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**Welcome** to the eighth edition of *Partnering & Procurement News*. Published by the ODPM Modernisation and Efficiency team (MEt) and The National Procurement Forum in partnership with PricewaterhouseCoopers, this market intelligence newsletter is available on a bi-monthly basis.

To receive a copy of Partnering and Procurement News, please e-mail: [met@odpm.gsi.gov.uk](mailto:met@odpm.gsi.gov.uk)

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The views expressed in this newsletter are not necessarily those of the Modernisation and Efficiency team (MEt), the Forum, the ODPM or Government ministers

Issue 8 – July 2004

# The Implications of New Trading Powers for Local Authorities

*The day of the local authority entrepreneur is dawning. The shackles of legal constraints are being removed and a vision of better services financed out of trading profits emerges. So is this a new dawn of opportunity or the beginning of a nightmare? Andrew Ford from PricewaterhouseCoopers examines further.*

Following the Local Government Act 2003, from Autumn this year local authorities in the top three categories of CPA – rated ‘excellent’, ‘good’ or ‘fair’ – will be able to engage in trading activity. Any local government trading must be through a limited company imposing an accountability framework and avoiding an uneven playing field in respect of taxation. The act does not limit the size of trading activity and provides wide scope for type of operation. So, this is not just a limited power but one that, taken with other new flexibilities provided by the act, could revolutionise the ways that services are provided. Do all councils recognise the extent of this revolution? Or do they see trading as a threat – the possibility of losses and criticism looming larger than any opportunity? Why should local authorities consider trading?

Trading requires identifying products or services that can be marketed and sold at a price that more than covers all the costs of production including product development, sales, performance management, distribution, stock management and related overheads. As a result it involves risk. The typical local government officer will not have spent his or her career seeking to spot and exploit business opportunities, building business cases for trading and negotiating deals with the private sector or others. However, councils have many skills and products that provide the opportunities for profitable trading. The trick is to identify what they are and introduce procedures that provide the maximum benefit with the minimum risk.

## Exploitation of hidden assets

For some time central government has been able to exploit latent undeveloped assets for significant profit. For example, the BBC has made significant sales of back recordings. Councils are likely to have assets with potential for such development. Spotting these business opportunities is the entrepreneurial challenge. Early attention should be given to any intellectual property assets or to unique features of service delivery. External expertise may be the best way of assessing where such opportunities exist and how they might be exploited. Identifying what they excel at and developing a business case for trading are the first steps for any authority contemplating using the new powers. So, a local authority has excellent landscaping services that see financial advantage in providing them to businesses and the community, it could choose to recruit extra staff, invest in more equipment and generally expand its capability to deliver the service. It would also need to invest time and resources in marketing it. If the business plan were well made, additional work would be won and profits flow. This is what businesses do but it will be alien to many local authorities.

## Building profitable partnerships

Havard Business School encourages organisations to identify their core activities and outsource the rest. If we apply this maxim to local authority trading, an approach that may find favour with many authorities could be to find a business partner to take the risk of trading and provide the necessary investment. If the business case is truly robust, private sector partners and social enterprises will work with local authorities to develop unique offerings to the community marketplace.



### Trading – an opportunity to be explored with care

Trading is not a panacea for removing a council's cash crisis and needs to be approached with care. But all councils with the top levels of CPA rating should explore opportunities for using trading to both improve services to the community and raise more funds. For the unwise, the rash and the imprudent it may turn into a nightmare, but for the well-prepared it could be a new dawn of opportunity to raise some much needed revenue for investing in service provision.

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Written by Andy Ford, Director of Management Consultants at PricewaterhouseCoopers Public sector Practice and reproduced with permission from Municipal Journal. For further information, email [andrew.m.ford@uk.pwc.com](mailto:andrew.m.ford@uk.pwc.com).

## Commercial Partnerships and Wider Markets

*Partnerships UK has now firmly established itself as a key provider in helping Government to deliver new initiatives, to improve value for money of public services and to better manage its assets. Tom Prior, Wider Markets Manager at PUK, explains further.*

Established as a Public Private Partnership (PPP) in 2001 PUK has grown from its Treasury Taskforce days. PUK has uniquely a public sector mission: it works only for the public sector and aims to achieve better, stronger and faster PPPs. Publicly held assets are significant in size, over £275 billion and about 30% of GDP in the UK. They cover a wide range of sectors and include tangible assets (such as buildings, estate and equipment) and also the intangible assets (such as intellectual property, skills and know how), a significant source of which is publicly funded research. There is significant potential for commercial activity within this, without compromising the essential public services they provide.

### Providing a Framework

The introduction in 1998 of the HM Treasury (HMT) policy and guidance note, *Selling Government Services into Wider Markets*, updated in 2002<sup>1</sup>, sought to re-focus the agenda on the potential afforded by the spare capacity in public sector assets. This, together with the establishment of a national asset register in 1997 provided an impetus for more efficient use of the public sector asset base to benefit the economy as a whole.

The Wider Markets initiative, as it is known, applies to department agencies, non-departmental public bodies and Trading Funds, most public corporations, including NHS trusts and other NHS bodies. While the focus across government is rightly on delivering the highest quality public service, the Wider Markets initiative offers a framework of incentives designed to encourage wider markets (commercial) activity where appropriate and from spare capacity in existing assets, by allowing departments to benefit from the wider markets income generated.

<sup>1</sup>Guidance, setting out the framework for Wider Markets activities, can be found at [http://www.partnershipsuk.org.uk/widermarkets/Guidance/2003\\_1.pdf](http://www.partnershipsuk.org.uk/widermarkets/Guidance/2003_1.pdf)



Although the Wider Markets initiative does not apply to local authorities, the Local Government Act 2003 contained new important powers for local authorities to extend and improve the delivery of local services, similar to the freedoms provided to through the Wider Markets initiative. Key to this is the power for certain local authorities to charge for discretionary services, so giving them the power to commercialise the delivery of services, including partnering with the private sector.

### Commercial Partnerships

A key feature of taking forward a greater number of commercial opportunities is the greater engagement with the private sector and the development of commercial partnerships. The reality is that Wider Markets opportunities vary enormously in terms of scale, sector of activity and implementation vehicle. Some opportunities which make use of irreducible spare capacity of physical assets will be relatively straight-forward to identify. Examples of this type include leasing of spare warehousing, conference and sporting facilities, commercial sale of in-house services such as printing, translation, etc, or sales of training courses, publishing etc. In these cases it may not be necessary to involve a (private sector) partner where there is no obvious need for skills or expertise or access to capital.

More complex opportunities involve a revenue share mechanism for third party revenues where services or assets are outsourced or undertaken through a PFI/PPP arrangement, or setting up a Joint Venture PPP with private sector partners. In these larger, more complex projects involving PPPs, the private sector partner will be expected to provide skills and expertise which the public body is not able to for developing and managing the opportunity, as well as the access to capital.

Examples of Joint Ventures of this sort between the public and private sectors commercialising public sector assets already exist. The British Waterways Watergrid and Property deals which involve the redevelopment of the 2000 miles of canals and rivers network and estate are good examples of the public sector putting in the asset and the private sector putting in capital and expertise. In this case, the partnership provides British Waterways with the opportunity to generate additional revenue which it can re-invest in the canal network.

Similarly, PUK was involved in helping the Scottish Tourist Board establish a Joint Venture with Schumberger Sema and deliver an e-solution to the Scottish Tourist Boards interface with the tourism market. PUK is currently working with public bodies on a number of commercialisation Joint Venture proposals, including the *Forrest Holidays*, a potential PPP between the Forestry Commission and a range of possible private sector partners including commercial companies and financial investors.

### Taking Forward Partnerships

Clearly, there is not a prescriptive methodology that can be applied to commercialising public sector assets. The challenges for public bodies are to identify the opportunities, and to look to take these opportunities forward by the most appropriate means. PUK publishes a range of best practice guidance for taking forward commercial partnerships<sup>2</sup>. Commercial partnerships with the private sector offer in many cases the best value for money solution.

For more information on implementing Wider Markets, e-mail [tom.prior@partnershipsuk.org.uk](mailto:tom.prior@partnershipsuk.org.uk) or go to the [www.partnershipsuk.org.uk](http://www.partnershipsuk.org.uk) website.

<sup>2</sup> [http://www.partnershipsuk.org.uk/widermarkets/Guidance/2003\\_2\\_partner%20selection.pdf](http://www.partnershipsuk.org.uk/widermarkets/Guidance/2003_2_partner%20selection.pdf)  
and <http://www.partnershipsuk.org.uk/widermarkets/Guidance/jointventureguidance.pdf>

## Project Governance and Contract Management

*4ps is the local government project procurement agency and we work with authorities to ensure value for money from their PPP and PFI projects by delivering them faster, more efficiently, and for a lower procurement cost. Based on our experience, effective Project Governance and Contract Management are key features in achieving successful procurements. James Stuart-Mills from 4ps provides further details.*

Put another way, projects that do not have, for example, an effective Procurement Board or an identified Project Sponsor are frequently those that fail to deliver the project the Authority and its stakeholders expected. Much of this is common sense to those who have already delivered a project, but the key points are that projects need:

- A sponsor with the right level of seniority
- A Project Director or Manager who is empowered to do the deal
- A properly constituted Procurement Board
- Project Governance arrangements that are properly documented
- Managed transition from procurement to project delivery

### Projects need Sponsors and Directors

Projects should have a Project Sponsor. Depending on the size of the project, this might be either the Chief Executive or an Elected Member, or, for smaller projects the Director or Assistant Director with responsibility for the project. The Project Sponsor should provide general support to the Project, be involved in key negotiation meetings, and generally be responsible for promoting the project with members, stakeholders and other external bodies. The respective roles of the Project Director, the Project Manager and the Project Sponsor should be made clear to Bidders.

The Project Director will usually be the most important appointment, and the role must have delegated authority such that they are 'empowered to do the deal'. The level of seniority of this officer should reflect the size, complexity, risk and profile of the project, and the Local Authority's decision-making structures. There will usually be a Project Manager who will assist the Project Director, although in some small projects it will only be necessary to appoint a Project Manager.

### The Procurement Board

The Procurement Board should include all the relevant skills and experience to deliver the project in support of the Project Director, and Authorities may choose to call this body either the Project Team or the Project Board. It is normal for the Procurement Board to include technical, financial and legal officers. For many, probably all, PFI/PPP schemes it is likely that the Local Authority will require external support to complement the skills and experience of the in-house staff. Once again, the extent will depend on the type, size and complexity of the project, the skills and experience of the in-house staff, and the internal resources available.

For the more complex projects or those involving a range of stakeholders, such as those projects involving more than one Local Authority, a Stakeholder Board should also be put in place. The Project

Sponsor should chair the Stakeholder Board and the Project Director should provide the link to the delivery vehicle, the Procurement Board.

Local Authorities should not under-estimate the level of resource that is often required for PPP/PFI projects, and the Project Director should ensure that the Procurement Board has the skills and experience to match the skills of the likely bidders and their advisors. If necessary, training should be arranged for in-house staff at an early stage in the procurement process and Local Authorities may wish to discuss options for such training with the 4ps.

### **Documenting Project Governance**

Common sense suggests that the Authority should document the project's organization in terms of the people fulfilling the various roles, and the levels of delegation and reporting that are agreed. This description of a Project's Governance can form part of a Project Initiation Document, which will also set out the objectives of the project.

### **The Transition from Procurement to Delivery**

There is often a temptation to focus only on the challenges presented by the procurement stage of the project, omitting to consider what changes in governance will need to be made for the project delivery period. In fact, a managed transition between the phases is essential. Authorities will need to think ahead to put in place its client side function, including the contract management arrangements that are needed. For example, strategic partnership PPPs often involve outsourcing of staff together with provision of serviced accommodation. The Authority needs to consider well in advance how its side of a partnership will need to be managed once a deal is signed and it becomes a client rather than the provider of the services itself.

Attention should also be paid to the needs of the wider stakeholders in a project to ensure that they are understood and managed as well as those of the Authority, which will often be the primary contact with the private sector partner. In schools PFI projects, for example, we have learnt from early PFI projects that an effective working relationship between the School Governors, Head Teachers and pupils, and the private sector partner, is essential for all parties to get the best out of the contract. This holds true when things are going well and when things are going badly; indeed, it's when things are going badly that the effectiveness of the project's governance is really tested. Various approaches to cross-party governance have been tried to address this, including "partnerships boards", "stakeholder groups", and the like. The common factors include the ability of users to give voice to problems as and when they arise, as well as to build confidence that both the Authority and the contractor are listening, and will act.

Further information and guidance on setting up the arrangements for a PFI/PPP can be found at [www.4ps.gov.uk](http://www.4ps.gov.uk). 4ps also offers courses on PPP and Strategic Partnering for Authorities which give further guidance and training on the issues discussed.

Additional information can be obtained from James Stuart-Mills, Senior Executive at 4ps. Telephone 020 7808 1480.



## What's New?

### Capita Reaps Benefits

Capita Software Solutions has been chosen by Hammersmith & Fulham LBC to provide revenues and benefits software in a contract worth more than £600,000 over eight years.

The suite of products to be used by Capita will be fully integrated with the council's existing systems, including Anite@Work.

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27 May 2004

### IT Index Set to Save £1.1 Billion

Councils are being urged to make a reality of a potential £1.1 billion cost saving as a result of using an online IT procurement service.

Birmingham-based Proband has claimed its IT Index will enable authorities to make the savings outlined earlier this year in a report by the National e-procurement Project (NePP).

The IT Index is available free of charge to organisations with annual budgets in excess of £50,000. It contains catalogues with more than

103,000 items from nearly 400 manufacturers. The potential cost savings of using the index are matched by savings in staff time estimated to be equivalent to 33,000 full time posts.

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3 June 2004

### Office of Government Commerce Information Notes

The Office of Government Commerce has issued the following Information Notes:

- [07/2004 Getting Value for Money from Construction Projects through Design](#)
- [06/2004 The Green Public Private Partnerships Guide](#)
- [05/2004 Timber Procurement by Government Departments](#)

OGC 03/06/04

### Kent Signs £1.3 Million IT Deal

The UK's largest social services authority has signed a £1.3 million, seven-year deal with the country's leading IT services and solutions supplier.

Kent CC and Anite Public Sector have concluded a partnering agreement that

will herald a new social care system for the three-star department.

Anite already supplies IT solutions to the UK's second and third largest social services authorities – Essex and Hampshire CC's

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10 June 2004

### New Guidance to Voluntary and Community Sector

The Home Office, in conjunction with Office of Government Commerce (OGC), has published new guidance that raises awareness of the value for money that the Voluntary and Community Sector can offer when competing for public contracts.

[Think smart - think voluntary sector! Good Practice Guidance on Procurement of Services from the Voluntary and Community Sector](#) is aimed at a wide

range of people inside and outside government. It focuses on opening supply opportunities to voluntary and community organisations, building effective relationships with them and removing some of the barriers they face when competing for public contracts.

OGC 07/06/04

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## First Chief Executive Officer of SOPO

*The Society of Procurement Officers in Local Government (SOPO) engages in a range of activities to promote its strategic purchasing, contracting and supplies functions. In this article, SOPO are pleased to announce and introduce their first Chief Executive Officer.*

Peter Howarth has been appointed the first Chief Executive Officer of the Society of Procurement Officers in Local Government (SOPO).

Peter is also Managing Director of SBV Limited a consultancy company specialising in procurement change management and a Director of the Ipswich and Sudbury Enterprise agency. He is also a member of the National e Procurement Project board. His previous posts include Director of Strategic Management and County Purchasing Officer for Suffolk County Council, Advisor to the IDeA Marketplace project and he also spent 15 years in the private sector primarily in automotive and engineering procurement. He is a Fellow of the Chartered Institute of Purchasing and Supply and has an MBA in Strategic Procurement Management from Birmingham University

Peter feels that he has taken on his role of Chief Executive Officer of SOPO at a crucial time both for the members of SOPO and the procurement profession in the public sector in general. The National Procurement Strategy (NPS) for local government challenges not only his members but also the whole of the public sector procurement community to increase collaboration throughout the sector. Peter has welcomed the challenge thrown down by John Oughton the new CEO of OGC at the recent SOPO/OGC workshop that it is important to determine who does what best and to build on the best practice of both central government and local government. He is determined that SOPO will play its part in that and open up areas of best practice in local government such as the long-term collaboration within local government consortia, the local government national e procurement project and the lessons learnt through the implementation of the NPS. Indeed he believes that Central Government, the Health Service and other organisations, such as the Highways Agency and the Police, could benefit from adopting many of the themes of the NPS themselves

With regards to SOPO itself, Peter is proud of the fact that he was one of the founding members. Its growth has been brought about by the efforts of the local government procurement community itself with members of the executive giving up many hours of personal free time to drive it forward. However it is acknowledged by all that SOPO has reached a critical stage in its development. It must rise to the challenges it faces to sustain the new found importance of procurement in local government. Peter sees it as an important part of his new role to support the Executive board and the wider membership in achieving that objective. There will be a need to acquire new skills, build on current knowledge and maybe to let go of some of the past. There is a massive capacity gap in procurement skills globally, not just in local government, and the only way it will be met is by working together with other disciplines and other procurement sectors but particularly for SOPO members, the rest of the public sector.

SOPO in partnership with others, such as the ODPM, OGC, IDeA, 4P's and private sector companies, will play its part in driving the procurement agenda forward.

Further information about SOPO and their plans for the future can be found on <http://www.sopo.org.uk>.



## Sustainable development - Food for thought?

*No, it's not motherhood and apple pie, but that's what the sceptics want you to believe about 'sustainable development'. The Sustainable Development Commission (SDC) - the Government's independent advisor on sustainable development - has collated some practical procurement 'know-how' case studies, useful for LSPs and key to creating sustainable communities. Fay Blair, Local Governance Adviser to the SDC examines further.*

**Healthy Futures** is the SDC's project funded by the Department of Health to help the NHS explore how it can promote improved health, and stronger, healthier and more sustainable communities, particularly through its decisions about food and the capital building programme. See [www.sd-commission.gov.uk/healthyfutures/](http://www.sd-commission.gov.uk/healthyfutures/)

**Progress in Practice** is a series of good practice examples in relation to health and sustainable development [www.sd-commission.gov.uk/healthyfutures/progress.htm](http://www.sd-commission.gov.uk/healthyfutures/progress.htm)

**Newsletters:** a bi-monthly publication, containing news of events, consultations, new additions to the healthy futures' website and more [www.sd-commission.gov.uk/healthyfutures/newsletter/0406.htm](http://www.sd-commission.gov.uk/healthyfutures/newsletter/0406.htm)

**Primary Care Trusts and sustainable development**, was a conference held on 20 May as a joint venture between the SDC, the NHS Alliance, the King's Fund and the Faculty of Public Health. A short report – **Primary Care Trusts and Leadership in Sustainability** – looking at how sustainable development can be promoted through LIFT projects, was launched at the event. Contact Kaye Locke at the NHS Alliance for copies [k.locke@nhsalliance.org](mailto:k.locke@nhsalliance.org)

**Sustainable procurement as a 'shared priority'** was a seminar held on 30 March led by IDeA in partnership with SDC. The meeting of minds from OGC, Dti, Defra, DH, regional agencies and local authorities showed how sustainable procurement delivers sustained savings in the public purse and how this should be more widely shared – perhaps a key role for the Regional Centres of Excellence? International speaker, Dr Kevin Lyons, Director of Procurement, from the State University of New Jersey more than made the case; \$2.5 million *annual* cost savings (3.2%) since 1990 and 60% in waste reduction, all due to environmentally responsible procurement. Are we missing a trick or two? Contact Fay Blair for the full reports (see below).

**Sustainability in local government procurement**, published by IDeA, explains how LAs can develop and implement a sustainable procurement policy and a risk-based strategy designed to tackle the categories of spending that have the greatest environmental and social impacts. This practical advice shows how a commitment to sustainable development can be turned into an effective procurement policy and strategy and built into processes. [Sustainability in Local Government Procurement](#) is available from the IDeA website.

Further information can be obtained from the Sustainable Development Commission, Ground Floor, Ergon House, Horseferry Road, London SW1P 2AL or visit [www.sd-commission.gov.uk](http://www.sd-commission.gov.uk)

Alternatively, please contact: Susannah Senior - [Susannah.Senior@sd-commission.gsi.gov.uk](mailto:Susannah.Senior@sd-commission.gsi.gov.uk), Victoria Read - [Victoria.Read@sd-commission.gsi.gov.uk](mailto:Victoria.Read@sd-commission.gsi.gov.uk) or Fay Blair, Local Governance Adviser to SDC, seconded part-time from Global to Local Ltd. Email [fay.blair@globaltolocal.com](mailto:fay.blair@globaltolocal.com) or telephone 01992 501 064 or 07786 307 664

## Centres of Procurement Excellence Update

*Nine new centres of procurement excellence have been established in the UK with the aim of driving innovative change in procurement by providing expertise to other councils and by building on existing good practice. This issue looks at the current situation in the West Midlands and the Yorkshire and the Humber Centres.*

### West Midlands Centre for Procurement Excellence

The Management Board for the West Midlands met for the first time on May 5<sup>th</sup>. Agreement was reached on the job description and role for the Executive Director; this is currently under evaluation and will be advertised as soon as possible. It is anticipated that the post will be filled by November 2004 and in the interim a series of work streams will be put in place by the Management Board to develop the strategic vision and maintain momentum. In the meantime, an interim manager is in place.

A key aspect of the work is the collection of regional data on procurement spend and profiles, including the scope for efficiency savings.

The aims of the exercise will be to:

- Inform the business planning process
- Inform the sub-regional governance structure
- Provide some ideas for quick wins
- Provide a framework for evaluation based on outcomes
- Help develop clarity over outcomes and timetables for achievement
- Provide a database of information and contacts for the new centre staff.

Initial research would include:

- Existing formal and informal partnering including consortia and shared systems
- Existing procurement programmes (e.g. Regional supplier forum)
- CPA scores and procurement issues therein
- Progress towards e-procurement
- Procurement strategies in place
- Procurement specialists in place
- Spend/ commodity/ contract analysis of partners and participants
- Review existing data availability to link to performance management

A key issue for the WMCPE will be the development of the business plan. The plan will focus on both a long-term vision and the deliverability of short-term outcomes to establish credibility. The plan must deliver a unique package of support to the West Midlands that avoids duplication and adds value to existing activity; against this both funder and stakeholder will measure the performance and contribution of WMCPE. The Board have agreed that the longer-term vision of the Centre will be to address the wider efficiency picture, dealing with procurement as a priority.

The Centre launch was arranged for the 17<sup>th</sup> June. The aim of the event was to raise awareness and seek opinion from all 38 local authorities as to how the Centre can add value. The format of the event

ensured a general raising of awareness amongst stakeholders and partners, offering the opportunity to engage with the development of the Strategic Vision. The event was supported by Neil Kinghan (Director General Local Government and Fire Group) who made a keynote speech emphasising the importance of the role of Centres as a key driver for change within the procurement and efficiency agenda. 70% of West Midlands Councils participated in the event and attended a choice of six workshops:

- Procurement – A District Perspective
- E-Procurement
- Construction Excellence
- Going Local/SME Development
- Sustainability in Procurement
- Sharing Back Office Systems

The discussions at the launch are currently being drawn together for distribution and will provide a starting point for the development of the Business Plan. This process will continue until an agreed Business Plan is completed.

Further information is available from Heather Jasper, Head of Financial Appraisal at Worcestershire County Council. Telephone 01905 766268 or email [hjasper@worcestershire.gov.uk](mailto:hjasper@worcestershire.gov.uk)

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## Yorkshire and the Humber Centre for Procurement Excellence

The Yorkshire and the Humber Region decided at the outset to have a sub regional approach and this fitted in with the ODPM's request that the Centre should work in particular with North Yorkshire County Council and Sheffield City Council in delivering the project. Although Yorkshire and the Humber is probably geographically the largest region, it's quite compact in terms of local authorities (22).

The Centre has held at least 2 meetings, in each of the sub regions already and all have input into the draft Communication Plan, Terms of Reference and Business Plan. The draft Business Plan has been shared with the other 8 Centres of Procurement Excellence. The Business Plan is clearly the key document, and it identifies three strategic areas, which cover all aspects set out in the National Procurement Strategy:

- Efficient and effective procurement
- Supplier management strategy
- Socially responsible procurement

The next stage is for all 22 local authorities to identify projects that can be delivered regionally or sub regionally, including collaborative procurements.

It is pleasing to see how positively this initiative has been received and it bodes well for the future. Our next steps will include involving other public sector organisations, other interested bodies (Yorkshire Forward, Chamber of Commerce etc) and the private, voluntary and social enterprise sectors.

For further information is available from Tony Wiltshire, Project Director at Leeds City Council. Telephone 0113 247 5252 or email [tony.Wiltshire@leeds.gov.uk](mailto:tony.Wiltshire@leeds.gov.uk).



## Knowledge Source

*Each publication of Partnering & Procurement News features organisations that are active in the area of partnerships and procurement. Our featured source for this edition is the Business Services Association (BSA). This article details relevant aspects of their work.*

BSA (the Business Services Association) is the advocate of major companies providing outsourced services in the UK, across Europe and world-wide. The Association's aim is to promote the mutual interests of its members and the organisations which can benefit from their services by creating a favourable economic and legislative climate for business services and encouraging competitiveness within the sector. Its members are 20 of the largest companies in the sector, operating in the UK, across Europe and in more than 75 countries worldwide.

BSA's members employ around 500,000 staff in the UK, many of them at blue-collar and operational level, providing a wide range of services from cleaning and catering to facilities management, energy management and a variety of specialist technical services. They have a long-established track record of working in partnership with public sector organisations ranging from schools to hospitals, defence establishments to Government agencies, as well as blue-chip private sector clients.

The main focus of BSA's work is to improve competitiveness, quality and efficiency within the sector, highlighting the importance of quality in service provision and promoting high ethical and professional standards. To this end, the Association takes a leading role in policy formation for the sector, influencing legislation and policy development in the UK and Europe. A crucial part of this process is the development of meaningful partnerships with client organisations and BSA has been particularly active in the local government market.

Alongside colleagues in local government and the public sector trades unions, BSA was instrumental in the negotiations around Admitted Body Status, opening up the possibility that outsourced staff could remain within the Local Government Pensions Scheme. Speaking in February 2000, BSA Director-General Norman Rose reflected: 'This deal is welcomed by contractors, local authorities and staff alike. The new Admission Agreements prove that social partnership works. We can achieve far more working together than apart.'

This principle has always guided the work of BSA and was crucial to its contribution to the long and often difficult negotiations which finally led to the deal on the two-tier workforce in local government brokered as part of the 2003 Best Value Review. BSA has an active working group which looks at current and prospective issues within the local government marketplace. Its major focus is currently on urban regeneration and especially the practical implications of social housing requirements and asset partnering.

For further information on BSA's members and activities, visit [www.bsa-org.com](http://www.bsa-org.com) or contact Director-General Norman Rose on 020 7786 6301 or at [norman.rose@bsa-org.com](mailto:norman.rose@bsa-org.com)

## Case Studies

### Co-operation in Buckinghamshire

This case study highlights partnerships in Buckinghamshire, specifically detailing the evolution of a waste paper initiative.

The electorate in Chiltern, as across Buckinghamshire, is articulate, and is used to and expects high standards. In order to provide the multiplicity of services expected from us, Crematorium, Leisure Centres and high levels of recycling), we have over the years co-operated with other Buckinghamshire Districts and the County. Co-operation in the waste area started with a joint waste and recycling collection tender between Chiltern District Council and South Buckinghamshire District Council. Eventually this broke up since the advantages derived were not sufficient to make the partnership compelling, though it left an interest in co-operation and a knowledge of each others working and personnel. Other notable areas of co-operation include the Waste Committee for Buckinghamshire, the Buckinghamshire Portal (an IT co-operation) and a joint approach by the Districts to the new Licensing Laws.

However I want to describe the evolution of the waste paper facility which eventually involved co-operation between Chiltern, South Buckinghamshire and Wycombe District Councils, with UPM Kymenne and Onyx Hampshire.

The partnership has developed through several stages. It started with a hand picking line with operatives sorting newspapers and magazines from a mixed paper stream, derived from the boundary collection scheme and the recycling centres for Chiltern only. Subsequently, Chiltern entered into a contract with South Buckinghamshire to sort mixed paper from their boundary collection scheme and their recycling centres, before establishing a mechanised plant sorting a mixed paper stream for all of Chiltern, South Buckinghamshire, Wycombe District Council and part of Aylesbury Vale District Council. During all stages the newspaper and magazine stream was contracted to UPM Kymenne and the mixed paper stream contracted to Severnside.

The relationship with UPM Kymenne developed and a 15-year contract for the material produced through the paper sort was offered. This offer acted as a catalyst in moving the facility to its next stage. An agreement to construct the new plant was based on the business case, drawn up with the help of Onyx Hampshire, showing that the plant would cost an estimated £1 million. The Business Plan illustrated that the operating costs, depreciation costs and a rate of 8% could be returned on the capital invested. The Business Plan involved the facility increasing its throughput to accommodate the boundary collection mixed paper stream from Wycombe District Council. The capital required from the facility was sought from all three districts and an agreement was reached regarding an open book profit share agreement with the three partners. In addition, Onyx Hampshire were contracted to operate the facility using a cost plus agreement.

The construction of this plant took from May to September 2003 and sorting activities had to be suspended during this period. Wycombe District Council phased in the delivery of mixed paper from their new boundary scheme into the facility which was used as a bulk transfer station for the paper. Agreements were made with UPM Kymenne and Severnside to receive the mixed paper stream with the former making arrangements to sort the paper at other locations. It was important during this period to maintain our strong relationships with our partners.

### Current Contractual Arrangements

- A contract was jointly signed on the 1 December 2003 by Wycombe District Council, South Buckinghamshire District Council, Chiltern District Council and UPM Kymenne for the sale of the paper and magazine stream for the next 15 years. This includes a reward mechanism for achieving certain targets
- At present we have in place a six month rolling contract with Severnside for the sale of the mixed paper stream but we are at present in discussion with them and others regarding a longer term contract
- The plant operating contract between Onyx Hampshire and Chiltern District Council (the lead partner) runs from 1 September 2003 to August 2006 but may be extended for a further year. This runs on a cost plus basis with a constant input from the Onyx Hampshire in relation to design and operational improvements
- The Partnership Management Agreement is expected to be signed in the next few weeks, it provides for an officer working group who will report to an advisory panel of members

Further information is available from John Warder, Deputy Leader of Chiltern District Council.  
Telephone 01753 882921

### Essex Marketplace

*The Essex Marketplace is an example of successful collaboration between authorities with regard to e-procurement implementation. All participating authorities have adopted the e-marketplace solution, IDEa Marketplace. The initiative ([www.Paessex.info/marketplace](http://www.Paessex.info/marketplace)) is a partnership between Essex County Council and eight district councils at varying stages of implementation of the solution.*

The councils involved in this partnership are:

Essex County Council	Basildon District Council
Castle Point Borough Council	Maldon District Council
Rochford District Council	Braintree District Council
Uttlesford District Council	Harlow District Council
Tendring District Council	

The aim of the Marketplace solution is to enable the full purchasing process to be carried out online, from order creation and authorisation to goods receipting and invoice matching.

The Essex Partnership has come a long way in demonstrating how councils can collaborate on procurement and e-procurement effectively and develop a flexible model which is able to accommodate councils within a region who have different needs and capabilities. The partnership has been able to share experience and resource among the partners and demonstrate how the benefits of e-procurement can be amplified when working collaboratively. The experience of the Essex Councils should be of use to other councils considering working collaboratively on e-procurement and highlights some of the key challenges and benefits that joint-working can bring. Below is a summary of some of the advantages and disadvantages that the partnership has identified in working collaboratively on the Marketplace solution.

Advantages	Disadvantages
Reducing the costs of subscription	Each authority works at a different pace
Sharing information and knowledge	There are different levels of engagement
Informal knowledge transfer	Consultation takes longer
Sharing common suppliers/contracts/terms	Extracting management information – needs to happen 9 times as opposed to once
Approaching supplier enablement once as opposed to multiple times	Accepting that there are different drivers and influences within each partners' organisation
Providing the management information from which to contract jointly	A recognition that there will be a greater importance and prioritisation within some authorities to this project over others

Above all, partnership working enables joint partners to share the pain and the gain!

Further information is available from Nicole Edbrooke, Procurement Contracts Manager at Essex County Council. Email [Nicole.Edbrooke@essexcc.gov.uk](mailto:Nicole.Edbrooke@essexcc.gov.uk)

## Hertfordshire Procurement Forum

*Hertfordshire Procurement Forum, a consortium of all 11 local councils in Hertfordshire, concluded a significant contract for stationery supplies on behalf of its members in May 2004.*

The contract has been awarded to Banner Business Supplies following a competitive tender exercise carried out by Ben Hosier, Corporate Procurement Officer of Dacorum Borough Council on behalf of the Procurement Forum. From the outset, 8 District Councils will be joining the contract whilst the others are expected to join during the contract term. The County Council, who chair and facilitate the Procurement Forum, are looking at ways in which it too can work with Banner Business Supplies to enhance its own supply arrangements in the field.

This is an important step forward in the level of collaboration between the Councils within the Procurement Forum who already have in place a number of other collaborative contracts, particularly relating to fuel, energy and other common supplies, primarily through its affiliation with the Central Buying Consortium of which Hertfordshire County Council is a leading member. The Forum has a memorandum of agreement in place and is working with an agreed set of conditions of contract for collaborative exercises. There are also a number of initiatives underway at present, such as the development of an electronic contracts register to share with all districts in the forum, an electronic marketplace for joint agreement and other procurement arrangements that are expected to be made available to all districts, and identifying ways to share e-tendering.

The Consortium arrangement has generated several benefits. Firstly Hertfordshire County Council operates within the central purchasing consortium, with all districts operating within this (effectively representing a consortium within a consortium). Other benefits include aggregating spend and the reduction of process costs associated with tendering which is of benefit to both suppliers and purchasers. Also, by operating as a consortium, the constituent authorities form a central point of contact for dealing with procurement issues.

For information contact Ben Hosier, Corporate Procurement Officer at Dacorum Borough Council on [ben.hosier@dacorum.gov.uk](mailto:ben.hosier@dacorum.gov.uk) or Steve Gilbey, Head of Hertfordshire Business Services. Telephone 01707 281700 or email [steve.gilbey@hertscc.gov.uk](mailto:steve.gilbey@hertscc.gov.uk)

## Neighbourhood Renewal Unit

*The ODPM Neighbourhood Renewal Unit aims to narrow the gap between the most deprived areas and the rest of England to ensure the ODPM's target that no individual is seriously disadvantaged by where they live within the next 10 to 20 years. This article, written by Patricia Wapples of the Neighbourhood Renewal Unit, explains their agenda in more detail.*

The Neighbourhood Renewal Unit aims to achieve this by helping our partners in the public, private, community and voluntary sectors to tackle high crime, unemployment, poor housing, low educational attainment and health inequalities – a holistic approach to regeneration covering economic, environmental and social grants. The key initiatives charged with making this happen at local level are the Local Strategic Partnerships (LSPs) – who have brought together a wide range of partners and networks to formulate strategies to tackle deprivation. The main role of LSPs is to ensure that the wide range of resources within an area is better focussed on people and places most in need. To help them do that, the 87 partnerships in the most deprived areas receive a share of the unringfenced Neighbourhood Renewal Fund, worth £900 million over three years.

In addition, Community Empowerment Networks were established in 2001 by the Unit to enable the community and voluntary sectors to participate in Local Strategic Partnerships. The aim of these networks is to ensure that the activities of the Local Strategic Partnerships take account of community and voluntary sector perspectives and focus on the needs of local communities. The development of these networks and greater community participation is supported by a Single Community Programme.

In addition to the aforementioned initiatives, the Neighbourhood Renewal Unit places a great deal of emphasis on learning from innovative service delivery and funds a number of schemes. These include:

- Over £1.9 billion for New Deal for Communities Partnerships supporting intensive 10-year regeneration strategies in 39 of the poorest neighbourhoods in the country
- The Neighbourhood Wardens Programme to provide wardens in deprived areas
- £45 million for a Neighbourhood Management Scheme to help deprived communities and local service providers work together at a neighbourhood level
- £21.6 million for a Skills and Knowledge Programme entitled 'The Learning Curve' This aims to ensure that everyone involved in neighbourhood renewal has the skills to make a real difference and promote better sharing of knowledge about 'what works', through Neighbourhood Renewal Advisers, and a website at <http://www.renewal.net/>
- £15 million fund for post offices in deprived urban areas

### Working Across Government

The objectives of the Neighbourhood Renewal Unit in the long term will only be met if all mainstream services are improved so that they are effective in areas of multiple deprivation. The Neighbourhood Renewal Unit has a central role in bringing together key departments to ensure that the neighbourhood renewal agenda is being implemented effectively across government in a sustainable way. In particular it promotes a 'mainstreaming' policy, ensuring that across Government, mainstream resources are targeted on those people and places most in need. A key way to encourage this is by helping Government Departments meet their 'floor targets' - national Public Service Agreement targets

which set a minimum standard for all areas or which focus resources on the most deprived areas. This way, Government Departments are measured on their performance in areas where there is most need – not on the national average. Progress at national, regional and local level on indicators related to floor targets can be displayed as maps or charts at [www.neighbourhood.gov.uk/fti.asp](http://www.neighbourhood.gov.uk/fti.asp).

Further information is available from Patricia Wapples, Policy Advisor at the ODPM's Neighbourhood Renewal Unit. Telephone 020 7944 8373 or refer to <http://www.neighbourhood.gov.uk/>

## Best Practice

### Commissioning Social Care

*Commissioning social care has always presented special challenges to local government. It is messy and complex and defies rational and standardised approaches. But it is attracting increased attention as demand continues to outstrip resources and providers turn up the heat in their campaign for a fair rate for care. Andrew Cozens, President of the Association of Directors of Social Services explains further.*

Local government took over the commissioning of adult social care from central government in 1993. Until then, most core council services, particularly home care and residential care, were provided in-house. The private sector had had direct access to social security and spending was out of control, from both economic and policy perspectives. The key elements in containing it were assessment and care management, coupled with the introduction of thresholds of need and locally determined procurement. Councils delivered. The costs were, and continue to be, contained at a fraction of those predicted had the system not changed. But these controls have come at a price. Councils generally operate on a short-term basis; relationships with providers are strained; there is little headroom for new investment by councils and the market is uncertain about the future shape of services.

The social care landscape is changing too. The Children's Bill, currently before Parliament, will bring together Education and Children's Social Services into a new super-service, representing around 75% of the expenditure of top tier councils. Children's trusts, being piloted in 35 councils including Leicester City Council, will bring together commissioning for children across local government, the NHS, Connexions and other key Government programmes for children.

Health Minister, Stephen Ladyman, has issued his own challenge to the adult social care sector. He wants a new radical vision, one that is rooted in independence, choice and diversity of provision. He wants to push out the boundaries of personalised services, piloted in social care with direct payments to some 10,000 service users, to make that sort of choice and control the norm, rather than the exception.

To contribute to this debate, ADSS and the Local Government Association, together with other partners, produced a policy document last year, *All Our Tomorrows*, which calls for a new approach to commissioning services for older people. We have called, too, for some time for a Wanless Review of the funding of social care. We believe that there is the same strong case for investment in prevention and community support for our elders as there is for our children and families. We believe

this should be tied in with the very welcome Public Health White Paper approach currently issued for discussion by the Department of Health.

If we are to convert the Minister's vision to reality, we need new approaches to commissioning. We need to promote partnership in procuring services and release the creativity of the voluntary sector and the entrepreneurialism of the private sector. With the Treasury on board, I am confident we can rise to this challenge. Social care is the bit of the public sector that already has the greatest plurality of provision and has embraced choice and user directed services. But people shaped services will need to be local, flexible and simple, so there are no quick national fixes.

Andrew Cozens is President of the Association of Directors of Social Services, England Wales & Northern Ireland and Corporate Director of Social Care and Health at Leicester City Council.

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## Extended Schools: Schools at the Heart of Their Communities

*Schools are no longer being seen as places that are only open from 9 - 3.30 during term time and closed at weekends and during school holidays. When you consider that schools are the **only** community resource in some communities, then it is a waste if they are closed at these times. The Extended Schools and Community Links Team provides further details.*

Schools have the potential to develop as the hub of services for children, their families and other members of the community through offering services throughout the school day, before and after school hours, at weekends and during school holidays. These services might include childcare, family and lifelong learning, access to ICT facilities and access to schools' sports facilities. There is not a single model of an extended school because a key element of extended schools is that the services they offer respond to local need and are developed following consultation with pupils, their families and the community. Extended schools require a different way of working. Extended schools recognise that they need to work in partnership with others to help children and young people achieve their potential. The Green Paper, *Every Child Matters*, and the Department for Education and Skills Five Year Strategy for Children and Learners, re-affirm the Government's commitment to extended schools.

The Government wants to encourage all schools to develop an extended schools approach. The Department for Education and Skills is supporting the development of extended schools through funding to develop up to 240 full service extended schools by 2006, so that there will be at least one in each Local Education Authority (LEA) area, as well as funding to support the development of extended services in other schools across an LEA's area. These full service extended schools offer a comprehensive range of services: childcare, family and lifelong learning, some health and social care services, parenting support, access to ICT and access to sports and arts facilities. The DfES has appointed ContinYou to run The Extended Schools Support Service (TESSS) to support and advise schools and LEAs developing an extended schools approach. And of course, Government Offices can support LEAs and schools with this work.

Extended schools can generate a range of positive outcomes for pupils, their families and wider communities. The evaluation of the extended schools pathfinders, which ran in 25 LEAs between December 2002 and August 2003, supports this. For pupils, this includes improved attainment,

attendance and behaviour. For families, there was evidence that activities could have a positive impact on parental involvement in their children's education, which can also support improved attainment. For communities, extended schools can be a place where different sectors of the community can engage with each other through different activities.

The Government's long-term vision is to integrate key children's services within a single organisational focus, and the preferred model for achieving this is Children's Trusts. The primary purpose of Trusts is to secure integrated commissioning, leading to more integrated service delivery and better outcomes for children, young people and their families. They will therefore have an important role in supporting the development of extended schools. Most areas should have a Children's Trust by 2006 so that there is a strong foundation of learning in place to allow all areas to have one by 2008. There are 35 Children's Trusts Pathfinders around the country which are developing the best ways to integrate children's services through a Children's Trust.

Further information can be obtained from the Extended Schools Team, DfES: Heledd James ([heledd.james@dfes.gsi.gov.uk](mailto:heledd.james@dfes.gsi.gov.uk), telephone 0207 273 4778) [www.teachernet.gov.uk/extendedschools](http://www.teachernet.gov.uk/extendedschools)

Children's Trusts Team, DfES: Richard Selwyn ([Richard.selwyn@dfes.gsi.gov.uk](mailto:Richard.selwyn@dfes.gsi.gov.uk), telephone 0207 925 5905). Alternatively please refer to [www.dfes.gov.uk/childrenstrusts](http://www.dfes.gov.uk/childrenstrusts).

## Technical Issues

### The Community Interest Company

*Until Royal Assent is given to a piece of legislation lawyers are generally reluctant to write about it for fear of changes happening during the legislative process. The proposal for the Community Interest Company (CIC) in the Companies (Audit, Investigations and Community Enterprise) Bill is different perhaps because of the Government's manifest commitment to introducing it and the sectors potentially affected by it welcoming its general thrust. It has still to be enacted and the regulations made under it but we can assume that it will in due course go through. Ross Griffiths of Cobbetts explains further.*

The proposal for the CIC derived from the Strategy Unit's report "[Private Action Public Benefit](#)" and the perceived lack of a corporate form apt for social enterprise. A CIC should be easy to incorporate, an understood legal form, able to attract investment, dedicated to a social purpose and able to protect the profits and value built up in pursuit of that purpose. To achieve this the Bill contains a number of provisions building on existing law.

So that it is easy to incorporate and be fully understood by bankers, investors, accountants and trade partners, the CIC will be based on existing joint stock companies or companies limited by guarantee and the existing law.

Furthermore, so that a CIC is seen to be dedicated to a social purpose its name must include "Community Interest Company" or "C.I.C.", it must make an annual "Community Interest Report" and it must satisfy the "Community Interest Test" (a reasonable person should consider its activities are for the benefit of the community).

A CIC is intended to attract investment enabling it to bridge the equity gap and not be dependant solely on borrowed money but, so that resources accumulated through pursuit of a social purpose cannot leak into the hands of private investors, there is to be a prohibition or limit on distribution of assets to members and a limit on payment of interest on debentures.

The major protective provision is the creation of the Regulator of Community Interest Companies and giving to the Regulator many powers. The principles are contained in the Act but the draft Community Interest Company Regulations contain the detailed powers.

The Regulator will have power to: -

- Determine whether the Community Interest Test is met,
- Specify provisions in the CIC's memorandum and articles,
- Prescribe formation documents including the Community Interest Statement,
- Approve changes to a CIC's objects,
- Set a limit on dividends on shares and interest on debentures,
- Restrict distribution of assets or purchase of its own shares, and
- Determine the amount of a CIC manager's remuneration, and even disallow remuneration in given circumstances.

A further major protection is the obligation to publish a Community Interest Company Report to highlight the manner in which the CIC's activities have benefited the community, its consultation activities, as to dividends on shares and payment of interest and as to emoluments, pensions and compensation for loss of office. Through this disclosure a CIC can be seen to be acting in a way which maintains confidence in CICs, this being a role of the Regulator.

Readers will recognise in the powers of the Regulator many of the provisions that they would seek to have incorporated into companies formed by Local Authorities to carry out their activities.

We can assume that the Bill and Regulations will reach the statue book. Local Authorities can start considering in advance how the CIC might help them in service delivery and how the CIC can enable them to involve the community and others in carrying out their many responsibilities.

Further information is available from Ross Griffiths of Cobbetts. Email [Ross.Griffiths@cobbetts.co.uk](mailto:Ross.Griffiths@cobbetts.co.uk)

## New European Public Procurement Directives

*In this article, Chair and Director of the New Local Government Network, Helen Randall and Dan Corry respectively, discuss the impact of new European public procurement directives that came into force earlier this year.*

On 30 April two new Directives changing public procurement rules were published in the Official Journal of the European Union. The Utilities Directive 2004/17/EC and Directive 2004/18/EC consolidating the public procurement regime for works, supplies and services are now European law and must be implemented in English law by no later than 31 January 2006.

The new consolidated Directive brings in changes in the rules on among other issues: value thresholds, using social and environmental criteria in procurement, electronic purchasing, framework arrangements and a new competitive dialogue procedure. As the latter was covered in Issue 6 of this newsletter published in [March](#), our focus here is on the other areas.

At a fairly technical level, the value thresholds above which contracts have to be advertised and competitively tendered will be calculated differently. Previously, thresholds were calculated either in Euros or special drawing rights depending on the type of contracting authority undertaking the procurement. Now in the interest of simplicity and to further EU monetary union, value thresholds will be set only in Euros: for example, 6,242,000 Euros for public works contracts; 249,000 Euros for supply and services (not telecommunications) contracts to be let by local authorities and 162,000 Euros for central government supply and services contracts (excluding defence and telecommunications).

Much more significant is the Directives' clarification of the extent to which an authority can legally incorporate social or environmental considerations into procurement. This has been a vexed and contested issue for some time, with some arguing for an interpretation of existing rules that allow a very limited inclusion of such matters. The new Directive goes a long way to sorting this out by clarifying how authorities can factor in environmental protection and sustainable development into procurement. It also provides room for involving SMEs, for having contract provisions for onsite vocational training and for the recruitment of long term unemployed people with disabilities. On the other hand, local labour clauses however are not permitted where they could lead to discrimination.

Another major step is that electronic procurement is expressly permitted via provisions on electronic auctions and dynamic purchasing provisions. This should help push the drive for e-procurement.

The legality of framework or call-off arrangements, such as panels, was another area of uncertainty under the Works and Services Directives (although expressly permitted for utilities). Now framework arrangements are to be expressly permitted provided the framework arrangement:

- may not exceed 4 years unless duly justified exceptional circumstances can be shown (which may affect NHS LIFT and DfES's Building Schools for the Future);
- there must be at least 3 providers appointed to any framework panel;
- contract award or call-offs on a panel must be on the basis of a mini-competition;
- the terms of the framework arrangement cannot be substantially altered later.

The other major change is the bringing in of the competitive dialogue procedure for complex contracts involving an iterative whittling-down of prospective tenderers via an interactive dialogue process before formal bids are submitted. This change, which will be of particular interest to authorities and public sector providers in the IT and PPP sectors, was again covered in Issue 6 of the newsletter, published in [March](#).

These changes herald a new era of procurement. While many new opportunities are opened up, there will be a need for caution as we discover how exactly they work.

For further details, please contact the New Local Government Network by e-mail at [network@nlgn.org.uk](mailto:network@nlgn.org.uk).

## Prudential Accounting – Your Flexible Friend!

*The 1st April 2004 probably swept past many local government officers with no real significance, other than the inevitable rush to complete end of year obligations. However, the more astute would have quietly embraced this dawn of a new era for local authority capital finance, as they plan how to make the most of this opportunity. This article, supplied by Navjeet Virk at Pinsents, briefly examines what's changed, and more importantly, what such changes mean in practice.*

### What's Changed?

Prior to the introduction of Part 1 of the Local Government Act 2003 and its accompanying regulations, the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146), on 1st April 2004, local authorities faced considerable limitations on their ability to incur debt to finance capital investment. The Local Government and Housing Act 1989 prescribed a bureaucratic procedure requiring credit approvals from the ODPM for all borrowing undertaken by authorities. Such restrictions have now largely been cast away, replaced with a gentler and more flexible arrangement permitting local authorities to incur debt, following an internal assessment of what they can afford. Authorities now enjoy greater freedom to borrow funds and/or enter into or vary credit arrangements for any purpose relevant to their functions as well as for the prudent management of their financial affairs, thereby permitting more efficient treasury management.

In exchange for this enhanced flexibility and responsibility for determining their own borrowing limits, local authorities are expected to annually review their capital investment programmes within the context of a three-year cycle. Note however, that Chief Finance Officers do not enjoy a "carte blanche". Authorities must set their borrowing or "affordability" limits with reference to guidance issued in the CIPFA Prudential Code for Capital Finance. The CIPFA Code lays down a number of prudential indicators to be used in assessing affordability, prudence and sustainability.

In assessing what is affordable, authorities must take into account credit arrangements (i.e. arrangements equivalent to borrowing). The definition of a credit arrangement has been updated to bring it into line with usual accounting principles, with the emphasis being on recognising long-term liabilities (i.e. longer than 12 months), other than borrowing, concerned with capital expenditure. Pension liabilities, performance bonds and contingent liabilities under litigation are disregarded for these purposes. Authorities can only enter into credit arrangements if incurring the additional cost would not breach their borrowing limits.

The Secretary of State possesses a reserve power to impose a limit on borrowing generally for local government for national economic reasons as well as on borrowing by individual authorities to ensure that an authority does not borrow more than it can afford. "Safe harbour" protections for lenders have been re-enacted thereby reassuring lenders that they will not be prejudiced by the absence of a power to borrow but nor are they bound to enquire whether an authority does in fact possess such a power.

### What Does it Mean?

This new capital finance regime will give rise to considerable flexibility for local authorities in incurring capital expenditure, albeit initially at least the affordability constraints under which local authorities operate are likely to prevent significant additional borrowing. Nevertheless, the flexibility of the new



regime will inevitably facilitate rather than hinder PPP working. Authorities can't suddenly do what they want, but if they want to make capital investments they now have more room for manoeuvre by being able to borrow at cheaper public sector rates.

Local authorities may decide to finance smaller sub £10 million capital projects under the new regime. This conforms to the recent HM Treasury guidance on PFI, which suggests projects with a capital value below £20 million are insufficiently economically viable for PFI procurement. More projects may now be part publicly and part privately financed, with increased use of prudential borrowing and cross-subsidisation from asset disposals. There may also be projects where future revenue savings may finance initial prudential borrowing in smaller capital, but larger revenue projects (such as e-government and corporate services strategic partnerships).

Authorities have more potential for entering into credit arrangements. For example, leases which do not give rise to a liability in authorities' accounts e.g. operating leases, are not subject to the capital regime and are therefore only a revenue consideration. Note however, that particular provisions will continue to apply in respect of the use of capital receipts.

It is already apparent that a number of authorities have taken the baton with the "first wave" of prudential borrowing schemes beginning to emerge such as Birmingham City Council's part-finance of its housing stock refurbishment programme, Coventry City Council's £110m multi-purpose Arena development and the possible finance of London's Crossrail project through a bond issue. For local government, the dawn is just breaking as we are beginning to witness what this new flexibility will bring.

Further details are available from Navjeet Virk, of Pinsents either by email to [navjeet.virk@pinsents.com](mailto:navjeet.virk@pinsents.com) or by telephone to 0121 623 8611



## Useful Links

### Modernisation and Efficiency team (MEt)

Office of the Deputy Prime Minister  
3/A6, Eland House  
Bressenden Place  
London  
SW1E 5DU  
E-mail: [met@odpm.gsi.gov.uk](mailto:met@odpm.gsi.gov.uk)  
Web: [Strategic Partnering Taskforce](#)

### Office of the Deputy Prime Minister

Eland House  
Bressenden Place  
London  
SW1E 5DU  
Tel: 020 7944 4400  
Web: <http://www.odpm.gov.uk>

### The Employers Organisation

Layden House  
76-86 Turnmill Street  
London  
EC1M 5LG  
Tel: 020 7296 6781  
Web: <http://www.lg-employers.gov.uk>

### Improvement & Development Agency and IDEA Knowledge

Layden House  
76-86 Turnmill St  
London  
EC1M 5LG  
Tel: 020 7296 6693  
Web: <http://www.idea.gov.uk>  
IDEA Knowledge: [knowledge@idea.gov.uk](mailto:knowledge@idea.gov.uk)

### Ourpartnership

c/o NCVO  
Regent's Wharf  
8 All Saints Road  
London  
N1 9RL  
Telephone number: 0207 520 2428  
Web: <http://www.ourpartnership.org.uk/>  
E-mail: [info@ourpartnership.org.uk](mailto:info@ourpartnership.org.uk)

### 4ps

South Entrance  
7<sup>th</sup> Floor, Artillery House  
Westminster  
London  
SW1P 1RT  
Tel: 020 7808 1470  
Web: <http://www.4ps.co.uk>

### Audit Commission

1 Vincent Square  
London  
SW1P 2PN  
Tel: 020 7828 1212  
Web: <http://www.audit-commission.gov.uk>

### The Local Government Procurement Forum

Office of the Deputy Prime Minister  
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### The Local Government Task Force

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