

OVERVIEW

UNISON is the largest public services trade union in the UK. We organise and represent 1.23 million members, with the largest sector being local government workers employed directly or by thousands of other employers across the private and third sectors.

This note is designed for Chief Executives and Section 151 Officers in local authorities across the UK. It is intended to be a reference for making decisions to balance the local authority budget. While a lot of its content relates to income generation, UNISON is not advocating ‘casino economics’¹. But a sensible approach to risk is vital if local authorities are to survive.

This note gives UNISON’s take on a variety of ways in which local authorities can generate income, develop their business and procure service in a socially responsible manner. It is divided into the following areas:

1. Income generation: past and present
2. Business opportunity areas
3. Income generation: the powers available to local authorities
4. Sustainable local government finance
5. Public procurement for social progress
6. Where UNISON can help

INCOME GENERATION: past and present

In recent years, an increasing number of local authorities have begun using powers available to them to become more innovative and entrepreneurial. This is often not through choice – the state of local government finance has given some local authorities little option. And along with others, UNISON is campaigning for a local government finance system which fully resources local authorities to provide services using a high quality directly employed workforce.

But in dealing with the day-to-day realities of scarcity, chief executives, their senior managers and those that operationally deliver services are the catalysts of driving organisational change, and there is a variety of ways in which this can be done. In order to use income generation to drive change, it is vital that local authorities understand what your assets are, how they are managed, and what legal opportunities exist for you to make the most of them. The staff UNISON represents are your change agents, delivering on a vision of hopeful reinvigoration rather than managing decline.

To do this, a change needs to occur. That change is:

- Cultural, from the “can’t do” to the “can do” and “want to do”

¹ We define casino economics as risky gambling of public monies raised through taxation or from central government.

- A joint commitment to valuing the workforce and investing in them to take a different journey, to income generation
- A focus on how income generation can raise income to pay for services
- Understanding risk, business plans and markets. Know what the council is good at doing, e.g. waste collection or civil engineering
- Using all legal powers available to enter markets that are well researched and tested
- Managing, investing and manipulating the local market to generate opportunities for council services and see how the council can help residents be more responsible for their local economy
- Ensuring democratic oversight and commitment.

In the UK, there are historical and modern-day examples of where local authorities have shaped their cities and localities. In 1850, municipal priorities were public order, street maintenance and lighting and the provision of basic sanitary services. Later came investment in gas and water supplies. George Brodick² said in April 1884 that the Public Health and Education Acts were “...*founded on reasons of public utility, and not on the principle of equalising the lots of the higher and lower classes in the community.*”

Joseph Chamberlain in the 19th century lectured audiences on what is the ‘true economy’. He stated that it “...*lay in spending and investing today in the homes, streets and schools of their work-forces and their families in order to enhance workers’ productivity, to beautify and civilise the urban environment and to build-up the town’s long-term prosperity.*”³

Back into the 21st century, there are a number of local authorities which have been income generating successfully. In their report ‘Municipal Entrepreneurship’⁴ the Association of Public Service Excellence (APSE) highlighted a number of local authorities putting income generation into action:

- **WEST LINDSEY:** transformation into an ‘Entrepreneurial Council’ delivered efficiency savings of £2,132,000 from 2009/10 to 2012. The key goals were to become less dependent on the Revenue Support Grant (RSG) and regional grants. Crucially, they have taken the approach to valuing and developing the workforce to be more commercial. This has involved using in-house expertise to sell services.
- **TAYSIDE:** Tayside Contracts⁵, trading across boundaries has led to £14.5 million being shared across the three local authorities from 1996 to 2012. Tayside is a partnership between Angus Council, Dundee City Council and Perth & Kinross Council. It provides catering, cleaning, roads maintenance, vehicle maintenance and winter maintenance. It employs 2500 people.

² George Brodick was a Whig authority on local government.

³ <http://www.historyandpolicy.org/policy-papers/papers/a-central-role-for-local-government-the-example-of-late-victorian-britain>

⁴ <http://www.apse.org.uk/apse/index.cfm/research/current-research-programme/municipal-entrepreneurship/municipal-entrepreneurship/>

⁵ <http://www.tayside-contracts.co.uk/aboutus.cfm>

- **WREXHAM:** renewable energy that has generated income to the local authority and reduced CO2 emissions. The initial investment by Wrexham Council was £27 million. The project expectation was to “...reduce the amount of CO2 emitted by around three thousand tonnes each year and generate up to £1 million a year for the next twenty-five years.”
- **SHROPSHIRE:** Shire Services⁶ specialises in the delivery of catering and cleaning services across the county and in other areas. Up to 2012 it generated an annual turnover of £10.2 million across Shropshire and over £3m in external contracts.
- **HERTSMERE:** Elstree Studios⁷ are owned by Hertsmere Council. They generate annually around £1.1 million of income. The council used Section 111(1) of the Local Government Act 1972 in securing Elstree. This Act allows a local authority to do almost anything, including the acquisition of property to facilitate the discharge of any of their functions. The council ensures the income generated is used for their local community by re-investing surpluses into services. Their business model protects against risk and avoids being dependent on a single customer or client for their income. The studios have created more jobs, preserved a community asset and brought income to the council.
- **HULL:** Kingstown Works Limited⁸ (KWL) delivers board-up and glazing services, electrical works, gas, plumbing, adaptations, contract works, maintenance, property refurbishment, events and solar. From 2008 to 2012, KWL returned over £3 million to Hull City Council.

BUSINESS OPPORTUNITY AREAS

In making decisions about generating income, local authorities need to understand what they are individually good at. At UNISON, we see opportunities in many councils. These can be delivered by in-house teams. They can often be financed by the Public Works Loan Board, Local Government Pension Scheme (LGPS) investments and joint arrangements with other public-sector partners. The list below suggests some services that could potentially trade and generate income.) The first step should be to hold initial conversations with staff and elected representatives.

- Grounds maintenance, catering and facilities management with the NHS, police, local universities, football stadiums, concert venues and fire and rescue services
- Providing a building and/or building services to GP surgeries
- Selling services to academies
- Back office and satellite office space, e.g. providing hot desking for start-ups and creative industries
- Local authority energy companies, e.g. Robin Hood Energy (Nottingham City Council)

⁶ <https://www.shireservices.co.uk/home>

⁷ <http://www.elstreestudios.co.uk/about-us/>

⁸ <http://kingstownworks.co.uk/news/view/kwl-a-hull-city-council-wholly-owned-local-authority-company>

- Security companies
- Private rented housing
- Property investment and development
- Hostels and pop-up temporary accommodation
- Property guardians
- Trade in-house legal services
- Refurbish office space for commercial companies
- Build, renovate and buy car parks in commuter areas
- Investment in hotels in tourist areas, even if that is outside your geographical area
- Joint venture partnerships with specialist companies
- Trade your in-house ICT provision, offering services to other local authorities, trade unions and civic society organisations.

INCOME GENERATION: the powers available to local authorities

A range of powers exist that allow local authorities to trade and generate income. Trading is not new. Councils have been able to trade since the Local Authorities (Goods and Services) Act came into law in 1970. This Act allows councils to trade with other local authorities and defined public bodies. It is not just limited to cost recovery, but genuine trading. Councils can make a profit. Restrictions with the Act on trading with the private sector left councils restrained, but this is no longer the case.

Below is a range of powers that can be used to income generate:

- The Civic Restaurants Act 1947
- Section 145 of the Local Government Act 1972 (provision of entertainments)
- Section 19 of the Local Government (Miscellaneous Provisions) Act 1976
- Section 38 of the Local Government (Miscellaneous Provisions) Act 1976
- Section 150 of the Local Government & Housing Act 1989, ie HMO charges for registration schemes and recovery of costs
- Public Path Orders, charges for land searches and charges for overseas assistance
- Section 95, 96 of the Local Government Act 2003 contains powers for local authorities to trade in function related activities through a company and also provides for regulation of those trading powers
- Localism Act 2011 (England only), the General Power of Competence
- Local Government in Scotland Act 2003

In Northern Ireland (NI), the provisions of the Local Government Act 2003 do not apply. Local authorities in NI are subject to more restrictive and narrower powers to trade and charge for services. NI councils must identify a power available to them before undertaking trading and charging activity.

In Scotland, while fiscal restraint is in place, the level of devolution, with a smaller central government which is highly involved in both strategic decisions and

operational matters, means that Scotland is more interconnected than the fragmented governance arrangements in place in England. The geographic nature of Scotland and its population – though there are similar areas of the UK like Northumberland, Cumbria and parts of Wales - means a wider geographic spread of populations, which when combined with weather and environmental complications can bring unique costs. In London, the housing crisis along with the effects of migration and the potential post-Brexit consequences, focusses local authority minds on different demands compared to other parts of England.

Though no council is going to become a new Apple or Capita – and neither should they - they can help their budget deficits by retaining in-house staff, and bringing services back in-house to enable the pursuit of a robust and genuine income generation strategy.

According to the legal firm Walker Morris LLP⁹, councils should look at their assets which include:

- Property
- Spare capacity
- Experienced workforces
- Money and/or the ability to borrow to invest.

Local authorities have many powers to invest, including:

- Power to acquire land (Local Government Act 1972)
- Power to borrow (Local Government Act 2003)
- Power to invest (Local Government Act 2003)
- Power to charge (Local Government Act 2003)
- General Power of Competence (Localism Act 2011) in England

In most instances, as long as a council has done its due diligence, it is unlikely that a decision to set up a company or operate as a trading entity would be challenged¹⁰.

Key issues to consider:

- Are there any statutory reasons a council cannot trade a particular service?
- Is procurement an issue?
- Are lawyers being involved at the beginning of the process before the design of a business is created
- Any business must not expose public funds to unreasonable risk
- Can the decision be challenged by judicial review?
- Is state aid a risk?

⁹ APSE Seminar on Income Generation & Assets, 13 January 2017

¹⁰ Local authorities need to be mindful to implement the Teckal exemption correctly and not fall foul of state aid rules

Managing risk:

- Carry out due diligence
- Assess the powers and legal framework available
- Hold a **debenture**¹¹: make sure there is a “right to call” on everything owned by a trading company, for example land, bank accounts and other assets
- If getting into a joint venture with the private sector and a parent company is involved, a local authority should get a “parent company guarantee”. A **parent company guarantee** (PCG) is a form of security that may be required by clients to protect them in the event of default on a contract by a contractor that is controlled by a parent company (or holding company). Typically, such a default might be caused by the insolvency of the contractor
- Get a **collateral warranty**¹² for example in a building project with a contractor. This will protect the council in case there are problems with the contractor fulfilling its duties
- Make sure the contract is written with clear responsibilities and penalties if a contractor or third party fails to deliver.

SUSTAINABLE LOCAL GOVERNMENT FINANCE

By 2019/20, Council Tax (CT) will account for 50% of total council income¹³. Government policy is heading in the direction of phasing out the Revenue Support Grant (RSG); the absence of a Local Government Finance Bill in the 2017 Queen’s Speech is more an indication of a slower pace, rather than a U-turn on this direction of travel. The impact of an ageing population and the costs of adult social care are making the finances of many local authorities uncertain. APSE recommend four ways of addressing this:

1. Campaign openly for liveability and public realm services. This is for the quality of life services to lessen the impacts on public health and NHS budgets and for social cohesion.
2. Increase CT. Clearly, under current regulations this needs to be explained and voted on through referenda as appropriate. Bringing the public with you on this journey is essential to the success of creating more income for services. Universal Credit and its impact on some will mean increases in CT will have a crippling effect on some household budgets and this needs to be considered carefully.
3. Generate income through fees, charges and sensible investments.
4. Democratic engagement. Harness your local community. This is not just consultation but real and meaningful engagement.

The picture across the UK is more and more varied. In Northern Ireland, domestic rates account for about three-quarters of local government income. There are also great variations in revenue raising capacity, due to historical CT rates in combination

¹¹ This is a long-term security yielding a fixed rate of interest, issued by a company and secured against assets.

¹² <http://www.jctltd.co.uk/category/collateral-warranties>

¹³ APSE report: Sustainable local government finance and liveable areas. Can we survive to 2020?

with the distribution of properties across different CT bands. There are also differences in the nature and demand for social care¹⁴.

In simplistic economic terms, local authorities can be categorised as follows:

- High need, high resource
- Low need, high resource
- High resource, low need
- Low resource, low need

If you find yourself in a position of high resource and low need, the ability to change is less demanding. Equally, the capacity a 'low resource, high need' local authority has to income generate, is not going to be resolved overnight, if ever. However, it becomes even more vital that such a local authority has a strategy for CT rises, charging, trading and investments.

So, the question is how the Medium Term Financial Plan/Strategy will suffer from the following impacts:

1. Future government policy and funding changes
2. Devolution deals
3. Employment, business rates and CT intake
4. Demographic change and the resulting social change and associated costs
5. Local populations living longer but with falling living standards.

The Office for National Statistics (ONS) has looked at the age demographics of the UK population from 1975 to 2045 (projected). They predict that those aged 65 and over will make up 24.6% of a population of 76,055,000 by 2045, compared to 14.1% of 56,226,000 in 1975 (Table 1).

¹⁴ Health Service Journal

Table 1: Age distribution of the UK population, 1975 to 2045 (projected)

Year	UK Population	0 to 15 years (%)	16 to 64 years (%)	65 years and over (%)
1975	56,226,000	24.9	61.0	14.1
1985	56,554,000	20.7	64.1	15.2
1995	58,025,000	20.7	63.4	15.8
2005	60,413,000	19.3	64.7	15.9
2015	65,110,000	18.8	63.3	17.8
2025	69,444,000	18.9	60.9	20.2
2035	73,044,000	18.1	58.3	23.6
2045	76,055,000	17.7	57.8	24.6

Source: Office for National Statistics

This alone is a scary prospect, and it makes clear the urgent need for more funding for local government. But with the removal of the Revenue Support Grant, these demographic changes also mean that a creative and innovative approach to generating income is needed – making local authorities less and less reliant on central government grant funding.

The latest Solace Group and Zurich Municipal Senior Managers' Risk report, 'Why are we here?'¹⁵, asks what the purpose of local government is – both now and in the future.

They say that the 'choices are complex' and ask five important questions:

1. Is the council's role to be a safety net for the most vulnerable (and/or provide for market failure¹⁶)
2. Is it to improve the life chances of people?
3. Is it about place-shaping and neighbourhood services?
4. Is it to regenerate local areas by creating income streams and sustainable economic benefit for their communities?
5. Is to become more commercial, profit generating organisations that can grow into household names or huge players in the market?

At UNISON, we think that local authorities should be very much concerned by the first four points, but fundamentally, the purpose of local government must be to deliver services to the public and employ staff on the best terms and conditions. We are not alone in this view. Up and down the country, councils from different political

¹⁵ <http://newsandviews.zurich.co.uk/wp-content/uploads/2017/10/Zurich-Municipal-2017-CEO-report-Why-are-we-here.pdf>

¹⁶ This is a reference added by UNISON not Solace or Zurich

persuasions are seeing that outsourcing and privatisation hinder not only the delivery of public services but also efficiency with outsourcing as local authorities lose control of decision making¹⁷. Senior managers lose control of strategic direction, as once a contract is let, it is let in the context of the date the contract was signed. Local councillors lose control over democratic accountability and face the wrath of their constituents when they cannot resolve their problems. Finally, local residents lose control of their council.

The public attitude to local government remains in tune with our view. But to maintain local government along these lines, proper resources are needed. Without it, and without some form of income generation, local government will further fragment.

It is not all doom and gloom. Up and down the UK, local authorities are – in partnership with their staff – redesigning in-house service provision. They are looking at ways of working together with other public providers and raising income at the same time. An interesting case study about this, from Calderdale Council, can be found on the Local Government Association website:

<https://www.local.gov.uk/commercial-thinking-programme-calderdale-council>.

Now is the time to procure differently and in-house, take back control of strategy and reinvent the spirit of municipal progress.

PUBLIC PROCUREMENT FOR SOCIAL PROGRESS

Where contracting out is unavoidable, there is scope within the Public Procurement Directive (2014/24/EU) to provide contracting authorities with a vehicle to achieve social and environmental goals. This gives local government the opportunity to reverse the decline in public services and the frequency of their provision¹⁸.

According to Social Platform¹⁹, councils can capitalise on the social advantages of the Directive by using the following provisions:

- Reserve contracts for economic operators that “*promote the social and professional integration of persons with disabilities and disadvantaged persons*”. Some chief officers quoted in the Solace report mentioned above say that they thought the role of their councils was to alleviate poverty.
- Use “social considerations” as a constant thread, sewing all parts of procurement together under a purpose.
- Putting service users “first by designing effective procedures for awarding contracts”.

What the Directive does not do, is to create an incentive to privatise, organise or finance public services. Therefore, working with service users and trade unions - the representatives of the people who deliver public services – the procurement of

¹⁷ <https://weownit.org.uk/privatisation-fails/council-services>

¹⁸ Public Procurement for Social Progress. A Social Platform guide to the EU Public Procurement Directive

¹⁹ Social Platform is the largest civil society alliance fighting for social justice and participatory democracy in Europe

services can both promote social cohesion and environmental protection and enable innovation in in-house service delivery.

WHERE UNISON CAN HELP

UNISON has knowledgeable, experienced local representatives in every local authority. By bringing in UNISON early and providing us with all the relevant information, we can offer expertise and guidance on income generation and alternatives to with-drawing services or privatising them. Contact the UNISON branch and/or Region. Details of UNISON Regions can be found by visiting <https://www.unison.org.uk/regions>.

APSE can also help. Councils across the UK are members of APSE, and find it an invaluable way to seek advice from fellow local authority professionals. Is your local authority a member? You can find out more about what APSE do by visiting <http://www.apse.org.uk/apse/index.cfm/about/who-we-are/>.