

Creating a Local Authority Trading Company

Annex 3 – Initial Risk Assessment

Risk Assessment

A comprehensive legislative, contractual, financial and operational risk assessment has been undertaken to ensure that all risks and uncertainties affecting the Council's and the Trading Company's position are identified. The key strategic risks to be considered in setting up the trading company are as follows:-

	Risk	Likelihood	Impact	Risk Management
1	Failure to set up trading arrangement in strict compliance with legislation	L	M	Extensive consultation with other authorities and, when appropriate, external legal advice on governance arrangements.
2	Failure to follow the statutory guidance on the trading power issued by the DCLG (actual guidance is ODPM).	L	M	Legal & Governance are included in the setting up of the company.
3	Using trading powers where there is a statutory obligation to provide them.	L	L	Every new service to trade via the company to list services in their Business Case and to consider statutory obligations. All Business Cases to be reviewed at CMT.
4	Failure to trade through a company.	L	L	Every new service to trade via the company to list services in their Business Case and to consider statutory obligations.
5	Possibility of trading ultra vires.	L	L	Every new service to trade via the company to list services in their Business Case and to consider statutory obligations.
6	Failure to adhere to EU procurement rules.	L	M	Robust procurement procedures to be employed, amendments to the Council's Procurement Handbook to include a section on EU procurement rules as they apply to the trading company.
7	Possibility of challenge to state aid – full cost recovery.	L	L	Issue of State Aid is outside the scope of the company. Comply with the Best Value Accounting Code of Practise on full cost recovery.
8	Possibility of conflict of interest for members/officers acting as Directors, Board Members or staff of the	L	M	All council members of staff will still be governed by the standard Code of Conduct for Council employees and as a minimum will include the

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	company.			mandatory provisions of the model code of conduct, issued by ODPM.
9	Failure to include suitable "break clauses" in contracts, where appropriate.	L	M	Robust contract and governance arrangements. All contracts to be entered in to will be checked out by legal first.
10	Failure to manage reputational impact of the company on the council.	L	M	A full Marketing and communications plan will be developed and maintained to ensure that the branding and image of the company is in keeping with the council's wishes and contributes to a positive view of the Council's services.
11	Failure to arrange adequate insurance cover for the Company's liabilities and assets.	L	H	Ensure insurance broker is kept up to date with the set up and operation of the company including any new areas of trading the company becomes involved in. Regularly review insurance cover and before accepting any order/contract.
12	Consequences of proposed investment decisions – impact on Prudential borrowing.	L	L	The council is required to have regard to CIPFA's Prudential Code for Capital Finance with regard to borrowing decisions. Prudential indicators currently do not operate on a group basis but this could be subject to future guidance of the prudential code.
13	Failure to comply with taxation laws – corporation tax and VAT.	L	M	Advice to be sought on taxation planning.
14	Consideration of potential TUPE implications	L	L	Initially this is not a concern but will be reviewed regularly.
15	Risks relating to Council's reputation and public perception of its efficiency and effectiveness in the event of trading company's failure.	L	M	Risk assessment regularly reviewed.
16	Failure of company to be Competitive.	M	L	Continue to benchmark fees and costs.
17	Consequences of adverse financial impact on general fund and hence taxpayer.	L	L	Robust contract and governance arrangements i.e. contract monitoring, budget monitoring, contract administration procedures.

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18	Conflict of interest over workload priorities of council projects/initiatives/programmes and company projects.	L	L	Effective resource planning meetings, continued liaison with key council Programmes (e.g. More for York) and compliance at all times with Corporate strategies.
19	Company credit rating.	L	L	Council could act as guarantor and insurance could be purchased to mitigate this.
20	Inability to meet tendering PQQ's.	L	L	The company will generally adopt the council's policies and protocols.
21	Challenge from council's auditors re: financial model and group accounts.	L	L	<p>The accounting structure will ensure that all transactions applicable to the company can be identified using unique transaction records and coding structures.</p> <p>As part of the closedown process, the council is required to undertake an assessment of its relationships with related entities to determine whether group accounts are necessary. The process for this is outlined in CIPFA/LASAAC Code of Practice on Local Authority Accounting - A Statement of Recommended Practice (SORP).</p>
22	Lack of capacity to manage additional work.	L	L	Careful programming of staff resources, ensuring core responsibilities and services are maintained to Council, and constant review of balance of staffing needs.
23	Contractual disputes.	L	M	Legal to check all contracts before they are entered in to, staff trained in dispute resolution and contract administration.