. Would allow easy expansion of the scope of services to be delivered in the future. Represents a more innovative solution and is therefore more likely to inform both Councils of the possible lessons from shared service working.	the other options being considered.