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Council companies – what is the recipe for success?

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Abstract:

Multiple challenges of rising inflation, increased material costs, inter-continental trade challenges and the cost-of-living pressures are having an impact on local government generally. The creation of council companies as a recipe for creating additional and new capital and revenue streams is also being affected. Trading circumstances are more challenging, business plans are being tested and political pressure may also be having an impact on commercial achievements. Based on interviews and case studies of three English councils, this paper offers some insight on critical success factors (CSF) for council companies. The findings include four CSFs: (1) Effective governance structure; (2) Programmatic performance evaluation for company staff; (3) Functioning board of directors based on business expertise; (4) Market assessment and monitoring.

Introduction

Multiple challenges of rising inflation, increased material costs, inter-continental trade challenges and the cost-of-living pressures are having an impact on local government generally. The creation of council companies as a recipe for creating additional and new capital and revenue streams is also being affected. Trading circumstances are more challenging, business plans are being tested and political pressure may also be having an impact on commercial achievements.

In the recent MJ article "Max calls councils out" (23 June 2022), straight talking Max Caller, was clear "They [council companies] are not council departments by another name. If you want to launch a company, do not assume your councillors can become the directors. Pick proper directors…and then understand the limitations on your control."

Recent research I conducted provides some additional insights into potential success factors and suggests now is the time to create a national network of council companies to drive best practice, mitigate against the risk of failure and provide insights about positive commercial activity.

Commercial ventures by councils appear to be here to stay despite some high-profile and much quoted casualties such as in the east midlands where Nottingham City council has been left with a £38 million financial hole after the collapse of Robin

Hood Energy or the similar circumstances in the south west, where Bristol City Council is asking Bristol Energy to try to trade its way out of a similar scale problem.

As part of my Masters dissertation I had the opportunity to analyse this emerging area. I conducted a literature review to assess prior research, carried out an investigative fieldwork and then drawn a set of findings and recommendations which being proposedin this article. I aim to promote the setting up of a community of best practice hosted by Christ Church Business School, Canterbury Christ Church University and already garnering support from national legal practice Browne Jacobson. This could be an effective means to drive and encourage successful entrepreneurship, innovation and commercial activity in the public sector in which it lacked. It will be marking the unique nature of council companies and the long history of mutual support and learning in local government and because collaboration, done right, is better than going it alone.

Companies are purposely created to make a profit to provide a return to their shareholders. They are legally required to appoint a director or directors who must promote the success of the company. The various forms of commercial entity have developed over the years with the ability for bodies with a social aspect to form for example community interest companies that are not for profit organisations. The third sector can create structures that are charitable in nature with the focus on delivering against charitable aims.

For councils, the idea of monetising what might have historically been considered as benevolent activity, is not completely new. Councils have been “trading” by selling their surplus services to other public sector organisations for just over fifty years under the Local Authorities (Goods and Services) Act 1970. More recently legislation has been passed that allows councils to go further and create companies to trade with a wider market, such as in competition with the private sector (Local Government Act 2000, Local Government Act 2003). Guidance was issued in 2004 indicating the need to produce, for example, a business case before commencing commercial activity. This was augmented by a trading order, the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009, requiring a business case. Given Max Caller’s stark warning, I have come to the view that for these business cases to be robust and objectively so, they should be prepared by someone external of the council.

There are now thought to be hundreds of council companies in existence although no central forum for them to share best practice that I am aware of. Central Government has been creating commercial entities it controls or owns for some time. The National Audit Office in 2015 compiled a list of such companies by Department, which shows the sheer breadth of such government backed trading, with references given for more than 200 such companies.

Methodology

As I conducted a literature review, I found that academic publications on the pure phenomena of council companies were in relatively short supply. So, I considered state owned company performance and issues, because of the obvious parallels with both being publicly funded and involving the leadership, in some form of politicians. I also noted the excellent practical guidance and commentary material already available to assist councils starting or developing their companies such as that issued by Lawyers in Local Government, Local Partnerships, and Chartered Institute of Public Finance and Accountancy.

Given the nature of this investigation, a qualitative study is more appropriate to offer an insight of the council governance processes over council companies, and to obtain an in-depth understanding of what factors might be likely affect the performance of council company. The case studies ground it in three sets of council companies I had first hand knowledge of. I therefore spoke to Councillors, officers, non-executive directors and employees involved in council companies at Medway, Gravesham Borough and Wiltshire Councils. I interviewed 14 key individuals and was able to acquire some rich insight and data to analyse before producing findings and recommendations.

Richard Clewer the Leader of Wiltshire Council, who I interviewed, for example, saw the concept of council companies as one of the considerations Councils should think about: “certainly for the larger councils, creating a commercial vehicle to harness the value they have for wider social benefit, is closer to an imperative.”

Key findings and recommendations:

For those who have already responded to that imperative and those still considering it, I set out below some of the findings and recommendations of my research.

1. Effective governance structure: Consider what you need to do to get the governance and structural relationships between stakeholders right – conduct a “governance review” if you have not already done so. Use the excellent Local Partnerships guide or see what we did at Wiltshire where the Cabinet agreed sensible changes to improve the chances of delivery against the business plans. Ensure your scrutiny and audit committees know their role in relation to these new entities. Have a clear roles and responsibilities guide like the one we created at Wiltshire.

2. Programmatic performance evaluation for company staff: Council companies benefit when they have dedicated staff not just seconded council staff – to hope to drive commercial delivery you need people to focus on the business plan and make sure stuff happens. Asking already hard-working council staff to double up in commercial ventures brings its limitations. Have a mechanism of performance management for company staff with clear metrics.

3. Functioning board of directors based on business expertise: A main Board with non-executive directors with industry knowledge is a better way to recognise the need for commercial acumen – you may choose to have no councillor directors on the main board and instead councillors can hold the

company to account through a separate shareholder group (in line with the Lawyers in Local Government guidance). That is the structure we have introduced at Wiltshire. Whoever is on your boards you need a performance management regime for them too, which could be for individual directors or the Board's joint performance and make-up.

4. Market assessment and monitoring: Be mindful of the current challenges in your area, which impact on your council companies – there may be political pressure to overload the company with commercially questionable projects. Allow the space for that to be discussed and challenged. There may be a lack of commercial expertise on the board or the company. Be honest and open about that and consider an action plan to redress that. Your company may be failing to leverage the trusted brand of the council in its strategy, allow the means to evaluate that and if appropriate rectify it.

Councils are good at sharing best practice, collaborating, drawing on academic research and being innovative. Setting up a **Council Company Network** seemed therefore a sensible next step. The Business School at Canterbury Christ Church University (where I studied) has kindly agreed to play host in their Innovation Hub to the Network and I am looking forward to building a community of expertise, supported by Browne Jacobson, to compliment and augment the other experts already in the sector.