

Regulatory and Business Support Services (RaBSS) Consultation

12 May 2014

Introduction

Shropshire Council has been working on proposals to bring together a diverse range of regulatory services including Planning and Development, Building Control, Public Protection, Private Sector Housing and Natural and Historic Environment. The Council already has a company in place called IP&E Ltd. The working title for the grouping of services is Regulatory and Business Support Services (RaBSS). The major benefit this model brings is the ability to generate income through the provision of specialist business support services within but also outside Shropshire, coupled with the ability to minimise operating and support costs and to maintain service quality and performance at acceptable levels.

This document explains the rationale behind this proposal in order to seek feedback from residents and businesses, partners and stakeholders on the possible options for future service delivery. This feedback will inform the development of a detailed business case on the proposals. The subsequent Business Case will then be considered by the Council's Cabinet who will make the decision on the future delivery model for RaBSS.

What services are included?

The core services within scope are those which involve the regulation of businesses, protection of the environment, the protection of residents and services which support development, economic growth and sustainability. The services include the following:

1. Planning and Development Management – ensuring that the Council's approach to planning leads to sustainable development of the county.
2. Building Control – services which ensure standards in relation to new buildings or changes to existing buildings meet the required standards.
3. Public Protection – which includes services like Environmental Health, Private Sector Housing enforcement, Trading Standards, Licensing and Animal Health and Parking Enforcement.
4. Natural and Built Environment – services which protect the natural and built environment from a range of risks.

These services are included for a number of reasons, but the main reason is because they work together to deliver shared outcomes which benefit local people and businesses alike. The shared outcomes include:

1. Achieving Sustainable Development – delivering an effective and efficient planning and development service.

2. Healthy People and Communities – ensuring people are not put at risk from unsafe food, preventing risks to animal health and welfare and supporting wider public health outcomes.
3. Healthy and Sustainable Environment – ensuring the risks to health from unsafe or detrimental environmental practices are minimised by effective regulation of commercial and industrial activities.
4. Safer and Stronger Communities – minimising the risk to residents from the effects of anti-social behaviour, unsafe, unfair or fraudulent trading practices or other criminal trading activity and protecting vulnerable adults and families.
5. Business Growth and Prosperity – supporting the growth of businesses in Shropshire by providing high quality business advice and undertaking pragmatic regulation to ensure businesses operate in a fair and competitive trading environment.

The services work individually and collectively to achieve these outcomes so that the Council is able to:

- keep people from harm (in a way that doesn't compromise their choices);
- help to manage our environment (in a way that helps Shropshire to thrive);
and
- help people, communities and businesses to help themselves (in a way that helps them to make the most of the choices available to them).

The Council has to provide certain services, known as 'statutory services', but it does have some flexibility in the scope, standard and quality of the services it delivers. Effective regulation protects residents and supports business growth and employment when it is done well. The way these services are provided is prescribed by the legislation. The use of regulatory and enforcement powers operates, as people would expect, within a tightly controlled legal, governance and policy framework. A range of tools to ensure regulatory compliance are used from the provision of advice at one end to prosecution of offences in the criminal courts in line with the Council's Enforcement Policy at the other end.

The different business models we have been exploring need to ensure that the Council's regulatory and enforcement duties and responsibilities are maintained as well as providing an opportunity to sell some services for which there is a market. However, in pursuing these models, we have to minimise the risk of conflicts of interest between services which we have a statutory duty to provide and services which could be legitimately sold commercially because there is a market and demand for these services. These 'added value' specialist business support services are not currently provided by councils because they cannot be traded on a commercial basis. However, other business models would allow for the provision of both regulatory and commercial services, subject to robust legal and governance safeguards being put in place. This has been done by other councils.

Why are you proposing to change the way these services are provided?

The initial driver for the new delivery model was a financial one. Like many councils, Shropshire Council has had to face significant financial challenges and all services have had to become more responsive to customer needs, operate more efficiently and reduce operating costs, whilst at the same time trying to maintain the quality of those services. The services in scope for RaBSS have not been immune to financial savings despite the fact that the Council is under a statutory duty to provide them. Every service has had to play its part. Since Shropshire Council was created in 2009, the in-scope services have already delivered significant savings whilst minimising the impact on service quality.

Therefore, we have already undertaken work to reduce our operating and support costs, improve opportunities for further income generation and minimise the impact of future financial savings on service quality and performance. To support this approach in the longer-term has led us to consider alternative delivery models which provide the opportunity, in particular, to trade some services in order to generate income to support the continued delivery of the core regulatory services.

RaBSS has been designed to deliver three outcomes:

- I. high levels of customer satisfaction achieved through culture change and service re-design ;
- II. improved levels of efficiency and productivity; and
- III. sustainable income streams to reduce reliance on traditional funding to maintain core service delivery within a fixed and finite budget

The following design principles have been employed to help deliver the three outcomes above:

- I. improved access through a range of channels in order to minimise the time between receiving a service request and its successful fulfilment at agreed quality levels;
- II. greater focus on prevention and early intervention to ensure unexpected costs do not occur in other areas of the Council's commissioning and delivery arms;
- III. effective identification and reduction of risks to the environment and the health, safety, wellbeing and economic prosperity of Shropshire with a greater focus on vulnerable people and communities;
- IV. prompt and effective intervention and resolution where unacceptable risks have been identified in order to deal with the immediate issue at hand whilst minimising the risk of recurrence to vulnerable people; and
- V. creation of a business support service to provide a range of integrated and specialist consultancy services for public and private sector customers and interim management solutions for other local authorities

The work that we undertook to deliver this led to the following conclusions:

- services had to be more creatively re-designed to minimise the impact on service quality of further reductions in budgets;
- services had reduced their operating costs and became more efficient having already delivered significant financial savings;
- services needed the freedom and flexibility to operate in a commercial environment in order to generate new income streams to re-invest any income in the statutory services to ensure they remained fit for purpose and resilient in delivering their vital regulatory duties to protect people and support business growth; and
- Shropshire Council had to retain its ability to meet its responsibilities for the delivery of regulatory, planning and development, and environmental services which meet the required quality and performance standards.

In considering how best to meet these objectives, we began to consider different business models. Specifically, we wanted to determine which model provided the freedom to operate commercially by generating additional income streams through traded activity. The primary aim is not to generate significant profits and compete aggressively with the private sector on a global scale, but simply to build modest income streams over time, informed by market analysis and satisfying service demand that we can re-invest in core services for Shropshire.

What business models did you consider and why?

We began by considering each possible business model against the ability to address the four design imperatives above and the need to build services which were more financially stable and resilient and less reliant on traditional council funding methods, given the scale of reductions to public sector finance.

In evaluating these models, we looked at their ability to deliver services that were fit for purpose and resilient; provided adequate legal governance; their ability to help us generate income and minimise our operating costs; to help re-design services to improve service quality; and to consider which model gave us greater flexibility in operational delivery and which provided greater confidence that we could continue to meet our core statutory responsibilities.

We assessed five different business models. We highlight the most significant advantages and disadvantages with each model.

1. **Deliver through a wholly owned council company** – the Council has already created and is successfully operating its own wholly-owned company: IP&E Ltd. This provides a major benefit because RaBSS could simply transfer to a subsidiary company of IP&E, subject to safeguards around governance and employment issues. The creation of a subsidiary company within the IP&E group could deliver a real opportunity to maintain the integrity and independence of the regulatory services functions, offer adequate legal and governance controls and minimise the risk of conflicts of interest.

Councils cannot delegate their statutory regulatory duties to a third party, even if it involves a wholly council-owned company therefore the decision making must and would remain a council responsibility. The same issue around the delegation of the council's statutory duties to a third party applies here as it does to Option 5. This model would allow for the development of the commercial business support service and the ability to generate income by selling specialist technical services and integrated solutions for business customers both inside Shropshire but also nationally because the company is wholly owned by Shropshire Council. This model requires management and control of the statutory regulatory duties and the traded commercial activities to minimise the risk of conflicts of interest. Finally, the model is also as yet untried in the local government regulatory services arena. This proposal may therefore be considered to be an innovative step for the Council to take.

2. **Continue to deliver services in-house**– this explored the risks and benefits of continuing to provide services as they are now but building on the significant re-design that had already taken place. The major drawback with this approach is that it limits the service's ability to generate income – continued delivery of the services through Shropshire Council would not allow for services to be marketed and traded to generate additional income. The lack of opportunity to sell specialist business support services within and outside Shropshire potentially increases the impact of further financial savings on the ability to deliver core services. This is the major disadvantage with this model: services cannot be traded to generate income. The key benefit is that the Council remains in complete control of the services and therefore they can continue to operate as they have done since the Council was formed with all the existing safeguards for continued operation in place. However, it is fair to say that all the in-scope services have become more efficient in recent years, have delivered real financial savings and have minimised the impact on service quality and performance.
3. **Collaboration with other councils** – this remains a possible model for the future as other council's begin to explore different ways of tackling the financial challenges that Shropshire Council has faced. The major disadvantage with formal collaboration is that it can be complex and slow to achieve in practice. Furthermore, tensions can sometimes develop around different policies and approaches, priorities and resource allocation. Issues around governance and accountability can also arise (for example, whether one or other council should be the 'lead authority' for decisions and approach and the partner taking a secondary role in decision making). The key benefit for formal collaboration is that there are examples where it has operated successfully and the legal and governance arrangements to support this are clearly defined.

4. **Social Enterprise e.g. staff mutual or cooperative** – some Councils are looking at the creation of a social enterprise like a staff mutual or cooperative for example. However, to date this model has not been adopted for regulatory services. The most challenging issue for this model is a financial one i.e. the availability of start-up capital funding and ongoing commercial support from commercial lenders. Additionally, legal and governance issues which are as yet untested in a regulatory services environment present another challenge. Major benefits that arise from this model are greater levels of staff ownership and commitment and the building of social capital and community benefits as ‘operating profit’ can be re-invested to help local people and communities.

5. **Private sector partnership or outsourcing** – some councils have outsourced the delivery of different council services to the private sector and others have entered into formal partnerships to create joint venture companies for the delivery of council services. The pure outsourcing option for regulatory services is limited as councils cannot delegate their statutory regulatory duties to a third party – decision making must remain a council responsibility. The strategic partnership model or creation of a joint venture company has been recently developed in the North East and London respectively for regulatory services functions. However, both these examples involve the same private sector partner and this is a potential weakness of the model. The absence of a wider range of private sector partners provides limited choice in identifying the right partner from a reasonably sized pool. Furthermore, the Council may be unable to exercise sufficient control over service quality and performance as this cannot always be comprehensively covered, irrespective of how detailed the contract and service specification are. Having said this, an important benefit is the acquisition of commercial knowledge, comprehensive networks and customer base alongside significant buying power that a large private sector partner can offer. This could lead to faster business growth, the generation of large income streams for re-investment into council services as well as the ability to reduce operating, procurement and support costs more quickly and efficiently than a council could achieve on its own. A further risk with this model is the potential for conflicts of interest between the statutory and traded activities i.e. ensuring there is a clear and defined separation between the regulatory and commercial functions.

What was your preferred business model and why?

We used well-established options appraisal and risk assessment methods to carry out a robust and objective evaluation of the most appropriate business models. We assessed risks, opportunities; considered how flexible the models were; and determined which ones could help us meet our overriding objective to maintain the

delivery of services at the right quality levels whilst lowering our operating and support costs.

We also completed an Equalities Impact Assessment to establish whether any of the models had any detrimental impact on the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. We confirmed from this exercise that there was no detrimental impact. The services are universal in nature with the main client groups and service users being residents and businesses operating in Shropshire and those who want to move here.

The preferred model from this evaluation was Model 1 above i.e. deliver through a wholly owned council company. The evidence suggested that this option gave us the best opportunity to minimise costs, maximise income, minimise the impact of further financial savings and maintain service quality levels and performance. The ability to balance risk against the need to operate in a commercial environment to ensure services are more resilient to financial pressures and sustainable for the future was identified as a major benefit over the other models. It also gave us flexibility to change in the future if circumstances were to change – for example returning services to the Council or separation of free-standing sustainable business units, which was likely to prove more difficult with some of the other models. However, there is a need to ensure effective management of potential conflicts of interest and the ability to operate in a commercial environment.

The only other viable alternative to this model, based on our options appraisal and risk assessment and deliverability within the necessary timeframe, was Model 2 (to continue re-design and improve the efficiency of services through Shropshire Council). In terms of business continuity and risk management, this model allows for the continuation of regulatory services in a stable and controlled environment where all the necessary legal and governance arrangements are in place. This provides continuity of service provision, maintains the integrity of legal and governance issues but it does not allow for the generation of income for re-investment to protect core regulatory services.

What are you consulting residents, businesses, partners and stakeholders about if you have a preferred option – haven't you already made up your mind?

The Council has a very important decision to make as the work these services do in regulating businesses and protecting residents is crucial. These services have to be maintained at acceptable levels to remain effective in minimising risks; achieving effective levels of regulatory compliance; supporting business growth and protecting the environment. The continued re-design of these services is vital to maintain service quality if financing of public sector services continues to be uncertain.

Although the exercise we have completed points to a preferred option in managerial terms, it has not yet been informed by the views of residents, businesses, partners and stakeholders. Before our councillors make a decision on these services they will want to know what local people, businesses, Parish and Town Councils, community and voluntary groups, statutory partners, trade organisations etc. think about these proposals.

The feedback from this consultation exercise is vital in informing the business case so that the Council's Cabinet can consider everything together before making a decision about the most appropriate future delivery model for these services.

Realistically, our own assessment suggests the most viable and achievable options open to the Council are Model 1 and Model 2 and we would like to know what you feel about them. There is a genuine commitment to listen to and consider the views of local people and businesses, partners and stakeholders and use this feedback to form a key part of the business case which will be considered by the Cabinet once the consultation feedback has been evaluated.

How and when and when do you propose to consult with residents, businesses, partners and stakeholders?

We want the consultation to be meaningful but not overly onerous so we encourage feedback from a diverse range of people and organisations. The consultation starts on 12 May 2014 and the consultation will end on Friday 4 July 2014. Here you will be able to find all of the relevant material to provide feedback and we will ask you to comment on the two models presented.

Next Steps

At the conclusion of the consultation exercise we will carefully consider all the feedback and summarise the key findings for inclusion in the Business Case which will be prepared in due course ready for presentation to the Council's Cabinet. We look forward to hearing from you over the coming weeks.